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Deed of Amendment

VIS Nominees Pty Ltd
ABN 11 006 586 367

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Deed of Amendment

Dated 20 / 09 / 18

Party

Name	VIS Nominees Pty Ltd ABN 11 006 586 367
Address	Collins Square, Tower 4, 727 Collins Street, Docklands VIC 3008
Short name	Trustee

Background

- A. By a deed dated 16 December 1958 including rules (**Original Trust Deed**), a superannuation fund currently known as The Victorian Independent Schools Superannuation Fund (**Fund**) was established.
- B. The Original Trust Deed has been amended from time to time (including the last Deed of Amendment dated 26 May 2016) (**Trust Deed**).
- C. Clause 1.22 of the Trust Deed permits the Trustee to amend the Trust Deed and Rules by deed subject to:
- C.1 certain actuarial determinations and restrictions; and
 - C.2 the Trustee giving the participating Schools written notice of the proposed amendment in certain circumstances.
- D. In accordance with Clause 1.22, the Trustee wishes to amend the Trust Deed to facilitate the appointment of independent directors to the board of directors of the Trustee.
- E. For the purpose of Clause 1.22, the Trustee:
- E.1 has obtained the relevant determinations from the Actuary;
 - E.2 is satisfied that the amendment will not breach the restrictions in Clause 1.22.1; and
 - E.3 is not required to give written notice of the amendment to the Schools.
- F. The Actuary's determinations required by Clause 1.22 are set out in the Schedule to this Deed.

THIS DEED WITNESSES

1. Amendment of Trust Deed

The Trustee amends the Trust Deed by amending the existing provisions of the Trust Deed as marked-up in the Appendix to this Deed of Amendment.

2. Effective date

The amendments take effect from the date of this Deed of Amendment.

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DEED

1.1 INTERPRETATION

1.1.1 Definitions

In this Deed and the Rules:

“Accumulation Account” means the account kept for an Accumulation Member or a Spouse Member and, in certain cases, for a Defined Benefit Member under Clause 1.20.

“Accumulation Member” means a Member who is selected by:

- (a) a School to receive benefits applicable to this Category, and may be a Category A Accumulation Member, a Category B Accumulation Member or a Category C Accumulation Member; or.
- (b) a Non-School Employer to receive benefits applicable to this Category and who is a Category D Accumulation Member.

"Act" means the requirements set out in:

- (a) the Superannuation Industry (Supervision) Act 1993; and
- (b) the Income Tax Assessment Act 1936 and the Income Tax Assessment Act 1997; a
- (c) the Superannuation Entities Taxation Act 1987; and
- (d) the Superannuation (Resolution of Complaints) Act 1993; and
- (e) the Family Law Act 1975; and
- (f) any regulations made under any of those Acts; and
- (g) any other law which the Trustee may determine to be an Act for the purposes of this Deed and the Rules.

"Actuary" means:

- (a) a person who is a Fellow of the Institute of Actuaries of Australia or any successor body; or
- (b) any other person who is recognised by that Institute as being qualified to provide actuarial advice and reports in relation to a superannuation fund.

"The Actuary" means the Actuary appointed or approved by the Trustee.

"Annual Salary" means the Salary of a Member (excluding a Category D Accumulation Member) at the later of:

- (a) the commencement of a School Year; and
- (b) the date the Member became a Member of the Fund.

"Appointing Body" in relation to a Policy Committee member means the body which appointed that member.

"Authorised Officer" of a School means the principal, bursar, business manager or any other person who is authorised to bind the School in relation to the Fund.

"**Average Member's Percentage**" of a Member (excluding a Category D Accumulation Member) means the average of:

- (a) the Member's Percentage at the commencement of the Final School Year; and
- (b) the Member's Percentages for each of the two immediately preceding School Years, as determined at the end of those two School Years,

but if the Member has not been a Member for the entire period the Actuary must determine the Member's "**Average Member's Percentage**" on an equitable basis.

"**Benefit Arrangement**" means a superannuation fund or entity or other benefit arrangement (except the Fund).

"**Category**" in relation to a Member means the category of membership to which the Member is admitted or transferred, being the category of Defined Benefit Member or Accumulation Member.

"**Category A Accumulation Member**" means an Accumulation Member whose contributions and benefits were determined by the Third Schedule on and before 17 December 1998 and any other Accumulation Member who is designated by the School or the Trustee as a Category A Accumulation Member on or before 31 August 2004.

"**Category B Accumulation Member**" means an Accumulation Member other than a Category A Accumulation Member or a Category C Accumulation Member.

"**Category C Accumulation Member**" means an Accumulation Member who is designated by the School or the Trustee as a Category C Accumulation Member after 31 August 2004.

"**Category D Accumulation Member**" means an Accumulation Member who, when joining the Fund, was employed by a Non-School Employer and who is designated by the Trustee as a Category D Accumulation Member.

"**Child**" has the same meaning of that term in section 10 of the *Superannuation Industry (Supervision) Act 1993*.

"**Choice of Fund Legislation**" means the legislation dealing with choice of superannuation fund enacted under the Superannuation Guarantee (Administration) Act 1992.

"**Choice Product**" means a class of beneficial interest in the Fund that is not the MySuper Product.

"**Defined Benefit Member**" means a Member who is selected by the School to receive benefits applicable to this Category.

"**Dependant**" has the same meaning of that term in section 10 of the *Superannuation Industry (Supervision) Act 1993*.

"**Effective Date**" means the date when the Fourth Schedule first applies to a School and the Members Employed by it.

"**Eligible Spouse**" means a person who is:

- (a) the Spouse of a Member; and
- (b) a spouse within the meaning of that term for the purposes of eligible spouse contributions under the Act,

and in respect of whom the Trustee is permitted to accept contributions under the Act.

"**Employed**" means actual employment by a School or a Non-School Employer (as applicable) or engagement under a contract wholly or principally for the labour of the relevant natural person.

"**Final School Year**" of a Member means the School Year in which the Member was last at work.

"**Fund**" means The Victorian Independent Schools Superannuation Fund established by this Deed and the Rules and includes all the assets held in accordance with this Deed.

"**Government Co-contribution**" has the same meaning as a Government co-contribution as defined in the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*.

"**Independent Director**" has the meaning given in the constitution of the Trustee.

"**Insertion Date**" means 1 July 1990.

"**Interdependency Relationship**" has the same meaning of that term in section 10A of the *Superannuation Industry (Supervision) Act 1993*.

"**Member**" means a person who has been admitted to membership of the Fund.

"**Member of Staff**" means:

- (a) all Permanent teachers Employed at a School (including principals); and
- (b) any other persons Employed by a School who are approved by the Trustee as eligible for membership of the Fund;

and includes:

- (c) persons who have temporarily ceased to be Employed but are permitted by the Trustee to remain Members of the Fund under a provision of this Deed and the Rules; and
- (d) persons who transfer to a Non-participating School but who remain Members of the Fund under a provision of this Deed and the Rules.

"**Member's Percentage**" of a Member (excluding a Category D Accumulation Member) means:

- (a) at any time when the Member is Employed full-time, 100% and
- (b) at any time when the Member is Employed part-time, the percentage of full-time employment being worked by the Member at a given time, as determined by the School and advised to the Member.

"**Minimum SG Benefit**" means the minimum benefit which a School or Non-School Employer (as applicable) is required to provide to, or in respect of, a Member under the Superannuation Guarantee (Administration) Act 1992, taking into account any benefit provided by the School or Non-School Employer in another fund.

"**MySuper Product**" means a class of beneficial interest in the Fund that:

- (a) the Trustee is authorised to offer by the Australian Prudential Regulation Authority under section 29T of the Superannuation Industry (Supervision) Act 1993;
- (b) has the characteristics of a MySuper product described by section 29TC of the Superannuation Industry (Supervision) Act 1993, as outlined in Clause 1.7A.3;
- (c) is not a Choice Product; and
- (d) is offered in accordance with Clause 1.7A.1.

"**Non-member Spouse**" means a person who is:

- (a) the Spouse or the former Spouse of a Member; and
- (b) a non-member spouse within the meaning of that term under Part VIII B of the Family Law Act 1975,

and in respect of whom the Trustee has received a payment split notice within the meaning of that Act.

"Non-participating School" means a school which does not participate in the Fund but which is approved by the Trustee.

"Non-School Employer" means an employer, other than a School or a Non-participating School, which participates in the Fund.

"Permanent" used in relation to a "Member of Staff" or "Staff" means:

- (a) an appointment for an indefinite period; or
 - (b) an appointment for a period of at least one School Year on a regular and not casual basis,
- but excludes appointments for less than 20% of full time hours of work.

"Pre-Insertion Date Member" means:

- (a) a Member who most recently became a Member before the Insertion Date; and
- (b) a person entitled to claim a benefit from the Fund in respect of:
 - (i) another person who was a Member of the Fund or who received a benefit from the Fund before the Insertion Date; or
 - (ii) an event or circumstance which happened before the Insertion Date.

"Prescribed Contribution Date" means the date at which the Trustee must cease to accept contributions in respect of a Member under the Act.

"Post-Insertion Date Benefit" means in any particular circumstances:

- (a) in relation to a Pre-Insertion Date Member:
 - (i) any improvement in the benefit payable in those circumstances; or
 - (ii) any new or extra benefit payable in those circumstances which required a School to exercise a power under this Deed and the Rules,

on or after the Insertion Date but excludes:

 - (iii) any benefit which became payable to the Member before the Insertion Date; or
 - (iv) any benefit which the Member would have been entitled to receive in those circumstances if the School had not exercised the relevant power on or after the Insertion Date; and
- (b) in relation to any other person, any benefit.

"Required Payment Date" means the date at which a Member's benefit must be paid (or commence to be paid) under the Act.

"Responsible Authority" means the Australian Prudential Regulation Authority or any other governmental authority responsible for administering the laws or any other rules governing superannuation funds or the availability of income tax concessions to superannuation funds.

"Retained Benefit Account" means the account kept for a Retained Benefit Member under the Sixth Schedule.

"Retained Benefit Member" means a Member whose benefits are governed only by the Sixth Schedule.

"Reversionary Beneficiary" means any one person nominated by a Member in writing in any form determined by the Trustee for the purposes of Clause 1.17.12, so long as the person who is nominated meets the requirements of the Act and any other requirements of the Trustee from time to time.

"Rules" means the Rules in the Schedules to this Deed.

"Salary" of a Member (excluding a Category D Accumulation Member) means:

- (a) the remuneration payable by the School to the Member excluding bonuses, payments for overtime and allowances or loadings (unless the School determines otherwise); or
- (b) any other amount agreed between the School and the Member for the purposes of the Fund.

"School" means:

- (a) the schools or other employers listed in the First Schedule,
- (b) any other schools or employers (other than a Non-School Employer) which participate in the Fund in accordance with this Deed and the Rules; and
- (c) in relation to a Member, the School by which that Member is Employed or, if not currently Employed by a School, was last Employed.

"School Year" means any one year period ending on 31 January.

"Spouse" has the same meaning of that term in section 10 of the *Superannuation Industry (Supervision) Act 1993*.

"Spouse Member" means an Eligible Spouse or a Non-Member Spouse who becomes a Spouse Member in accordance with the Fifth Schedule.

"Staff" in relation to a School means the Permanent employees of that School.

"Termination Date" means the date referred in to Clause 1.24.2.

"Total Disablement" of a Member means disablement which the insurer determines qualifies as total disablement under the relevant policy of insurance in force at the relevant time. Where a Member has been Totally Disabled for a continuous period of two years (including any continuous period which is separated from a prior continuous period by less than 60 days) a Member will not continue to be Totally Disabled unless the Trustee determines that the Member is unable to engage in any gainful employment for which the Member is reasonably qualified by education, training or experience.

"Total and Permanent Disablement" of a Member:

- (a) if there is a relevant policy of insurance in force - means disablement which the insurer determines qualifies as total and permanent disablement under that policy; or
- (b) if there is no relevant policy of insurance in force - means disablement due to an illness or injury as a result of which:

- (i) the Member has been continuously absent from active employment for six months (or any lesser period agreed between the School or Non-School Employer (as applicable) and the Trustee); and
- (ii) the Trustee determines (after considering any medical or other evidence the Trustee requires) the Member is sufficiently incapacitated to be unlikely ever to engage in any gainful employment for which the Member is reasonably qualified by education, training or experience,

but does not include disablement resulting from an illness or injury which the Trustee determines has been inflicted incurred or aggravated for the purpose of obtaining a benefit.

"Trustee" means the trustee for the time being of the Fund.

1.1.2 Words and Phrases

In this Deed and the Rules:

- (a) the term:
 - (i) "**amendment**" includes an addition, variation, deletion and substitution;
 - (ii) "**beneficiary**" includes a contingent beneficiary, a potential beneficiary, a Member and a pensioner;
 - (iii) "**for example**" is only illustrative and means including without limitation;
 - (iv) "**including**" means including without limitation;
 - (v) "**may**" confers absolute discretion on the person entitled to exercise a right or power conferred but does not infer any obligation to exercise that right or power
 - (vi) "**person**" includes
 - (i) a body corporate and any other person recognised at law;
 - (ii) a partnership and any other group or association;
 - (iii) a governmental authority,

but the expression "natural person" must be given its normal meaning; and
 - (vi) "**tax**" includes income tax, capital gains tax and other taxes and any duty, charge, levy and other Federal, State or Territory government impost;
- (b) any power, right or discretion given under this Deed, for example, the power to determine or agree, may be exercised:
 - (i) from time to time; and
 - (ii) generally or in any particular case;
- (c) a reference to a benefit is taken to be a reference to all or part of that benefit;
- (d) the singular includes the plural and vice versa; and
- (e) words implying one gender include the other genders.

1.1.3 **Similar Terms**

A term similar to any term defined in this Deed and the Rules has a corresponding meaning, for example, "**Totally and Permanently Disabled**" has a corresponding meaning to "**Total and Permanent Disablement**" and "**amend**" has a corresponding meaning to "**amendment**".

1.1.4 **Law**

- (a) Reference to any law includes that law as amended or replaced and any law that supersedes that law;
- (b) Reference to any law includes any regulation, binding determination and ruling made in connection with that law.

1.1.5 **Deed Paramount**

A provision in this Deed:

- (a) overrides a conflicting provision in the Rules; and
- (b) is not limited by a provision in the Rules,
unless specifically stated otherwise.

1.1.6 **Severance**

Any provision of this Deed and the Rules which is:

- (a) invalid in whole or in part; or
- (b) is required to be limited or read down in order to be valid,

is severed or limited or read down to the extent of the invalidity, but the remainder of the provision continues in full force and effect.

1.1.7 **Express References**

- (a) An express reference to one matter (including a clause or law) must not be taken as excluding other matters (including clauses or laws).
- (b) An express reference in this Deed to a clause must not be taken to infer that that clause does not have relevance to other clauses which do not contain specific references.
- (c) References to this Deed and the Rules or any provision of this Deed and the Rules includes the Deed and the Rules or provision as amended, re-enacted or replaced.

1.1.8 **Headings and Index**

The index and headings in this Deed and the Rules are included for convenience and do not affect the interpretation of this Deed and the Rules.

1.2 **FUND**

1.2.1 **Establishment of Fund**

The Fund is established with operation from 10 February 1959.

1.2.2 **Vesting of Fund**

The assets of the Fund comprising:

- (a) contributions by the Members;

- (b) contributions by the Schools and Non-School Employers;
 - (c) any accretions to the Fund received by the Trustee; and
 - (d) income earned from the investment of the contributions and accretions
- are vested in the Trustee.

1.2.3 **Divided into Parts**

The Trustee may:

- (a) determine to divide the Fund into separate sub-funds; and
- (b) may allocate particular assets to each sub-fund for one purpose but not another.

1.3 **COMPLIANCE WITH ACT**

1.3.1 **Regulated Superannuation Fund**

The Trustee and each School and Non-School Employer must comply with each requirement of the Act which applies to a regulated superannuation fund unless the Responsible Authority does not require it to be complied with.

1.3.2 **Trustee**

The Trustee of the Fund must be a constitutional corporation unless the sole or primary purpose of the Fund is the provision of old-age pensions.

1.3.3 **Discretions**

The Trustee's consent must be obtained for the exercise of a discretion by another person if the exercise of the discretion would otherwise be invalid in whole or in part under the Act.

1.3.4 **Directions**

If:

- (a) this Deed and the Rules provides for the Trustee to be subject to a direction by any person; and
- (b) that direction would otherwise be invalid in whole or in part under the Act,

the right to give that direction must be interpreted as a right to exercise a discretion by the person concerned with the consent of the Trustee.

1.3.5 **Transfer**

The Trustee:

- (a) must transfer a Member's benefits out of the Fund if the Act requires; and
- (b) may transfer a Member's benefits out of the Fund if the Act permits,

and need not obtain the Member's consent unless the Act requires.

1.3.6 **SG Vouchers**

The Trustee may accept contributions other than in cash or by cheque including, for example, superannuation guarantee shortfall vouchers.

1.3.6A **One off Employer Contributions**

The Trustee may accept contributions from an employer other than a School or Non-School Employer in respect of any Member including on a one-off basis. The Trustee must record such contributions in the Member's Accumulation Account (if any) or otherwise deal with them as it determines to be appropriate.

1.3.7 **Discrimination**

The Trustee must ensure that all powers rights and discretions under this Deed and the Rules are exercised in accordance with any laws prohibiting or restricting discriminatory behaviour which apply to the Fund.

1.3.8 **Conflict with Deed**

To the extent of any inconsistency between the requirements included by this clause 1.3 and:

- (a) any other provision of this Deed and the Rules; or
- (b) any agreement made under this Deed and the Rules,

the requirements included by this clause 1.3 prevail.

1.4 **MEMBERSHIP**

1.4.1 **Eligibility**

A person is eligible to become a Member if:

- (a) the person accepts an invitation from the School;
- (b) the School directs the Trustee to admit the person; or
- (c) the Trustee in its discretion accepts the person as a member provided that the Act does not prohibit the Trustee from accepting the person as a member and provided further that by accepting the person as a member the Fund does not become a public offer superannuation fund.

The person is eligible to become a Defined Benefit Member or an Accumulation Member:

- (i) in the case of paragraph (a), as specified in the invitation;
- (ii) in the case of paragraph (b), as directed by the School.

1.4.2 **Medical Examination**

Each applicant for membership must:

- (a) give such evidence or proofs;
- (b) undergo such medical examinations and tests; and
- (c) satisfy such other requirements,

as and when the Trustee requires for the purpose of insuring benefits.

If any applicant:

- (i) fails to comply with the Trustee's requirements; or
- (ii) does or fails to do anything which would or could invalidate the insurance or result in the insurance proceeds not being payable,

the Trustee must adjust the benefits provided by the Fund for or in respect of that person in the manner determined by the School or Non-School Employer (as applicable).

1.4.3 **Admission**

The applicant becomes a Member:

- (a) on the date when the Trustee has approved the application; or
- (b) on the date directed by the School under Clause 1.4.1(b).

The Trustee, School or Non-School Employer (as applicable) and the Member may agree that the Member is to be regarded as becoming a Member on an earlier date, and the Trustee and the School or Non-School Employer may impose special conditions on a person's membership.

1.4.4 **Deed Binding**

Every Member and other beneficiary under the Fund is bound by this Deed and the Rules.

1.4.5 **Re-entry to Service**

A former Member who leaves, but rejoins, service with a School may be re-admitted as a Member on condition that:

- (a) unless otherwise agreed between the Trustee, the School and the Member, the Member remains entitled to any benefit payable from or retained in the Fund in respect of the previous period of membership; and
- (b) the Member's previous period of service and membership is otherwise disregarded.

If the School agrees the former Member may repay to the Fund the amount of any benefit payment in respect of the previous period of membership, with interest (if required by the School). Then the Trustee must admit the Member with such adjustments to the Member's benefits as the School may determine with the advice of the Actuary.

1.5 **CONTRIBUTIONS**

1.5.1 **Member Contributions**

- (a) The contributions which Members are required or permitted to make are set out in the Rules.
- (b) The School or Non-School Employer (as applicable) may deduct any Member contributions from the Member's pay from the date the Member becomes a member of the Fund until the Member ceases to be a member of the Fund.
- (c) The School or Non-School Employer (as applicable) must immediately credit any deducted member contributions to an account kept by the School or Non-School Employer (as applicable) in the name of the Trustee and hold that account on behalf of the Trustee.
- (d) Instead of making deductions under Clause 1.5.1(b), the School or Non-School Employer (as applicable) and the Member may agree that contributions are to be made on some other basis.

1.5.2 **Employer Contributions**

Each School and Non-School Employer must contribute the amounts set out in the Rules.

1.5.3 **Timing of Contributions**

Contributions which are:

- (a) paid by a Member and remitted to the Fund by a School or Non-School Employer;
- (b) payable by a School which is listed in the First Schedule or admitted to the First Schedule,

must be paid within 28 days of the end of the relevant month and as otherwise required by the Act.

1.5.4 **Government Co-contributions**

The Trustee may accept Government co-contributions in respect of a Member so long as this is permitted by the Act, and categorise them in such manner and deal with them on such terms as it determined to be appropriate. The Trustee must provide such information as is required from time to time by the Responsible Authority in relation to the Government co-contributions.

1.6 **INVESTMENT OF FUND**

The Trustee may:

- (a) invest all money, which is not immediately required, in any manner it could invest if acting personally and not as trustee;
- (b) manage, lease, develop, improve, change or otherwise exploit any investment of the Fund;
- (c) participate in any financial arrangement (usually called a synthetic or derivative investment) for the purpose of risk management or hedging;
- (d) institute, conduct, defend, settle or abandon legal proceedings;
- (e) appoint and remove investment managers for all or part of the Fund's investments;
- (f) underwrite or sub-underwrite the subscription of authorised investments;
- (g) pay all investment expenses out of the Fund, including the remuneration of any investment manager, custodian or nominee; and
- (h) appoint and remove a custodian or nominee to hold all or part of the Fund's investments,

as if it were dealing with its own property.

1.7 **INVESTMENT CHOICE**

1.7.1 The Trustee must maintain the Fund or notionally maintain the Fund in separate parts called investment portfolios. For any investment portfolio, the Trustee must:

- (a) select the assets of the Fund which comprise it; and
- (b) determine a separate interest rate under Clause 1.21.

The Trustee must also nominate a default investment portfolio.

1.7.2 The Trustee may transfer assets between different investment portfolios.

1.7.3 The Trustee may divide an Accumulation Account or Retained Benefit Account into sub-accounts representing the proportions in which the Accumulation Account or Retained Benefit Account is invested or notionally invested in different investment portfolios.

1.7.4 Members may give directions to apply:

- (a) future contributions; or
- (b) existing balances in Accumulation Accounts or Retained Benefit Accounts; or
- (c) any other amounts,

to investment portfolios. The Trustee may make rules governing the giving of directions so long as the rules are consistent with the Act.

1.7.5 No Member has any claim to any specific asset of the Fund.

1.7A MYSUPER PRODUCT

1.7A.1 Offering of the MySuper Product

Subject to the Trustee being authorised by the Australian Prudential Regulation Authority to offer a MySuper product, the Trustee may offer the MySuper Product from 1 January 2014.

1.7A.2 Interest in the MySuper Product

- (a) Subject to Clause 1.7A.2(b), Members may choose to invest part or all of their Accumulation Account or Retained Benefit Account (as the case may be) in the MySuper Product.
- (b) A Member's Accumulation Account or Retained Benefit Account (as the case may be), either in part or full, may automatically be invested in the MySuper Product in circumstances determined by the Trustee from time to time, so long as those circumstances are not inconsistent with the provisions of the Act.

1.7A.3 Characteristics of the MySuper Product

In accordance with section 29TC of the Superannuation Industry (Supervision) Act 1993, the MySuper Product offered by the Trustee under this Clause 1.7A will have the following characteristics:

- (a) a single diversified investment strategy, in relation to the assets of the Fund attributable to the Fund's MySuper Product; and
- (b) an entitlement by all Members who hold the MySuper Product to the same options, benefits and facilities, except to the extent that a benefit is provided by taking out risk insurance; and
- (c) amounts are attributed to Members in relation to the MySuper Product they hold in a way that does not stream gains or losses that relate to any assets of the Fund to only some of those Members who hold the MySuper Product, except to the extent permitted under a lifecycle exception; and
- (d) the same process is to be applied in attributing amounts to each Member in relation to the MySuper Product they hold, except to the extent that a different process is necessary to allow for fee subsidisation by a School; and
- (e) if fee subsidisation by a School or Non-School Employer is permitted, the subsidisation does not favour one Member who holds the MySuper Product who is an employee of that School or Non-School Employer (as applicable) over another such Member who is an employee of that School or Non-School Employer (as applicable); and
- (f) the only limitation imposed on the source or kind of contributions made by or on behalf of Members who hold the MySuper Product are limitations (if any) which:
 - (i) are of a prescribed kind; and
 - (ii) are imposed by or under the general law or a law of the Commonwealth; and
- (g) the MySuper Product held by a Member in the Fund cannot be replaced with a beneficial interest of another class in the Fund unless the Member consents in writing to that replacement no more than 30 days before it occurs or in other circumstances (if any) prescribed by section 29TC(1) of the Superannuation Industry (Supervision) Act 1993; and

- (h) the MySuper Product held by a Member in the Fund (the *old interest*) cannot be replaced with a beneficial interest (the *new interest*) in another superannuation entity unless:
- (i) the replacement is permitted or is required, under a law of the Commonwealth; or
 - (ii) the Member who holds the old interest consent in writing to the replacement with the new interest no more than 30 days before it occurs; and
- (i) to the extent that assets of the Fund are attributed to the MySuper Product, a pension is not payable out of those assets by the Trustee of the Fund on satisfaction of a condition of release by a Member holding a MySuper Product, unless the payment is derived from a benefit of the kind referred to in section 62(1)(b)(ii) of the Superannuation Industry (Supervision) Act 1993 provided to the Fund by an insurer.

1.7A.4 Fees for the MySuper Product

To the extent that a Member holds the MySuper Product, the applicable fees and charging basis determined by the Trustee in respect of the MySuper Product must not contravene the requirements relating to the fees and charging basis for a MySuper product (as defined in the Superannuation Industry (Supervision) Act 1993) prescribed by the Act.

1.7A.5 Insurance for the MySuper Product

To the extent that a Member holds the MySuper Product, the type and level of insurance cover, including terms and conditions, made available to such a Member as determined by the Trustee, must not contravene the requirements relating to insurance for a MySuper product (as defined in the Superannuation Industry (Supervision) Act 1993) prescribed by the Act.

1.7A.6 Compliance with the Act

All provisions of Clause 1.7A are subject to the following:

- (a) Despite anything expressed or implied to the contrary in any other provisions of Clause 1.7A, if there is any conflict between this Clause 1.7A.6 and any other provision of Clause 1.7A, this Clause 1.7A.6 prevails.
- (b) The provisions of Clause 1.7A are subject to the provisions of the Act. Accordingly:
 - (i) if there is any inconsistency between the provisions of Clause 1.7A and the Act, the Act shall prevail; and
 - (ii) to the extent that a provision of the Act is required to be included in Clause 1.7A, either generally or by reason that it applies to a MySuper product (as defined in the Superannuation Industry (Supervision) Act 1993) that provision of the Act is deemed to be included for so long as is required by the Act.
- (c) For the avoidance of doubt, where the Trustee issues a MySuper Product under this Clause 1.7A on the basis that it qualifies as a MySuper product (as defined in the Superannuation Industry (Supervision) Act 1993), any provision of the Act which is required to be satisfied in order for the Fund's MySuper Product to qualify as a MySuper product under the provisions of the Act is deemed to apply to the MySuper Product issued under Clause 1.7A.

1.8 POLICY COMMITTEE

1.8.1 Function

- (a) A Policy Committee must be formed to advise the Trustee about any issue concerning the operation or performance of the Fund which a Member or School has raised with that Committee.
- (b) The Policy Committee may meet monthly but must meet at least annually.
- (c) A representative of the Trustee must attend each meeting of the Policy Committee.

- (d) The Policy Committee may formulate rules governing any matters concerning its operation which are not specified by the Deed.

1.8.2 **Constitution**

- (a) The trustees of the Fund immediately before 4 July 1994 in their respective representative capacities are the members of the first Policy Committee.
- (b) Subsequent Policy Committees may consist of no more than:
 - (i) one person appointed by each of the Schools (called "a School Representative"); and
 - (ii) one person appointed by the Staff of each of the Schools (called "a Staff Representative").
- (c) Each Appointing Body may appoint an alternate for the person appointed by it (called "the Appointed Person") to act for the Appointed Person if unable to attend a Policy Committee meeting.
- (d) A Policy Committee member will cease to be a member of the Policy Committee if:
 - (i) the person gives written notice of resignation to the Appointing Body;
 - (ii) the person is disqualified from office by operation of law;
 - (iii) the person dies; or
 - (iv) the person is removed from office by the Appointing Body.
- (e) The Staff of a School may only remove a Policy Committee member or alternate:
 - (i) by secret ballot or other method agreed between the School and the Staff of the School; and
 - (ii) in accordance with the regulations and procedures agreed by the Staff of the School.

The appointment or cessation of a Policy Committee member must be advised to the School's Authorised Officer who must advise the Trustee. A certification by the School's Authorised Officer is conclusive evidence of the appointment or cessation of a Policy Committee member or alternate.

1.9 **TRUSTEE**

1.9.1 **Appointment of Trustee**

- (a) The Policy Committee has power to appoint a new Trustee.
- (b) The new Trustee:
 - (i) must be a constitutional corporation, unless the Policy Committee and the Trustee determine otherwise; and
 - (ii) may be appointed for a fixed term.
- (c) The acts of the Trustee are valid even if there is a defect in its appointment.

1.9.2 **Term of Office**

The Trustee must hold office until the earliest of the following events:

- (a) it is removed by the Policy Committee;
- (b) its term of office expires;
- (c) it retires from that office by written notice to the Policy Committee;

- (d) the appointment of a receiver, receiver and manager or liquidator in respect of it or a court approves a scheme of arrangement providing for its dissolution;
- (e) it is disqualified from that office by law; and
- (f) it becomes a disqualified person as defined in the Act.

Then the Policy Committee must appoint a replacement Trustee under Clause 1.9.1.

1.9.3 **Equal Representation**

The directors of the Trustee:

- (a) must consist of an equal number of:
 - (i) directors appointed by the Staff Representatives; and
 - (ii) directors appointed by the School Representatives; and
- (b) the Trustee may also appoint an Independent Director or Independent Directors in the number or in the proportions as permitted by the Act.

1.9.4 **Vacancy**

A vacancy on the board of directors of the Trustee must be filled within any time required by the Act.

1.10 **FUND SECRETARY**

The Trustee may appoint a person as secretary of the Fund and may change the appointed secretary. The Trustee may determine the remuneration of the secretary and the period of appointment. The secretary may keep the minutes of meetings of directors and perform the duties determined by the Trustee.

1.11 **TRUSTEE POWERS**

1.11.1 **General Powers**

The Trustee may do all acts and things it determines necessary, desirable or expedient for the administration, maintenance and preservation of the Fund, including to:

- (a) appoint or remove agents, delegates, employees and any other persons it determines appropriate and pay fees or other remuneration to those persons out of the Fund;
- (b) delegate any or all powers, duties or discretions to any person and to vary the terms of any delegation;
- (c) seek and act on the advice of a person the Trustee determines is capable of giving that advice without being liable in respect of anything done or omitted by reason of that advice;
- (d) institute, conduct, defend, settle or abandon legal proceedings;
- (e) make an irrevocable election for the Fund to become a regulated superannuation fund;
- (f) settle any claim;
- (j) operate bank accounts or accounts with other institutions and make regulations for the signing and endorsing of cheques and other negotiable instruments;
- (h) enter into contracts; and
- (i) borrow money and secure the borrowing in any manner.

These powers are in addition to all other powers given to trustees by law.

1.11.2 Power to Insure

- (a) The Trustee may purchase and renew insurance of any kind, including:
 - (i) insurance in respect of Members on an individual or a group basis;
 - (ii) trustee liability insurance; and
 - (iii) insurance on the property or other assets of the Fund.
- (b) The Trustee may pay all insurance premiums out of the Fund.
- (c) The Trustee may enter into new or different insurance arrangements, and vary or terminate such arrangements, in respect of Member who join the Fund on or after 29 November 2007 without obtaining the consent of such Members.

1.11.3 Conflict of Interest

- (a) The Trustee may exercise all powers and discretions even if the Trustee is an Employer, Employee, Member or other beneficiary or has an interest in the matter concerned.
- (b) Each director of the Trustee may:
 - (i) exercise all powers and discretions;
 - (ii) be counted in a quorum; and
 - (iii) vote at any meeting of the directors,
 even if that director:
 - (A) is an Employer, Employee, Member or other beneficiary; or
 - (B) has an interest in the matter concerned,
 but must disclose that director's interest to the other directors.

1.11.4 Discretions and Determinations

In the exercise of its powers and discretions under this Deed, the Trustee:

- (a) may rely on any information provided by any person including an Employer, Employee and a Member; and
- (b) has absolute discretion:
 - (i) to exercise that power or discretion;
 - (ii) not to exercise that power or discretion; and
 - (iii) to partly exercise that power or discretion,
- (c) has the final decision about:
 - (i) whether persons are eligible to become Members;
 - (ii) the amount of and entitlement of persons to benefits; and
 - (iii) the interpretation of this Deed and the Rules;

and is not obliged to explain its conduct.

1.12 TRUSTEE DUTIES

1.12.1 Administration of Fund

The Trustee must administer the Fund for the benefit of Members in accordance with the applicable Rules.

1.12.2 Appointment of Auditor

The Trustee must appoint an auditor to the Fund but may change the appointed auditor. The auditor must be given access to all Fund accounts and documents.

1.12.3 Accounts and Audit

The Trustee must ensure that:

- (a) proper records and accounts are kept in respect of the Fund, including a register of Members, details of the Fund investments and such other records as the auditor or Actuary consider necessary; and
- (b) the records and accounts of the Fund are made up to 31 January and audited by the auditor each year.

Members are entitled to inspect the audited accounts.

1.12.4 Appointment of Actuary

The Trustee may appoint an Actuary to the Fund and may change any appointed Actuary.

1.12.5 Actuarial Valuation

The Trustee:

- (a) must ensure that an actuarial valuation is conducted when the Act requires; and
- (b) may arrange for an additional actuarial valuation to be conducted when it determines appropriate.

1.12.6 Actuarial Certificates

The Trustee must obtain all actuarial certificates required by the Act in relation to the Fund.

1.12.7 Covenants

The covenants required by the Act to be included in the Deed are included by this clause as covenants by the Trustee and by each director of the Trustee.

1.12.8 Complaints Procedure

- (a) The Trustee must establish and maintain a system for dealing with complaints and inquiries by Members and other persons in accordance with the Act.
- (b) To the extent required by the Act, the Trustee and other persons must comply with each decision of a court or tribunal constituted under the Act.

1.12.9 Investment Strategy

The Trustee must have and implement a strategy for the investment of the assets of the Fund which complies with the requirements of the Act.

1.12.10 Information to Members, Schools and Non-School Employers

The Trustee must comply with the Act in relation to the provision of information to Members, Schools, Non-School Employers and other persons.

1.12.11 Confidentiality

The Trustee must treat all information received in respect of Members, Schools and Non-School Employers, in connection with the Fund, as confidential except to the extent that disclosure of that information:

- (a) is required by law; or
- (b) is considered by the Trustee to be reasonably necessary in the administration of the Fund.

1.13 TRUSTEE INDEMNITY

1.13.1 Exclusion from Liability

Neither:

- (a) the Trustee;
- (b) a director or officer of the Trustee;
- (c) the secretary appointed under clause 1.10; nor
- (d) a responsible officer nominated by the Trustee from time to time for the purpose of any Australian financial services licence held by the Trustee,

is liable in connection with the Fund except to the extent that:

- (i) that person fails to act honestly in relation to the Fund;
- (ii) that person intentionally or recklessly fails to exercise the degree of care and diligence required; or
- (iii) exemption from liability is prohibited by the Act.

1.13.2 Indemnity Against Liability

To the extent that Clause 1.13.1 is not sufficient to protect any of the persons mentioned from liability, then that person is indemnified out of the assets of the Fund in respect of any liability in connection with the Fund, except to the extent that:

- (a) the person fails to act honestly in relation to the Fund;
- (b) the person intentionally or recklessly fails to exercise the degree of care and diligence required; or
- (c) indemnity from the Fund is prohibited by the Act.

The persons mentioned in Clause 1.13.1 are also indemnified out of the assets of the Fund for payment of their legal and other costs and expenses of administering the Fund and performing their duties under this Deed and the Rules.

1.14 EXPENSES AND FEES

1.14.1 All costs and expenses in connection with the Fund must be paid from the Fund.

1.14.2 The Trustee may impose fees in relation to any:

- (a) application for information relating to a superannuation interest;
- (b) payment split or payment flag; or
- (c) other matter,

relating to Part VIII B of the Family Law Act 1975 in such manner as is permitted by that Act. This includes (but is not limited to) deducting fees from a Member's Accumulation Account or Retained Benefit Account or from any other benefit of a Member which is or may become payable or from the Non-member Spouse's interest in the Fund, at such times and in such manner as the Trustee determines.

1.14A REMUNERATION OF DIRECTORS OF THE TRUSTEE

The directors of the Trustee may be remunerated for acting as directors of the Trustee and as members of committees of the Trustee, in accordance with the following provisions:

- (a) the amount of remuneration payable being determined by a decision of the majority of directors of the Trustee (or such greater number of directors as the Act requires), having regard to recommendations made by the remuneration committee of the Trustee (including any successor committee) and independent expert remuneration advice as to the appropriate level of remuneration; and
- (b) the costs of remuneration payable being met from the assets of the Fund, in such manner as the Trustee considers fair and reasonable, having regard to advice from the Actuary regarding the allocation of those costs.

1.15 SCHOOLS AND NON-SCHOOL EMPLOYERS

1.15.1 Admission of Schools and Non-School Employers

- (a) The Trustee may permit any school or other employer to participate in the Fund:
 - (i) on the basis outlined in this Deed and the applicable Rules; or
 - (ii) on a basis agreed between the Trustee and the participant concerned. Any agreed basis takes precedence over the basis outlined in this Deed.
- (b) To be admitted to participation as a School or Non-School Employer, the school or employer must sign a deed of adherence in the form approved by the Trustee unless the Trustee otherwise determines. The Trustee may impose any restriction or conditions which it determines to be appropriate on the participation of the School or Non-School Employer in the Fund.
- (c) The Trustee and a School or Non-School Employer may change the Rules governing the basis on which that School or Non-School Employer participates in the Fund. Any such change can only apply prospectively.

1.15.2 Cessation of Participation

A School or Non-School Employer ceases to participate in the Fund and to have any rights under this Deed and the Rules if:

- (a) the School or Non-School Employer fails to contribute in accordance with the Deed and applicable Rules for a period of three months; or
- (b) if the School or Non-School Employer gives notice or is taken as giving notice that it intends to terminate its contributions to the Fund and the period of notice or deemed notice has expired.

1.15.3 Closure of School

If a School closes or otherwise ceases to operate then:

- (a) the obligation of the School and the Members Employed by the School to contribute to the Fund ceases from a date determined by the Trustee ("**the Closure Date**");
- (b) the Trustee with the advice of the Actuary must -
 - (i) determine the portion of the Fund attributable to the School and the Members Employed by the School ("**the School's portion**") at the Closure Date;

- (ii) allocate equitably amongst the Members Employed by the School any surplus or deficiency in the School's portion over the vested entitlements of the Members Employed by the School; and
 - (iii) terminate any insurance arrangement for any Member Employed by the School or adjust the arrangement so that the costs of such insurance after the Closure Date are met from the School's portion; and
- (c) upon any Member Employed by the School becoming entitled to a benefit under the Rules, the Trustee must pay or otherwise apply for the Member the benefit payable under the Rules adjusted to allow for any allocation and/or termination or adjustment of an insurance arrangement under paragraph (b).

1.16 POWERS OF SCHOOLS AND NON-SCHOOL EMPLOYERS

1.16.1 Dismissal from Employment

Nothing in this Deed and the Rules (including the benefit provisions):

- (a) affects any power a School or Non-School Employer may have to dismiss, remunerate or deal with an employee; or
- (b) may be used in a claim for damages on dismissal or otherwise.

1.16.2 Liability of Schools and Non-School Employers

A School or Non-School Employer is not liable for anything which may be done or not done by the School or Non-School Employer, the employees of the School or Non-School Employer or any other person in connection with the Fund, except as specifically set out in the Deed.

1.17 BENEFITS - GENERAL PROVISIONS

1.17.1 Interest Payments

The Trustee may add interest to a benefit payable in respect of the period between:

- (a) the date the benefit became payable; and
- (b) the date of payment of the benefit.

1.17.2 Minimum Benefit

The amount of benefit payable from the Fund on termination of Employment of each Member must:

- (a) be at least equal to that Member's Minimum SG Benefit (if any); and
- (b) satisfy any other minimum required under the Act.

1.17.3 Augmentation of Benefit

The Trustee must augment a person's benefit entitlement under the Fund as requested by a School or Non-School Employer except to the extent that the School or Non-School Employer (as applicable) does not pay or agree to pay any additional contributions which the Actuary advises are necessary to ensure the financial stability of the Fund.

1.17.4 Special Arrangements

- (a) A School or Non-School Employer and either:
 - (i) a Member; or
 - (ii) a Member of Staff or employee of a Non-School Employer who has not yet become a Member of the Fund,

may vary by written agreement any or all of:

- (A) the benefits otherwise payable as a result of that person's membership of the Fund;
 - (B) the contributions otherwise payable as a result of that person's membership of the Fund; and
 - (C) the other terms and conditions of membership.
- (b) The Trustee must comply with any agreement made under paragraph (a) except to the extent that a School or Non-School Employer does not pay any additional contributions which the Actuary advises are necessary to ensure the financial stability of the Fund and that any additional cost expected to result from the agreement is paid by the School or Non-School Employer.
- (c) Subject to the Act, the Trustee may vary any terms and conditions relating to an individual Member's benefits, contributions or membership if it determines that this is in the interests of that Member and there are exceptional circumstances. The Member must consent to any such variation and, if the Member is Employed by a School or Non-School Employer, the School or Non-School Employer (as applicable) must also consent.

1.17.5 **Payment of Death Benefits**

- (a) A Member may give the Trustee a written nomination indicating how and in what proportions the Member wishes the Trustee to distribute any benefit payable upon the Member's death among the Member's Dependants and legal personal representative. The Member may give a new written nomination at any time.
- (b) If the Trustee accepts a Member's written nomination, then on the death of that Member the Trustee must make reasonable enquiries to determine whether each person nominated is eligible. A person is eligible if he or she:
- (i) is living and was a Dependant of the Member at the date of his or her death; or
 - (ii) is the Member's legal personal representative.
- (c) If the Trustee is satisfied that each nominated person is eligible within the meaning of paragraph (b), the Trustee must pay the death benefit in accordance with the Member's written nomination.
- (d) If the Trustee is not satisfied that each nominated person is eligible within the meaning of paragraph (b), then the Trustee must:
- (i) pay the proportion of the death benefit allocated to the eligible persons in accordance with the Member's written nomination; and
 - (ii) pay the proportion of the death benefit allocated to any persons who are not eligible to the Member's legal personal representative.
- (e) If the Trustee has not accepted, or a Member has not provided, a written nomination to the Trustee, then the Trustee must pay the death benefit to the Member's legal personal representative.
- (f) If there is no legal personal representative of a Member, then the Trustee may -
- (i) pay any death benefit to or for the benefit of any other person in such proportions and in such manner as the Trustee may determine; or
 - (ii) forfeit the benefit to the Fund if permitted under the Act.
- (g) Despite the previous provisions of this Clause 1.17.5, if the payment of a death benefit pursuant to a Member's written nomination as provided in this Clause constitutes a direction by the Member that would contravene the Act or provides for the exercise of a discretion by a Member in circumstances that would contravene the Act, the death benefit must be paid to the Member's legal personal representative.

- (h) The Trustee must pay any benefit which is payable to a beneficiary under this Clause 1.17.5 in a lump sum unless the Trustee agrees with the beneficiary to pay the benefit by instalments. If the benefit is paid by instalments the Trustee may add interest to each instalment of such amount as the Trustee may determine.
- (i) The Trustee may establish procedures on:
 - (i) when and how Members may make, amend or confirm written nominations; and
 - (ii) the steps the Trustee needs to take before accepting a Member's written nomination.

The Trustee is discharged from all obligations in respect of a death benefit if it acts in accordance with such procedures and pays the benefit in good faith to or on behalf of the person or persons whom the Trustee believes to be entitled to it having regard to such procedures.

1.17.5A **Anti-detriment payments**

The Trustee may, in its absolute discretion, increase the amount payable on the death of a Member by an amount not exceeding that of the gain that will accrue to the Fund as a result of the availability of a deduction to the Fund under the Income Tax Assessment Act 1997 in respect of the additional payment.

1.17.6 **Other Scheme Offset**

If:

- (a) a Member is entitled to benefit from another employee benefit arrangement; and
- (b) the law requires the School or Non-School Employer to meet all or part of the costs of providing that benefit,

the School or Non-School Employer (as applicable) may reduce its contributions in respect of the Member under this Deed and the Rules by an equivalent amount. If a School or Non-School Employer reduces its contributions in respect of a Member the Trustee must adjust the Member's benefits as the Trustee determines appropriate.

1.17.7 **Insurance Offset**

If the Trustee has determined to insure any of the benefits provided by the Fund and in respect of a Member:

- (a) insurance is not obtained on terms acceptable to the Trustee; or
- (b) the insurer does not admit or pay a claim,

the Trustee must reduce the benefit which would otherwise be payable on the death or disablement of the Member, unless the Trustee determines otherwise.

1.17.8 **Unclaimed Benefits**

The Trustee must comply with the Act in relation to benefits which the Act:

- (a) treats as unclaimed money; or
- (b) requires to be transferred to another fund or entity.

1.17.9 **Assignment of Benefit**

- (a) A Member must not assign or charge any benefit under the Fund without the prior consent of the School or Non-School Employer (as applicable) and the Trustee.
- (b) If:

- (i) a Member or other beneficiary assigns or charges, or agrees to assign or charge a benefit under the Fund without the prior consent of the School or Non-School Employer (as applicable) and the Trustee;
- (ii) a benefit under the Fund becomes payable to a person other than the Member or beneficiary;
- (iii) a Member or beneficiary becomes mentally ill or incapable of managing his or her own affairs; or
- (iv) a Member or beneficiary is otherwise deprived of a benefit,

the Trustee may:

- (A) pay the benefit to the Spouse of the Member or beneficiary or to a person or institution responsible or caring for the Member or beneficiary; or
- (B) apply the benefit for the maintenance or benefit of the Member or beneficiary.

The receipt of a person or institution referred to in sub-paragraph (A) is a complete discharge to the Trustee. Neither the Trustee nor the School or Non-School Employer (as applicable) is responsible to see to the application of the amount transferred.

- (c) Paragraph (b) does not apply:
 - (i) where the Member or beneficiary becomes bankrupt; or
 - (ii) to the extent that the Act prohibits its application.

1.17.10 **Deductions from Benefits**

The Trustee must deduct:

- (a) any amount which the School or Non-School Employer (as applicable) certifies is owing to it by the Member; and
- (b) any amount which the Trustee certifies is owing to the Fund by the Member,

from any benefit payable in respect of a Member, except to the extent that the Act prohibits the deduction. This Clause does not apply to a Category A Accumulation Member as at 17 December 1998.

1.17.11 **Tax**

- (a) The Trustee may adjust the amount of and conditions relating to any benefits and contributions to take account of any tax or other governmental impost in connection with the Fund. Any such adjustment will have immediate effect without the necessity of amending the Deed.
- (b) The Trustee may make provision for any tax or other governmental impost in the accounts of the Fund.
- (c) The Trustee may deduct from any benefits or contributions any tax or governmental impost which the law requires it to deduct and remit that tax or impost to the proper authority at the appropriate time.

1.17.12 **Pensions**

- (a) A benefit may be paid from the Fund as a pension (by purchasing an annuity or from the Accumulation Account of a Member or otherwise) subject to such terms and conditions as the Trustee determines having regard to the advice of the Actuary;
- (b) So long as this is consistent with the Act, a pension:
 - (i) is payable from such date and in such amounts and at such intervals as are agreed between the Trustee and the Member or beneficiary; and

- (ii) continues until such time as is agreed between the Trustee and the Member or beneficiary; and
 - (iii) is payable on such other terms and conditions as are agreed between the Trustee and the Member or beneficiary;
- (c) If a pension is payable by instalments from the Accumulation Account of the Member:
- (i) the pension ceases when the Accumulation Account is exhausted;
 - (ii) when the pension ceases under paragraph (b)(ii), any balance in the Member's Accumulation Account must be paid to the Member; and
 - (iii) if the Member dies whilst still entitled to a pension under this Clause, the balance in the Member's Accumulation Account must be paid to a Reversionary Beneficiary so long as this is consistent with the requirements of the Act. In the absence of a Reversionary Beneficiary or if the Trustee cannot make payment to a Reversionary Beneficiary for any reason (including because the Reversionary Beneficiary cannot be found), the balance in the Member's Accumulated Account must be paid in accordance with the provisions of Clause 1.17.5,
- and is otherwise subject to the requirements of the Act; and
- (d) The Trustee may establish procedures and rules setting out:
- (i) who may be nominated as a Reversionary Beneficiary under this Clause and how and when a Member may make or revoke such a nomination;
 - (ii) the circumstances in which the Trustee will not accept a nomination of a Reversionary Beneficiary under this Clause and any other matters relating to Reversionary Beneficiaries as the Trustee determines.

1.17.13 **Early Release of Benefit**

The Trustee may pay a benefit to a Member who is in the service of a School or who is employed by a Non-School Employer on compassionate grounds or if otherwise permitted by the Act. The Trustee must adjust the Member's benefits in the Fund to reflect the payment made and may determine that the payment is a full discharge of the Member's entitlement.

1.17.14 **Required Payment Date**

If a Member reaches the Required Payment Date, the Trustee must pay the Member the benefit under the Rules or otherwise apply it in accordance with this Deed or the Rules.

1.17.15 **Giving of Information by Members**

Every Member must:

- (a) give such evidence or proof;
- (b) undergo such medical examinations and tests; and
- (c) satisfy such other requirements,

as the Trustee determines. If a Member fails to satisfy any of these requirements or gives false or misleading information to the Trustee, the Trustee may adjust or reduce the Member's entitlements from the Fund on such basis as it determines to be appropriate so long as this is consistent with the Act.

1.17.16 **Benefits in Relation to Non-Member Spouses**

- (a) If the Trustee is properly served with a splitting agreement or a Court order under Part VIII B of the Family Law Act 1975, the Trustee may at the request of the Non-member Spouse and if permitted by the Act:

- (i) transfer to an Accumulation Account for the Non-member Spouse under the Fifth Schedule so long as it exceeds any minimum amount determined by the Trustee;
- (ii) pay to the Non-member Spouse; or
- (iii) transfer to another Benefit Arrangement in respect of the Non-member Spouse,

any amount to be allocated to the Non-member Spouse. If the Trustee makes a payment or transfer in accordance with paragraph (ii) or (iii), the receipt by the Non-member Spouse or the trustee of such other Benefit Arrangement is a sufficient discharge of the Trustee of its liability in respect of that Non-member Spouse.

- (b) In allocating amounts to the Non-member Spouse where the Member has both a defined benefit and an accumulation benefit, the Trustee must:
 - (i) take amounts from the Member's accumulation benefit in the first instance; and
 - (ii) suspend the offer of investment choice under Clause 1.7.1 for so long as the Member has a negative accumulation account under paragraph (c) of this Clause 1.17.16,

on such terms as it determines.

- (c) If the Trustee makes a payment or transfer under this Clause 1.17.16, it must then reduce any benefit (including any pension) which is or may become payable to and in respect of the Member on such basis and at such time or times as the Trustee determines to be appropriate so long as this is consistent with the Act. In the case of the reduction of a defined benefit where the Member has a defined benefit but no accumulation benefit, the Trustee must:
 - (i) make the reduction by the establishment of a negative accumulation account on such basis and at such time or times as are determined by the Trustee to be appropriate; and
 - (ii) allocate earnings to the negative accumulation account at the rate or rates determined under Clause 1.21 for the purposes of the Fourth Schedule.
- (d) If the Non-member Spouse makes no request under paragraph (a) or if the request cannot be given effect to by the Trustee for any reason, the Trustee must transfer the amount payable in respect of the Non-member Spouse to:
 - (i) an Accumulation Account under the Fifth Schedule so long as it exceeds any minimum amount determined by the Trustee; and
 - (ii) otherwise to another Benefit Arrangement (including an eligible rollover fund).

If the Trustee makes a payment or transfer in accordance with paragraph (ii), the receipt by the trustee of such other Benefit Arrangement is a sufficient discharge of the Trustee of its liability in respect of that Non-member Spouse.

- (e) Subject to the terms of this Clause 1.17.16, the Trustee may make rules dealing with any matters relating to a payment split and a Non-member Spouse's interest in the Fund as it determines from time to time subject to the Act, and these rules are binding on the relevant Member and the Non-member Spouse.

1.17.17 **Flagging in relation to Non-member Spouses**

If the Trustee receives a flagging agreement or Court order under Part VIII B of the Family Law Act, then so long as it has been properly served, the Trustee must:

- (a) record the existence of the agreement or Court order; and
- (b) defer payment of the benefit to or in respect of the Member until the agreement or Court order is lifted.

1.17.18 **Deferring payment splits for Non-member Spouses**

If the Trustee is required by the Act to defer a payment split but not otherwise, then so long as it has been properly served, the Trustee must:

- (a) record the existence of the agreement or Court order; and
- (b) keep a record of the Non-member Spouse's interest in the Fund on such basis and in such manner as the Trustee determines from time to time subject to the Act.

At the time when the payment split can be given effect to by the Act, the provisions of paragraph (a) or (d) of Clause 1.17.16 apply.

1.18 **TRANSFER TO OR FROM THE FUND**

1.18.1 **Power to accept Transfers**

The Trustee may accept money or other assets from another Benefit Arrangement in respect of a Member or prospective Member, but in the case of a Defined Benefit Member or prospective Defined Benefit Member, the School must consent.

1.18.2 **Consequences**

If the Trustee accepts money or other assets under Clause 1.18.1:

- (a) the person must become a Member, if not already a Member; and
- (b) the Trustee must:
 - (i) in the case of an Accumulation Member, credit the Member's Accumulation Account with an amount equal to the value of the money or other assets;
 - (ii) in the case of a Retained Benefit Member, credit the Member's Retained Benefit Account with an amount equal to the value of the money or other assets; or
 - (iii) in the case of a Defined Benefit Member, agree with the School and the Actuary about the Member's rights to additional benefits.

1.18.3 **Power to Transfer Out**

- (a) If an Accumulation Member, a Retained Benefit Member or a Spouse Member so requests, the Trustee must transfer all or part of the Member's benefit to another Benefit Arrangement if this is consistent with the Act. The amount to be transferred is the Member's Accumulation Account or the Member's Retained Benefit Account (as the case may be) or the amount requested by the Member (if less). In the case of an Accumulation Member who has not left the employment of a School or Non-School Employer (as applicable), the consent of the School or Non-School Employer (as applicable) is required unless this is inconsistent with the Act.
- (b) If a Defined Benefit Member who has left the employment of the School so requests, the Trustee must transfer all or part of the Member's benefit to another Benefit Arrangement if the transfer is consistent with the Act. The amount to be transferred is the Member's benefit, or if the Trustee so determines with the consent of the School, such greater amount not exceeding the Member's fair share of the Account of the School at the date of transfer as is determined by the Trustee after obtaining the advice of the Actuary.
- (c) If a Defined Benefit Member who has not left the employment of the School so requests and the School consents, the Trustee may transfer the amount described in Clause 1.18.3(b) in respect of the Member to another Benefit Arrangement if the transfer is consistent with the Act. However, the Trustee must transfer all or part of the Member's benefit which comprises the Member's Accumulation Account to another Benefit

Arrangement without the consent of the School if the Member so requests and if this is consistent with the Act.

- (d) The powers in this clause are in addition to the Trustee's powers to transfer benefits under the Schedules.
- (e) The Trustee must adjust the Member's benefits in the Fund to reflect the transfer made and may determine that the payment is a full discharge of the Member's entitlement. The Trustee is not responsible for the application of the amount transferred.

1.19 **TRANSFER BETWEEN SCHEDULES AND CATEGORIES**

1.19.1 **School Election to Transfer between Schedules**

If a School makes an election:

- (a) for the Fourth Schedule to apply to any group of Members Employed by it instead of the Third Schedule, the Trustee must -
 - (i) obtain the advice of the Actuary and determine the portion of the Fund which it is fair to allocate to the School and the relevant Members Employed by it as at the effective date; and
 - (ii) transfer the allocated portion of the Fund to an account established for the School under the Fourth Schedule;

and
- (b) for the Third Schedule to apply to any group of Members Employed by it instead of the Fourth Schedule, the Trustee and the School must agree upon the benefits to be provided for the relevant Members Employed by the School after considering the advice of the Actuary.

1.19.2 **Individual Transfer between Categories for Members employed by Schools**

The Trustee may alter a Member's Category if the Member and the School consent. If under this Clause:

- (a) a Defined Benefit Member becomes an Accumulation Member, the Trustee must determine the benefits to be provided for the Member after considering the advice of the Actuary; and
- (b) an Accumulation Member becomes a Defined Benefit Member, the Trustee must determine the benefits to be provided for the Member,

and may make such other arrangements as the Trustee and the School determine to be appropriate.

1.19.3 **Transfer to become Retained Benefit Member**

If a Member's benefit becomes payable and:

- (a) the Member requests and the Trustee agrees that the benefit be retained in the Fund; or
- (b) the Trustee has not received the Member's instructions regarding payment of the benefit,

the Trustee must transfer the benefit to a Retained Benefit Account for the Member under the Sixth Schedule. The Trustee may re-transfer the balance in the Retained Benefit Account:

- (i) to the Member's account under another Schedule if the Member becomes re-employed by a School or Non-School Employer governed by that other Schedule; or
- (ii) to an Accumulation Account under the Third Schedule if the Member is to receive a pension under Clause 1.17.12.

1.19.4 **Costs and Expenses**

The Trustee must obtain the advice of the Actuary and determine the fair share of the Fund expenses (including taxes and whether incurred before or after the effective date) which should be borne by Schools governed by each Schedule and apportion the Fund expenses accordingly.

1.19.5 **Investment Income**

As at each 31 January the Trustee must obtain the advice of the Actuary and determine the fair share of the return on the investment of the Fund's assets (including income on the assets, profits, losses, capital appreciation or depreciation) which should be allocated to Schools governed by each Schedule and allocate the return accordingly.

1.20 **ACCUMULATION ACCOUNT**

1.20.1 For each Accumulation Member, the Trustee must record in an Accumulation Account:

- (a) contributions made by the Member under the Third Schedule; and
- (b) contributions made for the Member by the School or Non-School Employer (as applicable) under the Third Schedule.

1.20.2 For each Defined Benefit Member, the Trustee must record in an Accumulation Account:

- (a) any additional contributions made by the Member on or after the Effective Date under the Fourth Schedule; and
- (b) any additional contributions made by the School in respect of a Member on or after the Effective Date under Rule 4.3.3(c) of the Fourth Schedule.

1.20.3 For each Spouse Member, the Trustee must record in an Accumulation Account:

- (a) any contributions made by the Spouse Member under the Fifth Schedule; and
- (b) any contributions made in respect of the Spouse Member under the Fifth Schedule (whether before or after the person becomes a Spouse Member).

1.20.4 The Trustee must also record in each Accumulation Account:

- (a) amounts transferred from other Benefit Arrangements which the Trustee decides to credit to the account;
- (b) administration charges and life insurance premiums which the Trustee decides to debit to the account;
- (c) amounts debited to the account for tax or other expenses;
- (d) amounts credited or debited to the account under Clause 1.21 or Clause 1.20A;
- (e) amounts paid as benefits or transferred to other Benefit Arrangements from the account; and
- (f) any other amount which the Trustee decides to debit or credit to the account.

1.20.5 The Trustee may:

- (a) establish sub-accounts within the Member's Accumulation Account; and
- (b) maintain and operate any sub-account for any purpose and in any manner the Trustee determines appropriate.

1.20A **SPLITTABLE CONTRIBUTIONS**

1.20A.1 If requested by a Member, the Trustee may agree to rollover, transfer or allot any contribution made to the Fund in respect of that Member from the Member's Accumulation Account into an account which the Member's Spouse has (or will have as a result of the transaction) in the Fund or in another Benefit Arrangement provided that:

- (a) the Act does not prohibit such a rollover, transfer or allotment; and

- (b) the amount that the Trustee agrees to allot, roll-over or transfer does not exceed the amount in the Member's Accumulation Account, taking into account any amount that the Trustee determined to debit from the Member's Accumulation Account.

1.20A.2 If not prohibited by the Act, the Trustee may agree to credit to a Member's Accumulation Account any rollover, transfer or allotment from an account that the Member's Spouse has in the Fund or another Benefit Arrangement.

1.21 INVESTMENT EARNINGS

1.21.1 Investment Returns

The Trustee must at least annually:

- (a) value the Fund's assets; and
- (b) determine the returns on the investment of the Fund's assets (including income on the assets, profits, losses, capital appreciation or depreciation),

and may make such allowance as it determines appropriate for:

- (c) any tax on investment earnings; and
- (d) any investment expenses.

1.21.2 Investment Earning Rates

- (a) The Trustee must declare (in respect of each year, at least) a rate or rates of investment earnings (which may be positive or negative) for each investment portfolio or notional investment portfolio maintained under Clause 1.7.1 having regard to the investment returns determined under Clause 1.21.1, after considering whether to withhold part of the investment returns from distribution in the period or to supplement the investment returns for the period from amounts withheld in previous periods.
- (b) The Trustee may declare an interim rate or rates of investment earnings (which may be positive or negative) in respect of any period for any particular purpose..

1.21.3 Allocation of Investment Earnings

Investment earnings (which may be positive or negative) at the appropriate rate declared by the Trustee must be allocated to the Member's Accumulation Account or Retained Benefit Account or otherwise be applied to the Member's benefit:

- (a) at least annually;
- (b) at the date a benefit becomes payable to or in respect of the Member; and
- (c) at any date the Trustee determines appropriate.

1.22 AMENDMENTS

1.22.1 Power to Amend

The Trustee may amend this Deed (including this clause) and the Rules by deed but only if:

- (a) in the case of amendments to this Deed, and in the case of amendments to provisions in the Third Schedule in so far as they relate to Category A Accumulation Members as at 17 December 1998:
 - (i) the Actuary determines that a Member's rights or interests at the date of the amendment are not substantially prejudiced; and
 - (ii) where the amendment changes the scale of contributions, the Actuary consents in writing; and
- (b) in all other cases:

- (i) the Actuary determines that the value of the rights secured for or in respect of a Member by contributions paid to the Fund before the date of the amendment are not substantially prejudiced; and
- (ii) the amendment does not increase the contributions payable by a Member at the date of the amendment without the Member's written consent.

1.22.2 **Prior Notice**

If the Actuary determines that an amendment under this Clause 1.22 would or may give rise to an additional cost or liability for the Schools, the amendment may not be made unless the Trustee has given the Schools 4 weeks written notice of the proposed amendment. For this purpose, no part of the period from the second Sunday in December to the second Saturday in February is counted in the 4 week notice period.

1.23 **CLAIMS AND JURISDICTIONS**

1.23.1 **Claims**

No person can claim any right or interest in the Fund except under this Deed and the Rules.

1.23.2 **Jurisdiction**

No legal action or proceedings in connection with the Fund may be instituted or conducted in any jurisdiction outside Australia unless the Trustee determines otherwise.

1.24 **NOTICES**

1.24.1 **Receipt of Notices**

A notice or communication given by ordinary post is considered received by the person to whom it was sent on three working days after it was posted. A notice or communication given by fax is considered received by the person to whom it was sent on receipt by the sender of a full and correct transmission report. If the transmission report is not received by the sender during ordinary working hours, it is considered sent on the next business day.

1.24.2 **Reliance on Notices**

The Trustee, Actuary, Fund secretary and any other officer or employee of the Fund may accept a letter or other document signed by the School's Authorised Officer as true and binding on the School.

1.25 **TERMINATION OF FUND**

1.25.1 **Circumstances**

The Trustee must terminate the Fund if two-thirds of the Schools give three months written notice to the Trustee of their desire to terminate the Fund.

1.25.2 **Termination Date**

The Termination Date is the date three months after the Trustee receives written notice under Clause 1.24.1 from two-thirds of the Schools.

1.25.3 **Application of Assets**

On termination, the Trustee must apply the Fund's assets in favour of the Members (or any other person) in a fair and equitable manner as determined by the Trustee and the Actuary according to the respective interests of the Members and other persons.

FIRST SCHEDULE	
Name of School or Organisation as at 17 December 1998	
Association of Independent Schools of Victoria	Melbourne Girls Grammar School
Alphington Grammar School	Mentone Girls' Grammar School
Andale School Incorporated	Merrivale Independent Primary School
Berengarra School	Methodist Ladies' College
Camberwell A.G.G.S.	Minaret College Inc.
Early Education Program for Hearing Impaired Children	Movement for Learning
Erasmus School	Oceanic Polytechnic
Fintona Girls' School	Presbyterian Ladies' College
Ghilgai School	Preshil - The Margaret Lyttle Memorial School
Girton Grammar School Limited	Plenty Valley Montessori School Association
Greek Orthodox Community of Melbourne and Victoria	Ruyton Girls' School
Hamilton College	Shelford - An Anglican School for Girls
Kardinia International College	St Catherine's School
Kilvington Baptist Girls' Grammar School	St Hilda's College
King Khalid Islamic College of Victoria	St Leonard's College
King's College	St Margaret's School
Kingswood College	St Michael's Grammar School
Korowa Anglican Girls' School	St Peter's Collegiate Girls School
Lauriston Girls' School	Tarlina School
LECAJ trading as The Parkville Music School	The Currajong School
Life Education Centre North East Region	The Darul Ulum School
Loreto Mandeville Hall	The Japanese School of Melbourne
Lowther Hall A.G.S.	The Vine & Branches Education Centre Limited
Little St Margaret's	Tintern Schools
Little Yarra Steiner School	Victorian Independent Schools BGA Limited
Mansfield Steiner School & Kindergarten	Worawa Aboriginal College
Melton Christian College	

SECOND SCHEDULE	
Trustee:	VIS NOMINEES PTY LIMITED ACN 006 586 367 Level 1 333 Collins Street Melbourne Vic 3000

THIRD SCHEDULE

ACCUMULATION MEMBERS

3.1 APPLICATION

This Third Schedule applies to Members for so long as they are Accumulation Members.

3.2 CONTRIBUTIONS

3.2.1 Member Contributions

In the case of an Accumulation Member:

- (a) a Category A Accumulation Member or a Category C Accumulation Member must contribute 5% of the Member's Annual Salary until the earlier of the date on which the Member:
 - (i) leaves employment of the School; or
 - (ii) reaches the Prescribed Contribution Date.

A School may release a Category A Accumulation Member or a Category C Accumulation Member Employed by it from making all or part of the Member's contributions under this Rule for such period as the School may determine.

- (b) a Category B Accumulation Member and a Category D Accumulation Member are not required to contribute.
- (c) a Member may contribute any further amount on such terms and conditions as the Trustee determines (including up to the Prescribed Contribution Date) if this is not contrary to the Act.

3.2.2 School Contributions

Each School must contribute as follows:

- (a) for a Category A Accumulation Member Employed by the School whose contributions and benefits were governed by the Third Schedule on and before 17 December 1998:
 - (i) in respect of the Member, 5% of the Member's Annual Salary or such higher amount or rate as the School determines and notifies to the Member and the Trustee from time to time; and
 - (ii) in respect of death and disablement benefits, an amount equal to 0.5% of the Member's Annual Salary (other than where the Member is receiving a benefit under Rule 3.7) or such other amount as is determined by the Trustee from time to time;
- (b) for any other Category A Accumulation Member or for a Category C Accumulation Member - such amount or rate of the Member's Annual Salary as is agreed between the School and the Member and notified to the Trustee from time to time;
- (c) for any Category B Accumulation Member - such amount or rate of the Member's Annual Salary as is determined by the School and notified to the Member and the Trustee from time to time; and
- (d) for any Category A Accumulation Member Employed by the School whose contributions and benefits were governed by the Third Schedule on and before 17 December 1998, and for any Category B Accumulation Member, any other amount as is agreed between the School and the Member and notified to the Trustee from time to time, on such terms and conditions as the Trustee determines.

3.2.3 Payment of School Contributions

The School must contribute in accordance with Rule 3.2.2 until the earlier of the dates on which:

- (a) contributions cease in respect of the Member under Rule 3.13; or
- (b) the Member ceases to be employed by the School; or
- (c) the Member reaches the Prescribed Contribution Date.

If an amount is allocated to a Member's Accumulation Account or applied in respect of the Member, the School's obligation to contribute that amount is satisfied.

3.2.4 Non-School Employer Contributions

Each Non-School Employer must contribute, in respect of a Category D Accumulation Member employed by it, no less than the level of contributions required so as to avoid the Non-School Employer being liable for Superannuation Guarantee Charge under the Superannuation Guarantee (Administration) Act 1992 and the regulations made under that Act.

3.3 BENEFITS ON LEAVING SERVICE WITH A SCHOOL

3.3.1 A Member who leaves employment of a School for any reason is entitled to a lump sum benefit equal to the balance in the Member's Accumulation Account. However, subject to Rule 3.3.2, and subject to any terms and conditions that the Trustee determines pursuant to clause 3.2, in the case of a Category A Accumulation Member who became a Member on or before 1 February 1996, the benefit must not be less than the total of the Member's contributions and:

- (a) for Members who are under age 50 and have less than 25 years of service - 4% of the School's contributions in respect of the Member for each complete year of service; or
- (b) for any other Member - the whole of the School's contributions in respect of the Member,

with interest for the period before 1 February 1984 at the rate of 3% compound and for the period on and after 1 February 1984 at the rate of 4% compound. For this purpose, service includes a period of service in a School which does not participate in the Fund and service in a School when not a Member of the Fund.

For the avoidance of doubt, this minimum benefit provision has no application to:

- (i) a Category B Accumulation Member or a Category C Accumulation Member; and
- (ii) the transfer value (including any accumulation component) provided to a Defined Benefit Member or a Retained Benefit Member on becoming a Category A Accumulation Member under Clause 1.19.

3.3.2 Notwithstanding Rule 3.3.1, a Category A Accumulation Member who became a Member on or before 1 February 1996 may, in a form and at a time approved by the Trustee, direct the Trustee to determine the Member's entitlement, upon the Member leaving employment of a School for any reason, as being a lump sum benefit equal to the balance in the Member's Accumulation Account. Any such direction will be revocable.

3.3A BENEFIT ON CEASING EMPLOYMENT WITH A NON-SCHOOL EMPLOYER

A Category D Accumulation Member who ceases employment with a Non-School Employer for any reason is entitled to a lump sum benefit equal to the balance of the Category D Accumulation Member's Accumulation Account.

3.4 BENEFITS TO EMPLOYED MEMBER

A Member who:

- (a) remains Employed by a School or a Non-School Employer (as applicable) after age 65; and

(b) requests the Trust to pay a benefit to the Member,
is entitled to a benefit equal to the balance of the Accumulation Account.

3.5 TEMPORARY CESSATION OF EMPLOYMENT WITH A SCHOOL

If a Member:

- (a) ceases to be Employed by a School but the Trustee is satisfied that the Member will be Employed as a Member of Staff with a School within two years; or
- (b) takes unpaid leave,

the Trustee and the Member may make such arrangements they consider appropriate concerning contributions and benefits for the Member for the period of absence.

3.6 BENEFITS ON DEATH

If a Member dies, the Trustee must pay in accordance with Clause 1.17.5 of the Deed a benefit equal to the sum of:

- (a) the balance in the Member's Accumulation Account;
- (b) for a Category A Accumulation Member or for a Category C Accumulation Member - one-twelfth of 10% of the Member's Annual Salary immediately before the Member's death for each complete month between the beginning of the School Year before the date of death (or the date in the School Year in which the person became a Member if later) and the end of the School Year in which the Member would have reached age 60 or such other amount that the Trustee has arranged with the insurer;
- (c) for a Category B Accumulation Member Employed by a School - such amount as is agreed between the Trustee and the Member from time to time subject to receipt of insurance proceeds from the insurer;
- (d) for a Category B Accumulation Member who ceases to be Employed by a School before death - nil (except any insurance proceeds payable under any continuation option in an insurance policy); and
- (e) for a Category D Accumulation Member, any insurance proceeds received from an insurer in respect of the Category D Accumulation Member.

3.7 TOTAL DISABLEMENT BENEFIT FOR MEMBERS IN THE SERVICE OF A SCHOOL

3.7.1 Income Benefit

If a Category A Accumulation Member, Category B Accumulation Member or a Category C Accumulation Member is absent from the service of a School before the last day of the School Year in which the Member reaches age 60 (or such higher age that the Trustee has arranged with the insurer) due to Total Disablement for a period of 90 consecutive days (or any shorter period permitted under the insurance policy under which the benefit is insured), the Member is entitled to an income benefit.

3.7.2 Amount of Benefit

The annual amount of the income benefit is 50% (or if the Trustee has so arranged with the insurer, such greater percentage as the Trustee may determine) of the Member's Annual Salary as at the date the Member was most recently at work.

3.7.3 Payment of Benefit

The Trustee must pay the income benefit by monthly instalments (or at such other intervals as are specified in the insurance policy under which the benefit is insured). The income benefit ceases on the earliest of the date when a benefit becomes payable to or in respect of the Member or any other date specified in the insurance policy unless the Trustee and the School agree on a later date.

3.7.4 **Return to Service**

If the Member continues in or returns to the service of a School when the income benefit ceases, the Member's membership of the Fund will continue and this Deed and the Rules will still apply to the Member.

3.7.5 **Leaving Service**

If the Member does not continue in or return to the service of a School when the income benefit ceases, the Trustee must pay to the Member whichever benefit is applicable to the Member under the relevant provision of the Rules on the date when the income benefit ceased. If the relevant provision of the Rules requires the School to give its approval or exercise a power, the Trustee must still ascertain whether the School will give its approval or exercise the power.

3.7.6 **Special Conditions**

The following special conditions apply to Rule 3.7:

- (a) During any period of absence from the service of a School due to Total Disablement, a Member shall continue to be eligible for any of the other benefits provided by these Rules as if the Member had remained in the active service of the School and as if the Salary at the date on which the Member was last at work had continued unaltered.
- (b) In the case of a Member who is entitled to receive an income benefit under this Rule 3.7 and is Employed by a School:
 - (i) the Member shall continue to accrue benefits under this Schedule;
 - (ii) the contributions payable by the School under Rule 3.2.2 shall continue to be paid; and
 - (iii) no contributions shall be payable by the Member under Rule 3.2.1 but shall be deemed to have been paid by the Member,

during the whole of the period for which the income benefit is payable.

3.7.7 **Part-time Employment**

If a School classifies a Member as a part-time employee, the amount of the income benefit must be determined under this Rule 3.7 unless the Average Member's Percentage exceeds the Member's Percentage at the commencement of the Final School Year. Then the income benefit must be increased in the ratio which the Average Member's Percentage bears to the Member's Percentage at the commencement of the Final School Year up to a maximum of 95% of the Member's Annual Salary.

3.7.8 **Insurance Conditions**

The Trustee must insure the income benefit, the contributions payable by the School under Rule 3.7.6(b)(ii) and the contributions deemed to be payable by the Member under Rule 3.7.6(b)(iii) under one or more insurance policies, but:

- (a) the income benefit shall, unless otherwise determined by the Trustee and the School, be reduced by:
 - (i) the amount of any such insurance or part thereof which the insurer refused to grant on terms acceptable to the Trustee or the School; and
 - (ii) the amount of any such insurance or part thereof which, having been effected, the insurer refuses to pay;
- (b) except in the case of a Category A Accumulation Member as at 17 December 1998, the Member shall not accrue benefits under Rule 3.7.6(b)(i), unless otherwise determined by the Trustee and the School, to the extent that:

- (i) the insurer refuses to insure the contributions payable by the School under Rule 3.7.6(b)(ii) and by the Member under Rule 3.7.6(b)(iii) on terms acceptable to the Trustee or the School; or
 - (ii) the insurer refuses to pay the amount of any such insurance or part thereof;
- (c) if an income benefit continues to be payable under the rehabilitation conditions of the insurance policy after the Member has ceased to satisfy the definition of Total Disablement or after the Member has ceased to be Employed by the School, then unless otherwise determined by the trustee and the School, the Trustee:
- (i) shall continue to pay such part of the Total Disablement benefit payable from the Fund as in its opinion is consistent with the extent to which the benefit payable under the insurance policy has been continued; and
 - (ii) may deem the Member to satisfy the definition of Total Disablement and to continue to be in receipt of an income benefit; and
- (d) for Members who joined the Fund before 1 February 1992 and who have not elected to receive a lump sum benefit on Total and Permanent Disablement, the income benefit shall continue to be paid until age 60 subject to paragraph (a) of this Rule 3.7.8.

3.7A TOTAL DISABLEMENT BENEFIT FOR CATEGORY D ACCUMULATION MEMBERS

If a Category D Accumulation Member becomes Totally Disabled, the Trustee shall pay any income benefit received from an insurer in respect of the Category D Accumulation Member.

3.8 TOTAL AND PERMANENT DISABLEMENT BENEFIT FOR MEMBERS IN THE SERVICE OF A SCHOOL

If a Category A Accumulation Member, a Category B Accumulation Member or a Category C Accumulation Member (other than a Member who joined the Fund before 1 February 1992 and had not elected to receive a lump sum benefit on Total and Permanent Disablement) is absent from service with a School because of Total and Permanent Disablement before the end of the School Year in which the Member would have reached age 60 (or such higher age that the Trustee has arranged with the insurer), the Trustee must pay a lump sum benefit to the Member equal to the amount which would have been paid under Rule 3.6 if the Member had died on the date as at which the Trustee determines the Member to be Totally and Permanently Disabled.

3.8A TOTAL AND PERMANENT DISABLEMENT BENEFIT FOR CATEGORY D ACCUMULATION MEMBERS

If a Category D Accumulation Member becomes Totally and Permanent Disabled, the Trustee shall pay a lump sum benefit equal to:

- (a) the Category D Accumulation Member's Accumulation Account; plus
- (b) any insurance proceeds received from an insurer in respect of the Category D Accumulation Member.

3.9 BENEFIT ON SCHOOL DEFAULT

If a School fails to make the contributions required by the Deed and the Rules for a period of three months, any Member Employed by the School is entitled to request payment of the benefit which would have been paid if the Member had resigned from the School at the date of the commencement of the default. Payment may only be made by the Trustee if this is consistent with the Act. The Trustee may postpone payment of the benefit until funds are available to satisfy all such requests without realising any of the Fund's investments.

3.10 VOLUNTARY DEFERRAL

3.10.1 The Trustee may defer payment of all or part of a benefit payable to a Member under this Schedule:

- (a) if the Member requests; or

- (b) in any other circumstances the Trustee considers appropriate.

The Trustee may only defer the payment if this is consistent with the Act.

- 3.10.2 Any part of a benefit retained under Rule 3.10.1 remains credited to the Member's Accumulation Account until payment and the Trustee must record in the Accumulation Account the matters referred to in Clause 1.20. The benefit must otherwise be dealt with in accordance with the Deed and the Rules.

- 3.10.3 If:

- (a) a Member requests the Trustee to pay the Member's benefit; and
 (b) the Act permits,

the Trustee must pay the benefit to the Member.

- 3.10.4 If the Member dies before the benefit is paid in full, the Trustee must pay the remainder of the benefit in accordance with Clause 1.17.5 of the Deed.

3.11 TRANSFERS BETWEEN SCHOOLS

- 3.11.1 The transfer of a Member from service with one participating School to service with another participating School is not a termination of service.

- 3.11.2 The transfer of a Member from service with one participating School to service with another participating School after an interval of no more than 60 days is not a termination of service if the Trustee and the Member so agree.

- 3.11.3 The transfer of a Member from service with a participating School to service with a Non-participating School is a termination of service unless the Trustee and the Member agree otherwise.

- 3.11.4 If on transferring to the other School the Member changes Category, Clause 1.19.2 applies.

3.12 WITHDRAWAL OF SCHOOL

3.12.1 Notice of Withdrawal

A School may terminate contributions to the Fund from any 31 January (or any other date approved by the Trustee) by giving one month's written notice (or such less notice as the Trustee may accept) to the Trustee.

3.12.2 Effect of Notice

If at the date of termination of contributions:

- (a) the School has a superannuation scheme which in the opinion of the Trustee provides benefits which are substantially equivalent to the benefits provided by the Fund; and
 (b) in the opinion of the Actuary the rights or interests of Members will not be substantially prejudiced,

the Trustee must transfer an amount in respect of each Member Employed by the School to the superannuation scheme referred to in paragraph (a). The amount may be transferred in one lump sum or by instalments of such amounts and at such times as the Trustee determines. The Trustee may postpone transfer to avoid realising any of the Fund's investments. The receipt of a trustee, secretary or manager of a superannuation scheme referred to in paragraph (a) is a complete discharge to the Trustee. Neither the Trustee nor the School is responsible for the application of the amount transferred.

3.12.3 Transfer Amount

The amount to be transferred in respect of each Member is:

- (a) if the total balances of the Accumulation Accounts of all Members governed by this Third Schedule are equal to or less than the value of the portion of the Fund relating to this Third Schedule - the balance in the Member's Accumulation Account; or

- (b) if the total balances of the Accumulation Accounts of all Members governed by this Third Schedule are greater than the value of the portion of the Fund relating to this Third Schedule - the balance in the Member's Account, reduced in the ratio which the value of the said portion of the Fund bears to total balances of the said Accounts.

3.13 CHOICE OF FUND

If a School is required to contribute to another Benefit Arrangement in respect of an Accumulation Member under the Choice of Fund Legislation:

- (a) the contributions payable by or in respect of the Member under Rule 3.2 cease;
- (b) all or part of the Member's Accumulation Account may be transferred to another Benefit Arrangement in accordance with Clause 1.18.3 once the Trustee has received written notice from the School that the last contribution in respect of the Member has been paid to the Fund; and
- (c) the benefit which may otherwise become payable under Rule 3.6(b), (c) or (d), Rule 3.7 or Rule 3.8 shall cease to be payable on the earlier of the following dates:
 - (i) the date on which the Member's Accumulation Account is transferred to another Benefit Arrangement; or
 - (ii) the date on which the Member notifies the Trustee in writing to cease debiting life insurance premiums to the Member's Accumulation Account under Clause 1.20.4(b); or
 - (iii) the date on which there is an insufficient balance in the Member's Accumulation Account to meet the cost of life insurance premiums in respect of these benefits, under Clause 1.20.4(b).

FOURTH SCHEDULE
DEFINED BENEFIT MEMBERS

4.1 **APPLICATION**

This Fourth Schedule applies to Members for so long as they are Defined Benefit Members.

4.2 **DEFINITIONS**

In this Schedule:

"Commencement" of a School Year means the first day of the first term.

"Equivalent Full-time Annual Salary" of a Member who is Employed part-time at any date means the Member's Annual Salary adjusted in the ratio which 100% bears to the Member's Percentage.

"Final Salary" of a Member means the greater of:

- (a) (i) where a Member retires on or after 31 December in a School Year but before the Commencement of the next School Year - his or her Annual Salary for the School Year in which he or she retires; or
- (ii) where a Member retires at any other time - his or her Annual Salary for the School Year immediately before the School Year in which he or she retires; and
- (b) (i) the average of the highest three of the Member's Annual Salaries in the ten years ending on the date of retirement; or
- (ii) if there are less than three Annual Salaries, the average of the Member's Annual Salaries during the period of the Member's Membership.

"Membership" of a Member means:

- (a) the most recent uninterrupted period during which the Member has been a Member; and
- (b) any additional period which the School declares to be Membership for any purpose, but before making a declaration the School must seek the Actuary's advice about the estimated cost and effect on the Fund's security of providing the additional benefits arising from the declaration and the Actuary must advise the School and the Trustee of any adjustment to the School's contributions under Rule 4.3.3.

"Service" of a Member means:

- (a) the most recent uninterrupted period during which the Member has been:
 - (i) Employed; and
 - (ii) a Member;
- (b) any immediately preceding period during which the Member was Employed by a participating School, but for Members admitted to the Fund after 1 December 1988 only if approved by the Trustee; and
- (c) for Members who become Members on or before 1 February 1996 and who transferred from the Third Schedule any period of service in a school which does not participate in the Fund and service in a school when not a Member of the Fund.

4.3 **CONTRIBUTIONS**

4.3.1 **Member Contributions**

- (a) Each Member must contribute to the Fund at the minimum rate of 5% of the Member's Annual Salary.
- (b) A Member must not pay minimum Member contributions:
 - (i) while a benefit is payable under Rule 4.7;
 - (ii) after the date the Member becomes entitled to any other benefit under the Rules; and
 - (iii) after the Prescribed Contribution Date.
- (c) A Member may contribute additional amounts to the Fund on such terms and conditions as the Trustee may determine (including up to the Prescribed Contribution Date) if this is not contrary to the Act

4.3.2 **Release of Member Contributions**

- (a) A School may release a Member Employed by it from making contributions to the Fund for such period as the School may determine.
- (b) If a Member is released from making contributions, the School must determine with the advice of the Actuary either that:
 - (i) the benefits payable in respect of that Member are adjusted accordingly; or
 - (ii) the School's contributions to the Fund are adjusted accordingly.

The Trustee must consent to any adjustment of benefits if the Act requires.

4.3.3 **School Contributions**

- (a) At the Effective Date and at intervals not exceeding three years, the Actuary must advise each School of the rate at which the School should contribute to provide the benefits which may become payable for Members Employed by the School.
- (b) Unless otherwise provided in the Deed and Rules, each School must contribute at:
 - (i) the rate advised by the Actuary; or
 - (ii) such other rate agreed between the School, the Trustee and the Actuary.
- (c) A School may contribute additional amounts to the Fund in respect of a Member on such terms and conditions as the Trustee may determine.

4.3.4 **Termination, Reduction or Suspension of School Contributions**

- (a) A School may reduce or suspend its contributions to the Fund by giving three months' notice to the Trustee and the Members Employed by the School. Upon the expiration of the notice, the School's liability to contribute ceases to the extent or for the period mentioned in the notice, but not in respect of arrears of contributions up to the date of expiration of the notice.
- (b) A School may terminate its contributions to the Fund by giving three months' notice to the Trustee and the Members Employed by the School. Upon the expiration of the notice, the School's liability to contribute ceases, but not in respect of arrears of contributions up to the date of expiration of the notice.
- (c) If -
 - (i) a notice to reduce, suspend or terminate contributions is given by a School; or
 - (ii) School contributions are not remitted to the Fund as required,

the School must determine with the advice of the Actuary to adjust the benefits of the Members Employed by the School in a manner which the School determines appropriate and the Actuary certifies is fair. The School must advise the Members Employed by it of the adjustments. The Trustee must consent to any adjustment of benefits if the Act requires.

- (d) If the School fails to perform any of its obligations under paragraph (c) within a reasonable time, the Trustee may perform that obligation on behalf of the School.

4.4 **RETIREMENT BENEFITS**

4.4.1 A Member who retires from the service of a School on or after the Effective Date:

- (a) at or after the Member's 50th birthday; or
- (b) after completing 25 years of Service,

but before the age when the Fund can no longer accept contributions or grant accruals under the Act, is entitled to a lump sum benefit equal to the sum of:

- (i) one twelfth of a percentage of the Member's Final Salary for each complete month of Membership on or after the Effective Date, (The percentage is 15 unless the School and the Trustee agree on another percentage); and
- (ii) for Members who became Members before the Effective Date - the greater of -
 - (A) a percentage of the Member's Final Salary (The percentage is the percentage determined by the Actuary on the day before the Effective Date or such higher percentage as the School may determine, as advised to the Member); and
 - (B) the balance in the Member's Account on the day before the Effective Date plus one-twentieth of that amount for each complete year from the Effective Date to the date of the Member's retirement.

If the School consents, the benefit must not be less than a benefit calculated under Rule 4.9 at the date the Member retires from the service of the School.

4.4.2 If a Member retires from the service of a School on or after the Effective Date and after the age when the Fund can no longer accept contributions or grant accruals under the Act, the Member is entitled to a lump sum benefit equal to the amount calculated under Rule 4.4.1 as at the date when the Member attained that age, with investment earnings (which may be positive or negative) at the rate determined by the Trustee to the date of payment.

4.5 **BENEFITS TO EMPLOYED MEMBER**

- (a) A Member who -
 - (i) remains in the service of a School after age 65; and
 - (ii) has the School's consent to receive a benefit while remaining in service,is entitled to request payment of a lump sum benefit.
- (b) If a Member receives a benefit under this Rule 4.5 no other benefit is payable to or in respect of the Member under this Fourth Schedule.

4.6 **DEATH BENEFITS**

4.6.1 If a Member dies in the service of a School on or after the Effective Date and before the last day of the School Year in which the Member reaches age 60, the Trustee must pay from the Fund in accordance with Clause 1.17.5 of the Deed a lump sum benefit equal to the benefit which would have been paid under Rule 4.4.1 if the Member had -

- (a) remained in the service of the School on the same Salary;
- (b) contributed until the last day of the School Year in which the Member reaches age 60; and
- (c) retired on that date.

4.6.2 If a Member dies in the service of a School on or after the Effective Date and the last day of the School Year in which the Member reaches age 60, the Trustee must pay from the Fund in accordance with Clause 1.17.5 of the Deed a lump sum benefit equal to the benefit which would have been paid under Rule 4.4 if the Member had retired on the date of death.

4.7 **TOTAL DISABLEMENT BENEFIT**

4.7.1 **Income Benefit**

If a Member is absent from the service of a School before the last day of the School Year in which the Member reaches age 60 due to Total Disablement for a period of 90 consecutive days (or any shorter period permitted under the insurance policy under which the benefit is insured), the Member is entitled to an income benefit.

4.7.2 **Amount of Benefit**

The annual amount of the income benefit is 50% (or if the Trustee has so arranged with the insurer, such greater percentage as the Trustee may determine) of the Member's Annual Salary as at the date the Member was most recently at work.

4.7.3 **Payment of Benefit**

The Trustee must pay the income benefit by monthly instalments (or at such other intervals as are specified in the insurance policy under which the benefit is insured). The income benefit ceases on the date specified in the insurance policy unless the Trustee and the School agree on a later date.

4.7.4 **Return to Service**

If the Member continues in or returns to the service of a School when the income benefit ceases, the Member's membership of the Fund will continue and this Deed and the Rules will still apply to the Member.

4.7.5 **Leaving Service**

If the Member does not continue in or return to the service of a School when the income benefit ceases, the Trustee must pay to the Member whichever benefit is applicable to the Member under the relevant provision of the Rules on the date when the income benefit ceased. If the relevant provision of the Rules requires the School to give its approval or exercise a power, the Trustee must still ascertain whether the School will give its approval or exercise the power.

4.7.6 **Special Conditions**

The following special conditions apply to Rule 4.7:

- (a) During any period of absence from the service of a School due to Total Disablement, a Member shall continue to be eligible for any of the other benefits provided by these Rules as if the Member had remained in the active service of the School and as if the Salary at the date on which the Member was last at work had continued unaltered;
- (b) In the case of a Member who is entitled to receive an income benefit under this Rule 4.7 and is Employed by a School:
 - (i) the Member shall continue to accrue benefits under this Schedule; and
 - (ii) no contributions shall be payable by the Member under Rule 4.3.1 but shall be deemed to have been paid by the Member,

during the whole of the period for which the income benefit is payable.

4.7.7 Insurance Conditions

The Trustee must insure the income benefit under one or more insurance policies, but

- (a) the income benefit shall, unless otherwise determined by the Trustee and the School, be reduced by:
 - (i) the amount of any such insurance or part thereof which the insurer refused to grant on terms acceptable to the Trustee or the School; and
 - (ii) the amount of any such insurance or part thereof which, having been effected, the insurer refuses to pay; and
- (b) if an income benefit continues to be payable under the rehabilitation conditions of the insurance policy after the Member has ceased to satisfy the definition of Total Disablement or after the Member has ceased to be Employed by the School, then unless otherwise determined by the School the Trustee:
 - (i) shall continue to pay such part of the Total Disablement benefit payable from the Fund as in its opinion is consistent with the extent to which the benefit payable under the insurance policy has been continued; and
 - (ii) may deem the Member to satisfy the definition of Total Disablement and to continue to be in receipt of an income benefit.

4.8 TOTAL AND PERMANENT DISABLEMENT BENEFIT

If a Member (other than a Member who joined the Fund before 1 February 1992 and had not elected to receive a lump sum benefit on Total and Permanent Disablement) is absent from service with a School because of Total and Permanent Disablement before the last day of the School Year in which the Member reaches age 60, the Trustee must pay a lump sum benefit to the Member equal to the amount which would have been paid under Rule 4.6 if the Member had died on the date as at which the Trustee determines the Member to be Totally and Permanently Disabled.

4.9 RESIGNATION BENEFIT

4.9.1 Standard Basis

If-

- (a) a Member leaves the service of a School on or after the Effective Date for any reason; and
- (b) no benefit is payable under Rule 4.4,

the Member is entitled to a lump sum benefit equal to the sum of:

- (i) the total minimum Member contributions paid by the Member to the Fund on or after 1 February 1984;
- (ii) the total minimum Member contributions paid by the Member to the Fund before 1 February 1984 plus one twelfth of one fiftieth of that amount for each complete month of Membership prior to 1 February 1984;
- (iii) investment earnings (which may be positive or negative) on the amounts in (i) and (ii) at the rate determined by the Trustee with the advice of the Actuary (but not less than 4% per annum compounded in yearly rests for any period before 1 February 1996); and
- (iv) a percentage of the amounts in (i), (ii) and (iii) for each complete year of Service up to 25 years but not exceeding 100% in total. The School must nominate the percentage (being not less than 4%) to the Trustee in respect of the Members Employed by it.

4.9.2 **Increased Benefit**

A School may direct the Trustee to increase the benefit payable to a Member under Rule 4.9.1 by such amount as the School determines but the benefit must not exceed twice the amounts in (i), (ii) and (iii) of that Rule.

4.10 **ADDITIONAL BENEFITS FOR ADDITIONAL CONTRIBUTIONS**

If on or after the Effective Date a Member leaves the service of a School for any reason or dies in the service of the School, the Trustee must pay in addition to any other benefit payable from the Fund under this Rule 4 a lump sum benefit equal to the balance of the Member's Accumulation Account.

4.11 **SCHOOL ACCOUNTS**

4.11.1 **Account to be maintained**

- (a) When a School elects to be governed by this Fourth Schedule the Trustee must establish and maintain an Account for that School for the purpose of determining the proportion of Fund assets available to provide benefits for the Members Employed by that School.
- (b) No School or Member is entitled to any specific asset of the Fund. The Trustee has an absolute discretion as to which assets of the Fund are applied in the payment of any benefit from the Fund.

4.11.2 **Credits to Account**

The Trustee must credit the School's Account with:

- (a) the value of the portion of the Fund which the Trustee determines to allocate to the School under Clause 1.19.2 of the Deed;
- (b) any share of the Fund's investment earnings which the Trustee determines to allocate to the School under Clause 1.21 of the Deed;
- (c) any contributions paid to the Fund by the School or a Member Employed by the School under this Fourth Schedule; and
- (d) any other amounts which the Deed or the Rules may require to be credited or the Trustee may consider it appropriate to credit.

4.11.3 **Debits to Account**

The Trustee must debit the School's Account with:

- (a) the share of the Fund expenses which the Trustee determines should be borne by the School;
- (b) any share of the Fund's investment earnings which the Trustee determines to debit to the School under Clause 1.21 of the Deed; and
- (c) the amount of any benefit paid by the Fund to or in respect of a Member Employed by the School; and
- (d) any other amounts which the Deed or the Rules may require to be debited or the Trustee may consider it appropriate to debit.

4.11.4 **Transfers from Account**

Where a School governed by this Fourth Schedule elects for some or all of the Members Employed by it to be governed by the Third Schedule, the School may direct the Trustee to transfer an amount from the School's Account to be applied in satisfaction of the contributions payable by the School under the Third Schedule. The Trustee must transfer and apply the amount as directed by the School only if:

- (a) the transfer is approved by the Actuary; and

- (b) the Trustee is satisfied that the balance of the School's Account after transfer of the amount is not less than the amount of the vested entitlements of the Members Employed by the School who are governed by this Fourth Schedule.

4.11.5 **Restriction**

The Trustee must not make any payment or transfer from the Fund in respect of a School or a Member Employed by a School exceeding the amount standing to the credit of a School's Account. If no amount is standing to the credit of a School, then the School and the Members Employed by the School have no claim on the Fund.

4.12 **TRANSFERS BETWEEN SCHOOLS**

4.12.1 The transfer of a Member from the service of one participating School ("the transferor School") to service with another participating School ("the transferee School") is not a termination of service. The Actuary must determine the amount representing the Member's fair share of the Account of the transferor School at the date of transfer. The Trustee must deduct that amount (or such other amount as is agreed between the two Schools and approved by the Actuary) from the Account of the transferor School and:

- (a) if the Member remains a Defined Benefit Member, credit that amount to the Account of the transferee School; or
- (b) if the Member becomes an Accumulation Member, allocate that amount to the portion of the Fund relating to Schools governed by the Third Schedule.

4.12.2 The transfer of a Member from service with one participating School to service with another participating School after an interval of up to 60 days is not a termination of service if the Trustee and Member so agree and the Trustee makes such arrangements as it determines to be appropriate with the consent of the Actuary.

4.12.3 If on transferring to the other School the Member changes Category, Clause 1.19.2 applies.

4.12.4 If on transferring to the other School the Member remains a Defined Benefit Member, the transferee School may with the approval of the Actuary reduce:

- (a) any higher percentage determined by the transferor School under Rule 4.4.1(ii)(A); and
- (b) any additional benefits arising from a declaration by the transferor School under the definition of "**Membership**" under Rule 4.2,

having regard to the amount determined under Rule 4.12.1. The transferee School must advise the Member of any reduction at the time of transfer.

4.12.5 If -

- (a) a Member transfers from the service of a participating School to the service of a Non-participating School; and
- (b) the Member elects not to receive the benefit which would otherwise be payable,

the Trustee may:

- (i) transfer to a superannuation scheme operated for the employees of the Non-participating School an amount determined by the transferor School, being not less than the benefit which would otherwise have been payable to the Member and not more than the amount determined under Rule 4.12.1; or
- (ii) allow the Member to continue membership of the Fund on such conditions and with such adjustments to the Member's contributions and benefits as may be agreed between the Trustee, the Member and the transferor School.

The receipt of a trustee, secretary or manager of the superannuation scheme referred to in paragraph (i) is a complete discharge to the Trustee and the transferor School. Neither the Trustee nor the transferor School is responsible for the application of the amount transferred.

4.13 **TEMPORARY ABSENCE FROM SERVICE**

If a Member is granted leave without pay or temporarily ceases service with a School, the Trustee may agree with the Member and the School that -

- (a) the Member's membership of the Fund may continue; and
- (b) conditions and adjustments to contributions and benefits in respect of the Member may apply.

4.14 **WITHDRAWAL OF SCHOOL**

If -

- (a) there is a superannuation scheme which Members Employed by a School are eligible to join ("**the Alternative Scheme**");
- (b) the School requests the Trustee to transfer the Members Employed by it to the Alternative Scheme; and
- (c) the Actuary certifies that the rights secured for or in respect of Members by contributions paid to the Fund before the date of transfer will not be substantially prejudiced,

then -

- (i) the obligation of the School and the Members Employed by the School to contribute to the Fund ceases from the date determined by the Trustee ("**the Release Date**"). The Release Date must not be more than three months after the date when the Trustee received the School's request.
- (ii) within nine months of the Release Date, the Trustee must transfer the amount standing to the credit of the School's Account at the Release Date to the Alternative Scheme. The amount may be transferred in one lump sum or by instalments. The receipt of a trustee, secretary or manager of the Alternative Scheme is a complete discharge to the Trustee. The Trustee is not responsible to see to the application of the amount transferred.

4.15 **MEMBERS WORKING PART-TIME**

4.15.1 **Special Conditions**

If on or after the Effective Date a School classifies a Member as a part-time employee:

- (a) the School must determine the Member's Percentage; and
- (b) the special conditions in this Rule 4.15 apply.

4.15.2 **Retirement Benefits**

The following conditions apply to the calculation of the Member's benefits under Rule 4.4:

- (a) the Member's Final Salary must be determined using the Member's Equivalent Full-time Annual Salary established at the Commencement of the School Year instead of the Member's Annual Salary; and
- (b) the Member's Membership after the Effective Date must be calculated by:
 - (i) sub-dividing the period of Membership into parts for which the Member's Percentage has the same value;
 - (ii) adjusting the length of each part in the ratio which the Member's Percentage for that part bears to 100%; and
 - (iii) adding the adjusted lengths.

4.15.3 **Contributions**

The Member's minimum contributions under Rule 4.3.1 are based on the Member's Annual Salary, adjusted in the ratio which the changed Member's Percentage bears to the Member's Percentage at the Commencement of the School Year.

4.15.4 **Death Benefits**

Benefits under Rule 4.6 must be calculated as if the greater of the Member's:

- (a) Average Member's Percentage; and
- (b) Member's Percentage,

continued to be the Member's Percentage until the last day of the School Year in which the Member reaches age 60.

4.15.5 **Total Disablement Benefits**

- (a) If the Average Member's Percentage exceeds the Member's Percentage at the Commencement of the Final School Year, the income benefit under Rule 4.7 must be increased in the ratio which the Average Member's Percentage bears to the Member's Percentage at the Commencement of the Final School Year up to a maximum of 95% of the Member's Annual Salary.
- (b) While a Member is absent from the service of a School due to Total Disablement the Member's Percentage is taken to be the greater of:
 - (i) the Member's Percentage on the date the Member was most recently at work; and
 - (ii) the Member's Average Percentage.

4.16 **VOLUNTARY DEFERRAL**

4.16.1 The Trustee may defer payment of all or part of a benefit payable to a Member under this Schedule:

- (a) if the Member requests; or
- (b) in any other circumstances the Trustee considers appropriate.

The Trustee may only defer payment if this is consistent with the Act.

4.16.2 If the Trustee complies with the request, the Member must become an Accumulation Member and the Member's benefits must be dealt with under Rule 3.10.

4.17 **CONTRIBUTIONS SURCHARGE**

The Trustee must reduce any benefit accrued on or after 17 December 1998 which is payable or which may become payable from the Fund to take account of:

- (a) any superannuation contributions surcharge or similar tax (including advance instalments) that it is or may be required to pay in respect of a Member; and
- (b) any foregone investment earnings and associated amounts.

The reduction must be on a basis determined by the Trustee and must be consistent with the Act. However, no reduction may be made to the extent that:

- (i) the Trustee agrees otherwise with a School in any case; or
- (ii) an additional contribution is made to the Fund by or on behalf of the Member to meet this cost.

FIFTH SCHEDULE

SPOUSE MEMBERS

5.1 APPLICATION

This Fifth Schedule applies to Members for so long as they are Spouse Members.

5.2 DEFINITIONS

In this Schedule:

“Insured Benefit” of a Spouse Member means the amount of any insurance proceeds which is:

- (a) in the case of an Eligible Spouse, agreed between the Trustee and either the Member who is contributing or has contributed on behalf of the Spouse Member or the Spouse Member;
- (b) in the case of a Non-Member Spouse, agreed between the Trustee and the Non-Member Spouse; and
- (c) in either case, paid under any insurance policy taken out by the Insurer.

5.3 ELIGIBILITY AND MEMBERSHIP

5.3.1 Eligibility - Eligible Spouse

A Member may contribute in respect of an Eligible Spouse if the Member:

- (a) completes an application; and
- (b) provides such information as the Trustee considers relevant,

so long as it is not inconsistent with the Act. If the Trustee considers appropriate, the Eligible Spouse may be required to complete an application and provide such information as the Trustee requires. An Eligible Spouse becomes a Spouse Member on the date when the first contribution is received for him or her under this Rule 5.3.1.

5.3.2 Eligibility - Non-Member Spouse

A Non-Member Spouse may become a Spouse Member if the Non-Member Spouse:

- (a) completes an application; and
- (b) provides such information as the Trustee considers relevant,

so long as it is not inconsistent with the Act. A Non-Member Spouse becomes a Spouse Member on the date when the Trustee approves the application, or with effect from any earlier date as the Trustee determines. The Trustee may waive the need for an application in any circumstances it considers appropriate.

5.3.3 Special Restrictions and Conditions

The Trustee may reject an application from or in respect of an Eligible Spouse or a Non-Member Spouse or impose restrictions or special conditions on:

- (a) the membership of an Eligible Spouse or Non-Member Spouse; or
- (b) the timing and amount of contributions payable by or in respect of an Eligible Spouse or Non-Member Spouse; or

- (c) any other matters relating to the membership of Eligible Spouses or Non-Member Spouses (either generally or in any particular case).

5.3.4 **Medical Examination**

Each Eligible Spouse or Non-Member Spouse who applies for membership as a Spouse Member must:

- (a) give such evidence or proof;
- (b) undergo such medical examinations and tests; and
- (c) satisfy such other requirements,

as and when the Trustee requires for the purpose of insuring benefits.

5.4 **CONTRIBUTIONS**

- (a) An Eligible Spouse may make contributions to the Fund once a contribution has been made on his or her behalf in accordance with Rule 5.3.1. A Non-Member Spouse may make contributions to the Fund once the person becomes a Spouse Member.
- (b) Contributions may be accepted by the Trustee in respect of a Spouse Member subject to such terms as it determines.

5.5 **BENEFITS**

- (a) A Spouse Member who requests payment is entitled to all or part of the Accumulation Account plus any Insured Benefit if this is consistent with the requirements of the Act.
- (b) If a Spouse Member dies, the Trustee must pay in accordance with Rule 1.17.5 a lump sum benefit equal to the aggregate of:
 - (i) the Accumulation Account; and
 - (ii) the Insured Benefit, subject in every respect to the terms of any relevant insurance policy.

SIXTH SCHEDULE

RETAINED BENEFIT MEMBERS

6.1 **Application**

This Sixth Schedule applies to Members for so long as they are Retained Benefit Members.

6.2 **Special Restrictions and Conditions**

The Trustee may impose restrictions or special conditions on:

- (a) the membership of a Retained Benefit Member; or
- (b) the timing or amount of contributions payable by or in respect of a Retained Benefit Member; or
- (c) the timing or amount of withdrawals, rollovers or transfers in respect of a Retained Benefit Member; or
- (d) any other matters relating to the membership of Retained Benefit Members (either generally or in any particular case).

6.3 **Benefits**

6.3.1 A Retained Benefit Member who requests payment is entitled to all or part of the Retained Benefit Account if this is consistent with the requirements of the Act.

6.3.2 If a Retained Benefit Member dies, the Trustee must pay in accordance with Clause 1.17.5 a lump sum benefit equal to the Retained Benefit Account.

6.4 **Retained Benefit Account**

6.4.1 For each Retained Benefit Member, the Trustee must record in a Retained Benefit Account the amount transferred to the Sixth Schedule for the Retained Benefit Member under Clause 1.19.3.

6.4.2 The Trustee must also record in each Retained Benefit Account:

- (a) contributions by or in respect of the Retained Benefit Member while a Retained Benefit Member;
- (b) amounts transferred from other Benefit Arrangements which the Trustee decides to credit to the account;
- (c) administration charges which the Trustee decides to debit to the account;
- (d) amounts debited to the account for tax and other expenses;
- (e) amounts credited or debited to the account under Clause 1.21 or Clause 1.20A;
- (f) amounts paid as benefit or transferred to other Benefit Arrangements from the account;
- (g) amounts debited for insurance premiums and amounts credited as proceeds of any insurance policy; and
- (h) any other amount which the Trustee decides to debit or credit to the account.

6.4.3 The Trustee may:


- (a) establish sub-accounts within the Member's Retained Benefit Account; and
- (b) maintain and operate any sub-account for any purpose and in any manner the Trustee determines appropriate.

Signing Page

Executed as a deed

Executed by **VIS NOMINEES PTY LTD ABN**
11 006 586 367 in accordance with section
127(1) of the *Corporations Act 2001*:

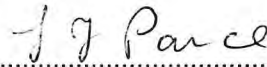
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.....
Signature of Director

PETER SHARPLES

.....
Print full name



.....
Signature of Director (or Company Secretary)

SUSAN FRANCES PAICE

.....
Print full name

Schedule

Actuary's Certificate

I, **DAVID SCOTT**, of Mercer Consulting (Australia) Pty Ltd, being a Fellow of the Institute of Actuaries of Australia and the Actuary of The Victorian Independent Schools Superannuation Fund **HEREBY CERTIFY** that I have determined that the amendment to the Trust Deed provided in the Deed to which this certificate is annexed:

1. In respect of amendments to the Trust Deed and in respect of amendments to the Third Schedule (if any) in so far as they relate to Category A Accumulation Members as at 17 December 1998:
 - 1.1. does not substantially prejudice a Member's rights or interests at the date of the amendment; and
 - 1.2. does not change the scale of contributions.
2. In other cases:
 - 2.1. does not substantially prejudice the value of the rights secured for or in respect of a Member by contributions paid to the Fund before the date of the amendment; and
 - 2.2. does not increase the contributions payable by a Member at the date of the amendment without the Member's written consent.



5/12/2018

DAVID SCOTT
FIAA