

ELDER SMITH GOLDSBROUGH MORT LIMITEDTHE PROVIDENT FUND

W H E R E A S By Deed dated the twenty third day of December One thousand nine hundred and thirteen (hereinafter referred to as "the principal Deed") made between Elder Smith & Co. Limited of the first part James Harvey and Alick James Murray both of Adelaide Directors of the said Elder Smith & Co. Limit and Alfred Horsley Chapman of Adelaide Secretary of the said Elder Smith & Co. Limited of the second part and certain persons whose names were or from time to time might be subscribed and whose seals were or might be affixed thereto (being at the time of their execution thereof officers of the said Elder Smith & Co. Limited under the age of sixty five years) of the third part a Provident and Guarantee Fund was established in connection with the business of the said Elder Smith & Co. Limited AND WHEREAS the principal Deed has from time to time been varied and altered by Deeds of Variation and the name of the Fund has been changed to "The Provident Fund" AND WHEREAS by Deed dated the 6th day of May 1958 the principal Deed was further varied and altered and the Regulations governing the Fund were consolidated and amended and the Regulations then governing the Fund were repealed and new Regulations were prescribed and such new Regulations (hereinafter referred to as "the Regulations") are set forth in a schedule to the said last-mentioned Deed AND WHEREAS the Regulations have been varied and altered from time to time by Deeds of Variation AND WHEREAS the Regulations have been further varied and altered by the Elder Smith & Co. Limited Provident Funds Act 1963 of the Parliament of South Australia AND WHEREAS pursuant to a Deed dated the 5th day of March 1964 made in accordance with the provisions of



Regulation 49a of the Regulations Elder Smith Goldsbrough Mort Limited whose registered office is at Currie Street Adelaide (hereinafter called "the company") has taken the place of the said Elder Smith & Co. Limited in relation to the Fund and the company is now "the company" for the purposes of the principal Deed and the Regulations and the powers authorities and discretions by the principal Deed or by the Regulations conferred upon the Board of Directors of the said Elder Smith & Co. Limited are now exercisable by the Board of Directors of the company NOW THEREFORE pursuant to Regulation 50 of the Regulations governing the Provident Fund we HENRY NORMAN GILES JOHN NEIL McEWIN ALFRED MOXON SIMPSON NORMAN SMITH YOUNG BRUCE ROY MACKLIN JOSEPH IAN NORMAN WINTER and HAROLD CHARLES SCHMIDT all of Adelaide being a majority of all the Directors of the Company with the assent of the said JOHN NEIL McEWIN ALFRED MOXON SIMPSON and BRUCE ROY MACKLIN and IVAN EDWARD CROSSING Assistant General Manager and RONALD WILLIAM GAYLER Manager both of Adelaide being all the trustees of the said Fund present at a duly constituted meeting of the trustees called to consider the matter (testified by their execution of this Deed) DO BY THIS DEED make the following alterations in the provisions of the principal Deed as varied and altered as aforesaid, namely:

1. Regulation 1 is amended by inserting the following definition immediately after the definition of "Associated Board", namely,

' "The Actuary" means the actuary from time to time appointed by the Trustees with the approval of the Board to be the actuary of the Fund.'

2. Regulation 24 is amended by striking out the words "seven per centum per annum" and inserting in their place the words "ten and eight tenths per centum per annum".

3. Regulation 29 is amended

(i) by striking out the words "Subject to the provisions of Regulations 30 and 31" and inserting in their place the words "Subject to the provisions of Regulation 31 and to the proviso hereinafter contained".

(ii) by inserting immediately after sub-paragraph (ii) the following paragraph

"PROVIDED that if at the date of his leaving the service of the company or the associated company the officer shall have completed the sixtieth year of his age then for the purpose of calculating the amount of his pension his age at the date of his leaving the service of the company or the associated company shall be deemed to be sixty years exactly".

4. Regulation 30 is amended

(i) by striking out the word "proviso" and inserting in its place the word "provisoes"

(ii) by adding the following words at the end of the Regulation, namely,

"PROVIDED FURTHER

(a) This Regulation shall not apply in the case of an officer who shall leave the service of his employer company on or after the 30th day of June 1974.

(b) An officer who had left the service of his employer company prior to the 30th day of June 1974 and who had elected to take a survivorship pension under this Regulation (hereinafter referred to as a "pensioner") shall as from the 30th day of June 1974 and during the remainder of his life be entitled to receive a pension at the same rate as the pension to which he would have been entitled under these Regulations if he had not elected to take a survivorship pension in lieu of the pension to which he was entitled under this Regulation prior to the 30th day of June 1974.

(c) If the widow of a pensioner who dies after the 29th

day of June 1974 thereupon becomes entitled to a widow's pension under this Regulation she shall as from the date of the death of her husband be entitled to receive during the remainder of her life a pension calculated in accordance with Regulation 30A in lieu of the widow's pension to which but for this proviso she would have been entitled under this Regulation".

5. The following new Regulation is inserted immediately after Regulation 30, namely,

"30A. If a person (hereinafter referred to as "the pensioner") in receipt of or entitled to receive a pension under Regulation 29 (hereinafter referred to as "the pensioner's pension") shall die after the 29th day of June 1974 leaving a widow who was his wife at the date of his leaving the service of his employer company the following provisions shall apply

(a) if the pensioner shall die before he has received five full years' instalments of his pension or before he shall have received by way of pension an amount equal to three times the annual salary of the pensioner computed on the salary he was receiving at the date of leaving the service of his employer company (whichever is the greater)

(i) his widow shall be entitled to an annual pension of the same amount as the pensioner's pension during her life or until such time as the instalments of pension paid to her when added to the instalments of pension paid to the pensioner or payable to his estate shall amount to five times the pensioner's pension or three times the annual salary of the pensioner computed on the salary he was receiving at the date of leaving the service of his employer company (whichever is the greater) whichever shall be the shorter period.

(ii) if the widow shall be living at the expiration of the shorter of the periods mentioned in sub-paragraph (i) hereof then during the remainder of her life she shall be entitled to receive an annual pension equal to 55% of the pensioner's

pension SUBJECT HOWEVER to the provisos hereinafter contained.

(b) if the pensioner shall die having received five full years' instalments of his pension or having received by way of pension an amount equal to three times the annual salary of the pensioner computed on the salary he was receiving at the date of leaving the service of his employer company (whichever is the greater) his widow shall be entitled to receive during the remainder of her life an annual pension equal to 55% of the pensioner's pension SUBJECT HOWEVER to the provisos hereinafter contained.

PROVIDED

(i) if the widow shall be more than five years younger than the pensioner and the pensioner shall have died after attaining the age of 60 years the pension to which she shall be entitled shall be equal to a percentage of the pensioner's pension ascertained in accordance with Part I of the Table set out in the 3rd Schedule hereto (or such other Table as may from time to time be prescribed by the Trustees on the advice of the actuary and with the approval of the Board) in lieu of a pension equal to 55% of the pensioner's pension

(ii) if the pensioner shall die before attaining the age of 60 years and his widow shall not be more than 5 years younger than the pensioner the pension to which she shall be entitled shall be equal to a percentage of the pensioner's pension ascertained in accordance with Part II of the Table set out in the third Schedule hereto (or such other Table as may from time to time be prescribed by the Trustees on the advice of the actuary and with the approval of the Board) in lieu of a pension equal to 55% of the pensioner's pension.

(iii) if the pensioner shall die before attaining the age of 60 years and his widow shall be more than 5 years younger than the pensioner the pension to which she shall be entitled shall be equal to a percentage of the pensioner's

pension ascertained in accordance with Part III of the Table set out in the third Schedule hereto (or such other Table as may from time to time be prescribed by the Trustees on the advice of the actuary and with the approval of the Board) in lieu of a pension equal to 55% of the pensioner's pension PROVIDED FURTHER that

(1) if the widow shall die before she has received the full amount of the pension (if any) to which she is entitled under sub-paragraph (i) of paragraph (a) of this Regulation the trustees shall pay to the dependants of the pensioner or to any one or more of them to the exclusion of the others or to trustees on behalf of them or any of them and in such shares and proportions as the trustees shall in their absolute discretion think fit (or if there shall be no such dependants who shall survive the widow then to the personal representatives of the widow) such an amount as together with the instalments of pension which the pensioner and his estate and the widow shall have received shall bring the total up to an amount equal to five times the pensioner's pension or to three times the annual salary of the pensioner computed on the salary he was receiving at the date of leaving the service of his employer company whichever is the greater).

(2) the widow of a pensioner entitled to a pension pursuant to Regulation 30 shall not also be entitled to a pension pursuant to this Regulation.

In the application of this Regulation and notwithstanding anything hereinbefore contained

(a) in the case of a pensioner who had retired prior to the 30th day of June 1974 and who had elected to take a survivorship pension under Regulation 30 the pensioner's pension shall be deemed to be the pension to which he would have been entitled under these Regulations had he not elected to take a survivorship pension.

(b) in the case of a pensioner who had converted portion of his pension to a lump sum pursuant to Regulation 31 his pension shall be deemed to be the pension he was actually receiving or was entitled to receive.

(c) in the case of a pensioner who had retired prior to the 30th day of June 1974 and who had converted portion of his pension to a lump sum pursuant to Regulation 31 and who had also elected to take a survivorship pension under Regulation 31 his pension shall be deemed to be the pension he would have been entitled to receive under these Regulations having regard to the portion of his pension which he had converted to a lump sum had he not also elected to take a survivorship pension.

(d) in the case of a pensioner who had converted portion of his pension to a lump sum pursuant to Regulation 31 there shall be deemed to be inserted after the words "three times the salary of the pensioner computed on the salary he was receiving at the date of leaving the service of his employer company" wherever those words appear herein the words "less any lump sum paid or payable to the pensioner or to his estate pursuant to Regulation 31".

If in any case owing to the age of the pensioner at the date of his death or owing to the respective ages of the pensioner and his widow the case is not covered by the appropriate table set out in the said third Schedule or any other table substituted therefor as aforesaid it shall be referred to the Actuary to fix the percentage of the pensioner pension payable to the widow having regard to the principles on which the said Table has been calculated and his decision shall be conclusive and binding on all parties.

6. Regulation 31 is repealed and the following new Regulation is inserted in its place, namely,

"31. An officer who shall leave the service of the company on or after attaining the sixtieth year of his age and

who shall be entitled to a pension hereunder may convert the whole or a portion of his pension to a lump sum subject to the following conditions

(a) the officer shall on or before the date of leaving the service of the company give notice in writing to the Trustees of his desire to convert his pension or a portion thereof and of the amount of his pension which he wishes to convert

(b) the lump sum payable to an officer on the conversion of his pension or a portion thereof shall be calculated in accordance with the Table set forth in the Second Schedule hereto or such other Table as may from time to time be prescribed by the Trustees on the advice of the actuary and with the approval of the Board".

7. Regulation 33 is repealed.

8. Regulation 34 is amended

(i) by inserting the words "Subject to the provisoes hereinafter contained" at the commencement of the Regulation

(ii) by repealing paragraph (d) and inserting the following paragraph in its place, namely,

"(d) Notwithstanding anything hereinbefore contained this Regulation shall not apply in the case of a pensioner who shall die leaving a widow who shall be entitled to a pension under Regulation 30 or Regulation 30A."

9. Regulation 35 is amended

(i) by striking out from paragraph (a) the words "three times" and inserting the words "four times" in their place

(ii) by striking out from paragraph (a) the words "or an amount equal to five times the annual pension to which he would have been entitled under these Regulations had he retired on the date of his death for a reason acceptable to the Board

and the Trustees whichever shall be the greater".

10. Regulation 39 is amended

(i) by adding at the end of paragraph (a) the words "PROVIDED that if at the date of leaving the service of the company or the associated company the officer shall have attained the age of 45 years and shall have been in the service of the company or an associated company for at least twenty years the trustees shall pay to him the greater of (i) the amount of his own contributions to the Fund with interest thereon at the rate of 2½ per centum per annum such interest to be calculated with annual rests as at 30th June of each year and (ii) two thirds of the value at the date of him leaving the service of his employer company of his interest under the Fund such value to be determined in the manner set forth in paragraph (b) hereof".

(ii) by striking out from paragraph (b) all words following the word "equitable".

11. The following new Regulation is inserted immediately after Regulation 39, namely,

"39A. If an officer having attained the age of 30 years and having a wife living at the date of him leaving the service of his employer company who was his wife at the date of his becoming incapacitated shall become totally and permanently incapacitated and shall leave the service of his employer company as a consequence thereof with the approval of the Board the Trustees shall pay to him in addition to any pension or other benefit to which he may be entitled under these Regulations an amount equal to a percentage of three times the yearly salary being paid to him by his employer company at the date of him becoming incapacitated such percentage to be ascertained according to the officer's age in completed years at the date of him leaving the service of his employer company

in accordance with the Table set out in the fourth Schedule hereto or such other Table as may from time to time be prescribed by the Trustees on the advice of the actuary and with the approval of the Board.

For the purposes of this Regulation an officer shall be deemed to be totally and permanently incapacitated

(a) if as a consequence of illness accident or injury he shall suffer the complete and irremediable loss of the sight of both eyes or the loss by separation of both arms (and for this purpose loss of an entire hand shall be deemed to be loss of the arm), or

(b) if the Board is satisfied that as a consequence of illness accident or injury he is unlikely ever to be able to engage in regular remunerative work.

If any question shall arise as to the date on which an officer became totally and permanently incapacitated it shall be referred to the trustees for decision and their decision thereon shall be final and binding on all parties.

The Board shall have an absolute and uncontrolled discretion to determine what evidence it requires on the unlikelihood of an officer ever being able to engage in regular remunerative work and whether it is satisfied that he is unlikely ever to be able so to engage.

Any sum payable to an officer under this Regulation may at the absolute discretion of the trustees be paid in a lump sum or by instalments of such amounts and at such intervals as the trustees shall from time to time determine and if at any time in the opinion of the trustees it is for any reason undesirable that payment be made to the officer they may in their discretion pay the said sum or any instalment to the wife of the officer or to any of his dependants or to any person in whose care the officer may for the time being be".

12. The Second Schedule to the Regulations is repealed and

the following new Schedule is inserted in its place, namely,

"SECOND SCHEDULE

Table

showing lump sum payable on compounding \$100 per annum of pension

Lump sum per \$100 of pension \$1,000."

13. The following new Schedules are added immediately after the Second Schedule, namely,

"THIRD SCHEDULE

PART I

WIDOW'S PENSION AS PERCENTAGE OF HUSBAND'S PENSION

<u>ATTAINED AGE OF PENSIONER AT DEATH</u>	<u>WIFE'S AGE IN YEARS LESS THAN HUSBAND'S</u>					
	6-8	9-11	12-14	15-17	18-20	21-23
60	49.0	44.5	41.0	38.0	35.5	33.5
61	48.5	43.6	40.0	37.0	34.4	32.2
62	48.0	42.7	39.0	36.0	33.3	30.9
63	47.5	41.8	38.0	35.0	32.2	29.6
64	47.0	40.9	37.0	34.0	31.1	28.3
65 and over	46.5	40.0	36.0	33.0	30.0	27.0

PART II

ATTAINED AGE OF PENSIONER
AT DEATH

WIDOW'S PENSION AS
PERCENTAGE OF HUSBAND'S
PENSION

59	49.5
58	44.0
57	38.5
56	33.0
55	27.5
54	22.0
53	16.5
52	11.0

THIRD SCHEDULE continued

PART II continued

<u>ATTAINED AGE OF PENSIONER</u> <u>AT DEATH</u>	<u>WIDOW'S PENSION AS</u> <u>PERCENTAGE OF</u> <u>HUSBAND'S PENSION</u>
51	5.5
50 or less	Nil

PART III

WIDOW'S PENSION AS PERCENTAGE OF HUSBAND'S PENSION

<u>ATTAINED AGE</u> <u>OF PENSIONER</u> <u>AT DEATH</u>	<u>WIFE'S AGE IN YEARS LESS THAN HUSBAND'S</u>					
	6-8	9-11	12-14	15-17	18-20	21-23
59	44.1	40.1	36.9	34.2	32.0	30.2
58	39.2	35.6	32.8	30.4	28.4	26.8
57	34.3	31.2	28.7	26.6	24.9	23.5
56	29.4	26.7	24.6	22.8	21.3	20.1
55	24.5	22.3	20.5	19.0	17.8	16.8
54	19.6	17.8	16.4	15.2	14.2	13.4
53	14.7	13.5	12.3	11.4	10.7	10.1
52	9.8	8.9	8.2	7.6	7.1	6.7
51	4.9	4.5	4.1	3.8	3.6	3.4
50 or less	Nil	Nil	Nil	Nil	Nil	Nil

FOURTH SCHEDULE

<u>AGE ATTAINED AT DATE</u> <u>OF LEAVING SERVICE</u>	<u>APPROPRIATE PERCENTAGE</u>
30	100.00
31	96.67
32	93.33
33	90.00
34	86.67
35	83.33
36	80.00
37	76.67

FOURTH SCHEDULE continued

<u>AGE ATTAINED AT DATE OF LEAVING SERVICE</u>	<u>APPROPRIATE PERCENTAGE</u>
38	73.33
39	70.00
40	66.67
41	63.33
42	60.00
43	56.67
44	53.33
45	50.00
46	46.67
47	43.33
48	40.00
49	36.67
50	33.33
51	30.00
52	26.67
53	23.33
54	20.00
55	16.67
56	13.33
57	10.00
58	6.67
59	3.30
60 or over	Nil

IT is hereby declared pursuant to the said Regulation 50 that the alterations hereby made shall come into effect and shall be deemed to have come into effect on the 30th day of June One thousand nine hundred and seventy four.

IN WITNESS whereof the parties hereto have hereunto set their hands and seals the 20th day of *NOVEMBER* One thousand nine hundred and seventy four.

SIGNED SEALED and DELIVERED by)
the said HENRY NORMAN GILES in)
the presence of:)







SIGNED SEALED and DELIVERED by)
the said JOHN NEIL McEWIN in)
the presence of:)

SIGNED SEALED and DELIVERED by)
the said ALFRED MOXON SIMPSON)
in the presence of:)

SIGNED SEALED and DELIVERED by)
the said NORMAN SMITH YOUNG in)
the presence of:)

SIGNED SEALED and DELIVERED by)
the said BRUCE ROY MACKLIN in)
the presence of:)

SIGNED SEALED and DELIVERED by)
the said JOSEPH IAN NORMAN)
WINTER in the presence of:)

SIGNED SEALED and DELIVERED by)
the said HAROLD CHARLES SCHMIDT)
in the presence of:)

SIGNED SEALED and DELIVERED by)
the said JOHN NEIL McEWIN in)
the presence of:)

SIGNED SEALED and DELIVERED by)
the said ALFRED MOXON SIMPSON)
in the presence of:)

Alfred Simpson

SIGNED SEALED and DELIVERED by)
the said BRUCE ROY MACKLIN in)
the presence of:)

Bruce Roy Macklin

SIGNED SEALED and DELIVERED by)
the said IVAN EDWARD CROSSING)
in the presence of:)

Ivan Edward Crossing

SIGNED SEALED and DELIVERED by)
the said RONALD WILLIAM GAYLER)
in the presence of:)

Ronald William Gayler

Alm