



**FOSTER'S
GROUP**

Inspiring Global Enjoyment

Foster's Group Superannuation

Amending Deed

(Replacing the Rules relating to the Fund in their entirety)

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Foster's Group Superannuation Amending Deed

Allens Arthur Robinson

Date 3 / March 2006

Parties

1. **Foster's Group Superannuation Limited** (ACN 005 027 707) the registered office of which is 77 Southbank Boulevard, Southbank, Victoria (*Trustee*)
2. **Foster's Group Limited** (ACN 007 620 886) the registered office of which is 77 Southbank Boulevard, Southbank, Victoria (*Principal Employer*)

Recitals

- A By a Deed made on 23 December 1913 Elder Smith & Co Limited established the provident and guarantee fund which is now known as the Foster's Group Superannuation Fund (*Fund*).
- B Pursuant to the provisions of the *Elder Smith & Co Limited Provident Funds Act 1963* and to a Deed dated 5 March 1964, Elder Smith Goldsbrough Mort Limited assumed the obligations of Elder Smith & Co Limited in relation to the Fund as the Principal Employer under the Rules relating to the Fund then in force.
- C On 3 February 1982 Elder Smith Goldsbrough Mort Limited changed its name to Elders IXL Limited.
- D On 30 November 1990 Elders IXL Limited changed its name to Foster's Brewing Group Limited and on 2 July 2001 to Foster's Group Limited.
- E On 20 December 1982 the Trustee (then called Elders Superannuation Ltd) was appointed sole trustee of the Fund and the Trustee is the trustee for the time being of the Fund.
- F The Fund is governed and administered in accordance with rules (which rules as amended from time to time are referred to in this Resolution as *Rules*) which were originally adopted by the Deed made on 23 December 1913.
- G Rule 1.13.1 of the Rules provides as follows:
- 1.13.1 Power of alteration of the Rules. Subject to Rule 1.10.2 and the other provisions of this Rule 1.13, the Trustee may by resolution or by deed, with the consent of the Principal Employer, at any time alter modify or add to the Rules (including this Rule) with effect from a date before on or after a date of the amendment provided that no such alteration modification or addition shall be made unless the Actuary certifies that in his opinion any such alteration modification or addition will not substantially prejudice the value of the rights secured for or in respect of any Member by the Contributions paid to the Fund prior to the date of such alteration modification or addition or unless at least 75% of Members for the time being give their consent in

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writing thereto and further provided that no alteration modification or addition may be made to the provisions of the Rule which may authorise the application or use of any part of the Fund for any purpose other than:

- (a) the provision of Benefits for Employees or their Dependants;
- (b) the making of any refund or allowance to Members;
- (c) the payment of the expenses arising out of the management control administration or protection of the Fund;
- (d) indemnity to the Trustees as herein provided;
- (e) reimbursement to the Principal Employer or to an Associated Employer of any losses of the nature herein specified.

H Rule 1.13.4 of the Rules provides as follows:

1.13.4 Limit of Power of alteration of the Rules. Notwithstanding anything to the contrary in this Rule 1.13, the Rules must not be amended in such a way that:

- (a) an individual would be eligible to be appointed as Trustee unless the Rules provide, and will continue to provide after the amendment is made that the Fund has, as its sole or primary purpose, the provision of old-age pensions; or
- (b) the sole or primary purpose of the Fund would be a purpose other than the provision of old-age pensions unless the Rules provide, and will continue to provide after the amendment is made, that the Trustee must be a constitutional corporation as defined in section 10 of the SIS Act.

I The Trustee with the consent of the Principal Employer wishes to replace the Rules with the Rules set out the Schedule.

J The Trustee and the Principal Employer are satisfied that the alterations, modifications and additions effected by this Deed:

- (a) will not substantially prejudice the value of the rights secured for or in respect of any Member by the Contributions paid to the Fund prior to the date of the relevant alteration, modification or addition for the purposes of Rule 1.13.1;
- (b) do not authorise the application or use of any part of the Fund for any purpose other than those specified in paragraphs (a) to (e) (inclusive) of Rule 1.13.1 of the Rules; and
- (c) do not infringe Rule 1.13.4.

K The Actuary has given the certification required by Rule 1.13.1. A copy of the Actuary's Certificate is annexed to this Deed.

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Now this Deed witnesses as follows:

1. Amendments to the Rules

Pursuant to the power conferred on the Trustee by Rule 1.13.1 and all other powers enabling it so to do, the Trustee **HEREBY ALTERS, MODIFIES AND ADDS TO** the provisions of the Rules in the manner provided for in the Schedule, so that the Rules become identical to the Rules in the Schedule with effect on and from 3 April 2006.

2. Consent of the Principal Employer

The Principal Employer has consented to the alterations, modifications and additions provided for in Clause 1 of this Deed for the purposes of Rule 1.13.1 of the Rules as evidenced by its execution of this Deed.

3. Definitions

Unless the subject matter or context otherwise requires, words, terms and expressions defined in the Rules will when used in this Resolution have the respective meanings given to them in the Rules.

4. Governing Law

This Deed is governed by the laws of Victoria.

Executed in Melbourne as a Deed.

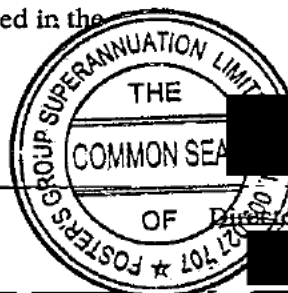
The Common Seal of Foster's Group
Superannuation Limited was affixed in the
presence of:

[Redacted Signature]

Director Signature

[Redacted Signature]

Print Name



[Redacted Signature]

Director/Secretary Signature

[Redacted Signature]

Print Name

Foster's Group Superannuation Amending Deed

Allens Arthur Robinson

Executed by Foster's Group Limited in
accordance with section 127(1) of the
Corporations Act 2001 (Cth) by:

Director Signature

SECRET

Director/Secretary Signature

Print Name

Print Name

Schedule

Rules Relating to the Foster's Group Superannuation Fund

DIVISION 1
MANAGEMENT AND ADMINISTRATION

1.1 Definitions and Governing Principles

1.1.1 Definitions

In these Rules unless the context otherwise requires:

Actuary means:

- (a) a Fellow or Accredited Member of the Institute of Actuaries of Australia (or of any body which succeeds or replaces that Institute) (a *qualified actuary*);
- (b) a partnership one of the members of which is a qualified actuary; or
- (c) a body corporate which employs or engages a qualified actuary for the purpose or providing actuarial advice,

and *the Actuary* shall mean the Actuary appointed for the time being pursuant to Rule 1.6.1 or any other actuary appointed for a particular purpose by the Trustee.

Administrator means the administrator for the time being appointed pursuant to Rule 1.6.1.

Approved Benefit Arrangement means a regulated fund or benefit arrangement, other than the Fund, including, without limitation, another superannuation fund, an approved deposit fund and a deferred annuity.

Associated Employer means a person allied or associated in business with the Principal Employer and which the Principal Employer has declared in writing to the Trustee to be an Associated Employer and has not subsequently declared in writing to the Trustee that it has ceased to be an Associated Employer.

Auditor means the auditor for the time being appointed pursuant to Rule 1.6.1.

Basic Insurance Charge in relation to a Member in respect of whom Basic Insurance Cover has been provided means at any time such amount as is determined (and is applicable at that time) by the Trustee as referable to the costs of providing that Member's Basic Insurance Cover.

Basic Insurance Cover in relation to a Member who is or may become entitled to such cover under the Division of the Rules applicable to the Member means the amount determined in accordance with the following formula:

$$\text{BIC} = 10\% \times \text{FS} \times \text{S}$$

where:

BIC is the Basic Insurance Cover.

FS is the period expressed in years between the Review Date in the Fund Year of the Member's death or Total and Permanent Disablement (as the case may be) and the date the Member would have attained the age of 65 years and where there is a resulting fraction of a year, the result is taken to the next higher year.

S is the Member's Salary.

Beneficiary means a person presently and absolutely entitled to receive a Benefit at the relevant time but does not include a person who is a Member at the relevant time.

Benefit means any amount paid or payable out of the Fund pursuant to the Rules to or in respect of a Member or a Beneficiary.

Contributions means payments to the Fund by Members and Employers pursuant to the Rules and includes notional Employer Contributions.

DB Earning Rate means the earning rate as determined by the Trustee of the assets of the Fund invested to provide defined benefits from the Fund.

Deed means the Deed dated 23 December 1913 as amended from time to time under which the Fund was established.

Dependant in relation to a Member means one of more of the following:

- (i) the Member's Spouse;
- (ii) any person in relation to whom the Member has an inter-dependency relationship with (within the meaning of Superannuation Law) at the date of the Member's death;
- (iii) any child of the Member including any stepchild, any ex-nuptial child, any child recognised by the Trustee as an adopted child, any person who, in the opinion of the Trustee is or was actually maintained by the Member as the Member's child and any child of the Member born after the death of the Member; and
- (iv) any other person who in the opinion of the Trustee was at the time of the Member's death wholly or partially dependent on the Member or who had a legal right to look to the Member for support.

Directors means the directors or board of management for the time being of an Employer or, as the case requires, of the Trustee, and **Director** has a corresponding meaning.

Division means a Division of the Rules.

Division 2 Member means a Member who is entitled to benefits under Division 2.

Division 5 Member means a Member who is entitled to Benefits under Division 5.

Division 8 Member means a Member who is entitled to Benefits under Division 8.

Division 9 Member means a Member who is entitled to Benefits under Division 9.

Division 10 Member means a Member who is entitled to Benefits under Division 10.

Division 11 Member means a Member who is entitled to Benefits under Division 11.

Division 12 Member means a Member who is entitled to Benefits under Division 12.

Eligible Employee means in the case of a Division 2 Member an Employee who is within a group of Employees nominated by the Principal Employer as being eligible to become a Division 2 Member;

Employee means a person who is:

- (a) a Director of an Employer,
- (b) in the employment of an Employer, or
- (c) an employee of an Employer within the meaning of the Guarantee Act,

and includes such a person on Special Leave.

Employer means the Principal Employer or any Participating Employer and in relation to an Employee or Member means the Employer for the time being of such Employee or Member.

Fund means the Foster's Group Superannuation Fund established under the Deed.

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

Guarantee Act means the *Superannuation Guarantee (Administration) Act 1992*.

Insurance Policy means the policy or policies for the time being taken out by the Trustee to provide benefits in respect of Members (or some of them) in the event of death, Total and Permanent Disablement, Total but Temporary Disablement or similar circumstances as provided under the Rules.

Insurer means the insurance company which has for the time being issued the Insurance Policy.

Mandated Employer Contribution has the meaning given to that expression under Superannuation Law.

Maximum Total Insurance Cover or MTIC in relation to a Member means the higher of \$1,000,000 (or such other amount as may be determined by the Trustee for this purpose) and the Member's Standard Insurance Cover.

Member means a person who has been admitted to membership of the Fund under the Rules.

Member's Current Insurance Cover or MCIC means in relation to a Member the amount by which the death benefit payable in respect of the Member had the Member died at the immediately preceding Review Date exceeds the benefit which would have been payable had the Member ceased to be in the employment of the Employer on that date (other than by reason of Total and Permanent Disablement).

Member's Reserve in relation to a Member means the Member's Reserve calculated pursuant to Rule 2.1.3.



Member's Standard Insurance Cover or **MSIC** means in relation to:

- (a) a Member entitled to defined benefits under Division 2, Division 7 or Division 12, the Member's Current Insurance Cover; and
- (b) Members entitled to benefits other than under Division 2, Division 7 or Division 12, the Member's Basic Insurance Cover.

Normal Latest Contribution Age in relation to a Member, means the date the Member attains the age of 75 years or such other age as may from time to time be prescribed under Superannuation Law as the latest age until which non-mandated employer contributions (within the meaning of Superannuation Law) may be made to a complying superannuation fund.

Normal Retirement Age in relation to a Member means the age of 65 years.

Optional Insurance Charge in relation to a Member in respect of whom Optional Insurance Cover has been provided means at any time such amount as is determined (and is applicable at that time) by the Trustee (subject to Superannuation Law) as referable to the costs of providing that Member's Optional Insurance Cover.

Optional Insurance Cover or **OIC** means in relation to a Member, an amount determined by the Member with the approval of the Trustee up to an amount calculated in accordance with the following formula:

$$MTIC - MSIC.$$

Participating Employer means any Associated Employer that by agreement with the Principal Employer and the Trustee enters into a covenant to observe and perform the provisions of the Rules but does not include an Employer which has ceased to be a Participating Employer.

Pension means a Benefit payable at a yearly rate by instalments.

Pensioner means a person receiving a Pension from the Fund.

power means a power, right, discretion or authority (including the formation of any opinion) and, wherever a power is conferred on the Trustee, the Principal Employer or any other person, the relevant provision of the Rules shall, unless the contrary intention appears or the context requires otherwise, be read as if the words "at any time and from time to time" were added thereto.

Preservation Requirements means the applicable requirements of the Superannuation Law for the preservation of Benefits.

Principal Employer means Foster's Group Limited or any company carrying on business in succession thereto in amalgamation therewith which agrees to assume the obligations of the Principal Employer under the Deed and the Rules.

Register means the register maintained by the Trustee as part of the Rules into which is entered the rights and entitlements of Members and Beneficiaries whose rights or entitlements are or were effected by a resolution of the Trustees made 19 August 1985 and the rights and entitlements of persons who transfer to the Fund and in respect of whom additional or accrued Benefits are granted pursuant to Rule 1.19 and such other

information and details concerning Members and Beneficiaries or any of them as the Trustee may from time to time determine.

Regulations means regulations made by the Trustee pursuant to a power conferred for that purpose under the Rules.

Regulator means any one or more of the Australian Prudential Regulation Authority, the Australian Securities and Investments Commission and the Commissioner of Taxation, as the context requires.

Retained Benefit Member means a Member entitled to a benefit under Division 14.

Review Date means a date or dates in each Fund Year as determined by the Trustee (whether generally or in relation to any particular Division of the Rules, category or case).

Rules means the rules governing the Fund as amended from time to time for the time being in force.

Salary means in relation to a Member the yearly rate of remuneration advised by the Employer for the purpose of determining Benefit payments and Contributions under the Rules, **provided that** if a Member's remuneration is reduced and the Employer determines not to take the reduction into account and informs the Trustee, and if the Member agrees, the Salary shall be deemed to be the Salary applicable immediately prior to the reduction until such time as the actual yearly rate of remuneration for the relevant purpose exceeds the Salary applicable immediately prior to the reduction.

Service in respect of a Member means the latest continuous period during which the Member has been in the service of any one or more of the Employers and includes any period of Special Leave.

SGC Benefit means such Benefit or part of a Benefit as:

- (a) arises from Contributions made by an Employer in the minimum amounts required by the Guarantee Act so that superannuation guarantee charge is not payable, or
- (b) the Member's entitlement to which causes the Employer to be relieved from the need to make Contributions of the kind referred to in paragraph (a) above, or
- (c) arises from payment of Shortfall Component in relation to the Member.

Shortfall Component means a payment to the Fund pursuant to Section 65(1) of the Guarantee Act.

SIS Act means the *Superannuation Industry (Supervision) Act 1993*.

Special Leave means any period of temporary absence of a Member from the Member's employment (other than as a normal condition of employment) with or without pay and given with the approval of the Member's Employer provided that the Member has not voluntarily terminated employment nor been dismissed by the Employer.

Spouse means:

- (a) in relation to a Member:
 - (i) the Member's husband, wife, widower or widow; or



- (ii) a person of the opposite sex who, though not married to the Member, in the opinion of the Trustee lives with the Member on a bona fide domestic basis as the husband or wife of the Member or so lived at the date of the Member's death; or
- (b) in relation to Division 13, a person who is the spouse of a Member for the purposes of subdivision AACA of Division 17 of Part III of the *Income Tax Assessment Act 1936*.

Successor Fund has the meaning given in the *Superannuation Industry (Supervision) Regulations*.

Superannuation Law means Superannuation Requirements in any of:

- (a) the SIS Act;
- (b) the *Superannuation Entities (Taxation) Act 1993*;
- (c) the *Income Tax Assessment Act 1936* and the *Income Tax Assessment Act 1997* of the Commonwealth of Australia;
- (d) the Superannuation Charge Law of the Commonwealth of Australia;
- (e) the *Corporations Act 2001*;
- (f) the *Family Law Act 1956*;
- (g) any other present or future law of the Commonwealth of Australia or any State or Territory of it which the Trustee with the approval of the Principal Company determines to be a Superannuation Law for the purposes of the Rules;
- (h) regulations and statutory instruments made or issued under any of the acts specified in paragraphs (a) to (g) (inclusive) and all other requirements, whether legislative or otherwise, including (without limitation):
 - (i) any administrative guidelines, rulings or determinations made or laid down by a Superannuation Authority; and
 - (ii) statements by the government of the Commonwealth of Australia or any State or Territory (as the case may be) advising changes and proposed changes to Superannuation Law; and

a statutory instrument which replaces any of the acts specified in paragraphs (a) to (g) (inclusive) or regulation specified in paragraph (h), or has the same effect, in whole or in part (whether or not passed or approved by the same legislative or other relevant authority and whether or not incorporating or adopting any law previously in force).

Taxation includes any tax, surcharge, duty or other government impost.

Total and Permanent Disablement in relation to a Member shall have the same meaning as that expression has for the time being in and for the purpose of the Insurance Policy or in the event of there being at the relevant time no Insurance Policy covering Total and Permanent Disablement then it shall mean the Member's incapacity as the extent:

- (a) of the loss of two limbs (where limbs includes the whole of one hand or the whole of one foot) or the sight of both eyes or the loss of one limb and the sight of one eye; or
- (b) after a period of six consecutive months' continuous absence from Service on account of illness or injury which is proved to the satisfaction of the Trustee (or such shorter period as the Trustee may determine in the special circumstances of the case) that in the opinion of the Trustee (after considering such medical or other evidence or advices the Trustee may require from time to time) the Member is unable or unlikely ever again to be able to undertake any form of remunerative work for which the Member is reasonably fitted by education or training or experience,

and Total and Permanent Disablement will have a corresponding meaning.

Total but Temporary Disablement in relation to a Member shall have the same meaning as that expression has for the time being in and for the purpose of the Insurance Policy or in the event of there being at the relevant time no Insurance Policy covering Total but Temporary Disablement, then it shall mean the disablement in the circumstances where:

- (a) the Member has been absent from Service for at least three consecutive months due to illness or injury; and
- (b) the Trustee determines, having regard to medical evidence, that the Member is unable for the time being to re-commence the Member's former employment in the Service,

but does not include incapacity which is deemed by the Trustee to be:

- (c) wholly or partially attributable to, or as a consequence of, intentional self-injury; or
- (d) wholly attributable to normal and uncomplicated pregnancy, childbirth or miscarriage,

and **Totally but Temporarily Disabled** will have a corresponding meaning.

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

1.1.2 Plural and Gender of Words

In the Rules, unless the context otherwise requires, words importing one gender shall include the other genders, words importing the singular number shall include the plural number and vice versa.

1.1.3 Headings to Rules

The headings in the Rules are for convenience and reference only and shall not affect their interpretation.

1.1.4 Defined Words

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

1.1.5 Employer's Powers not Prejudiced

Nothing in the Rules shall affect the powers of an Employer with regard to the remuneration, terms of employment or dismissal of an Employee or any other dealings between the Employer and Employee.

1.1.6 Benefits not Ground for Increasing any Claim for Damages

The Benefits to which a Member might claim to be entitled under the Rules shall not be used as grounds for increasing or as a means of assessing damages in any claim made or action brought by a Member against an Employer.

1.1.7 Exercise of Rights by the Employer and Trustee

Any power granted to or conferred on an Employer or the Trustee by, under or for the purposes of the Rules may be fully and effectively exercised, made, done or performed for or on behalf of such Employer or Trustee by resolution of its Directors or by any person or person having the written authorisation of such Directors to act on their behalf.

1.1.8 Rules Governed by State Law

The Rules shall be governed and construed and shall take effect in accordance with the laws of the State of Victoria. Each Employer, the Trustee, Members and Beneficiaries shall accept the jurisdiction of the Courts of that State.

1.1.9 Arbitration

Subject to Rule 1.2 if any question or dispute shall arise with respect to the Fund or to the meaning of the Rules, then the question or dispute shall be referred to a single arbitrator agreed to by the parties in dispute, or if they are unable to agree, then the single arbitrator appointed by the president for the time being of the Australian Institute of Arbitrators. If a question or dispute is referred to arbitration pursuant to this Rule then all parties shall be entitled to legal representation.

1.1.10 Statutory Enactments

References to any statutory enactment, regulation, rule, by-law or other law or a provision (collectively called a *law*) shall include the law as amended or re-enacted from time to time and any law which replaces the same or has the same effect in whole or in part and shall also include any effective and enforceable determination or ruling, made under a law.

1.1.11 Other Divisions Subject to Division 1

The provisions of Division 1 shall apply to all other Divisions unless the context otherwise requires. In the event of any inconsistency between the provisions contained in this Division 1 and specific provisions contained in any other Division, then the specific provision contained in the other Division shall, with the exception of Rule 1.2, override the provisions of this Division 1.

1.1.12 Disputes as to Superannuation Law

If any doubt or dispute arises as to the existence, meaning, application or effect of any requirement of a Superannuation Law or any provision deemed by Rule 1.2 to be included in the Rules, the Trustee may determine that doubt or difference.

1.2 Paramount Rule

1.2.1 Paramount Provision – Overriding Application of Superannuation Law

Notwithstanding anything expressed or implied to the contrary in the Rules:

- (a) if there is a conflict between this Rule and any other provision of the Rules, this Rule shall prevail;
- (b) any provision or requirement of a Superannuation Law which is expressly required by Superannuation Law to be included in the Rules in order to comply with or satisfy a requirement of Superannuation Law is hereby deemed to be included in the Rules;
- (c) if there is a conflict between a provision or requirement so deemed to be included in the Rules and any other provision of the Rules, the provision or requirement so included shall prevail; and
- (d) the Trustee and each Employer:
 - (i) shall be empowered to, and shall, do and procure to be done such acts, matters and things as, in the opinion of the Trustee, are necessary or desirable in order to comply with or satisfy any applicable requirement of a Superannuation Law; and
 - (ii) shall not do or procure or permit to be done any act, matter or thing which, in the opinion of the Trustee, would cause the Fund to fail to comply with or satisfy any applicable requirement of a Superannuation Law.

1.2.2 Specific Compliance Requirements

The Trustee and each Employer shall ensure compliance with any application requirement of a Superannuation Law regarding:

- (a) trustees and other persons having effective control over the policies of superannuation funds;
- (b) the accounts and records of superannuation funds and the audit thereof;
- (c) the actuarial investigation of superannuation funds;
- (d) the investment of the assets of superannuation funds, including without limitation loans from and borrowings by funds;
- (e) the provision of information;
- (f) payments to and from and amounts in superannuation funds, including without limitation:

- (i) limits on contributions;
- (ii) reasonable benefit limits;
- (iii) vesting, preservation and portability of Benefits;
- (iv) reduction, forfeiture and other adjustments of Benefits;
- (v) reasonable asset limits; and
- (vi) the appointment of service and other providers;
- (g) the licensing of the Trustee under the SIS Act; and
- (h) amendment of trust deeds and other provisions governing superannuation funds.

1.2.3 Trustee not to be Subject to Direction

Where:

- (a) a provision of these Rules permits the Trustee to be subject, in the exercise of any of the Trustee's powers under these Rules, to directions by any other person; and
- (b) that provision is inconsistent with section 58 of the SIS Act,

the capacity of such person to so direct the Trustee is hereby removed and the provision is deemed to provide instead that the power is exercisable by the Trustee at the request of such person.

1.2.4 Exercise of Discretion by Person Other Than Trustee

Where a provision of these Rules permits a discretion under these Rules to be exercised by a person other than the Trustee, the exercise of that discretion requires the consent of the Trustee except where section 59 of the SIS Act permits the discretion to be exercised without the Trustee's consent.

1.3 Taxation

The Trustee may make such deductions, adjustments and provisions as the Trustee may consider appropriate in taking account of any tax which, in the opinion of the Trustee, is or may become payable in connection with the Fund or anything done or to be done pursuant to the Rules (including without limitation the payment or transfer of any money or property to or from the Fund). Subject to Superannuation Law, the amount and conditions of payment of any Benefit shall be adjusted to take account of any such tax in such manner and to such extent as the Principal Employer notifies to the Trustee in writing, and any such written notice shall be binding on all interested persons without the need to formally amend the Rules.

1.4 Constitution of the Fund

1.4.1 Fund Vested in Trustee

The Fund shall be vested in the Trustee upon the terms and conditions and subject to the trusts, powers, authorities and discretions contained in the Rules and shall be managed, administered and applied by it in accordance with the provisions of the Rules.

1.4.2 Moneys Payable to the Fund

The Fund shall consist of all the cash, investments and other property for the time being held by or on account of the Trustee upon the trusts of the Rules and shall be separately established and separately maintained by:

- (a) the amount, if any, standing or transferred to the credit of the Fund at or after the date from which these Rules come into effect;
- (b) contributions by Members;
- (c) contributions by Employers;
- (d) interest and dividends arising from any investment and the accumulation thereof;
- (e) profits (less losses) and other benefits arising from any investment and the accumulation thereof; and
- (f) moneys, investments and other property transferred to the Fund from any other superannuation arrangement.

1.4.3 Accounts of the Fund

For the purposes of managing, administering and applying the Fund, the Trustee shall, if it sees fit, be empowered to:

- (a) establish and maintain separate parts of the Fund for the purpose of distinguishing between different classes or groups of Members and or Beneficiaries;
- (b) establish and maintain separate accounts and or investments in respect of any part of the Fund; and
- (c) transfer assets between parts of the Fund as the Trustee may determine.

1.5 Trustee

1.5.1 Qualification, Appointment and Removal of Trustee

(a) Trustee to be Constitutional Corporation

The Trustee must be a constitutional corporation as defined in section 10 of the SIS Act.

(b) Removal of Trustee

A Trustee ceases to hold office if:

- (i) the Trustee is removed by the Principal Employer by notice in writing, where Superannuation Law permits the Principal Employer to remove the Trustee;
- (ii) the Trustee resigns from the position of Trustee by notice in writing to the Principal Employer;
- (iii) the Trustee is disqualified from office by operation of law; or
- (iv) the Trustee is removed in accordance with the SIS Act.

(c) **Replacement of Trustee**

Subject to Superannuation Law, the Principal Employer may appoint a replacement Trustee.

1.5.2 Powers of Trustee

In addition to the powers which it might by law have and which are otherwise granted to it by the Rules, the Trustee shall have the following powers:

- (a) to settle, comprise or submit to arbitration any claims, matters or things relating to the Rules or to the rights of Members, former Members and Beneficiaries;
- (b) to commence, carry on or defend proceedings relating to the Fund or to the rights of Members, former Members and Beneficiaries;
- (c) subject to Superannuation Law, to borrow money and to secure the repayment thereof in any manner and upon any terms which the Trustee may deem advisable and whether by charge on all or any portion of the Fund or otherwise;
- (d) to insure or reinsure any risks, contingencies or liabilities of the Fund with an insurance company, mortgage insurance company, reinsurance company or superannuation fund;
- (e) to enter into and execute arrangements, including all contracts, deeds and documents, and do all acts, matters and things which it may deem expedient for the purpose of securing the benefits to be provided through the Fund;
- (f) to open and operate bank and other accounts. All cheques and other negotiable or transferable instruments and all receipts for money paid to the Fund may be drawn, accepted, endorsed or otherwise executed in such manner as the Trustee determines;
- (g) subject to the approval of the Principal Employer, to retain the services of professional or other advisers in relation to the management, administration or investment of the Fund on such terms and conditions as to remuneration and otherwise as the Trustee shall determine and to determine and pay the remuneration of persons appointed pursuant to the Rules;
- (h) to indemnify, or undertake to indemnify, any person, company, government or institution in respect of any claims, matters or things relating to the Fund or to the rights of Members, former Members or Beneficiaries in respect of the Fund;

- (i) to authorise any Director or officer of the Trustee to exercise for or on behalf of the Trustee all or any of the powers and authorities exercisable by the Trustee under the provisions of the Rules;
- (j) to manage land and property investments forming part of the Fund and, in particular, erect alter remove or pull down any buildings walls fences drains and maintain insurances, carry out repairs painting and other acts of preservation, lease sell and otherwise dispose of the said land and property and generally exercise such acts of management or ownership as may be required from time to time;
- (k) to make Regulations to deal with matters not specifically dealt with by the Deed, including any matters incidental to the operation of the Deed. Regulations made under this power or a specific power under the Rules may be revoked and amended by resolution of the Trustee or in such other manner as the Trustee may determine; and
- (l) generally to do all acts and things as the Trustee may consider necessary or expedient for the administration, maintenance and preservation of the Fund and in performance of its obligations under the Rules.

1.5.3 Remuneration of the Trustee

- (a) As compensation for services rendered in relation to the Fund, the Trustee will be paid remuneration from the Fund on such terms and in such amounts and calculated in such manner as shall be agreed between the Trustee and the Principal Employer from time to time.
- (b) Any remuneration or fees paid to the Trustee pursuant to this Rule 1.5.3 will be an income expense of the Fund.

1.5.4 Trustee Indemnity

(a) Indemnity of Trustee

The Trustee shall be indemnified out of the Fund against all liabilities incurred by it in the exercise or attempted exercise of the trusts, powers, authorities and discretions vested in it and shall have a lien on and may use moneys forming part of the Fund in pursuance of this indemnity.

This indemnity shall extend to any payments made to any persons whom the Trustee bona fide believes to be entitled thereto although it may be subsequently found that the person was not in fact entitled to the same or all of the same.

(b) Limit of Indemnity

Rule 1.5.4(a) does not apply to exempt the Trustee from liability for or indemnify the Trustee against:

- (i) a breach of trust where the Trustee:
 - (A) failed to act honestly in a matter concerning the Fund; or



(B) intentionally or recklessly failed to exercise, in relation to a matter affecting the Fund, the degree of care and diligence that the Trustee was required to exercise; or

(ii) a monetary penalty under a civil penalty order made under the SIS Act.

1.5.5 Reimbursement of Expenses

All costs, charges and expenses incurred in the management and administration of the Fund shall be paid out of the Fund or, at the discretion of the Principal Employer, by the Employers at the rates and in the proportions determined by the Trustee.

1.5.6 Trustee's Lien

The Trustee will have a lien on and may use any assets or moneys in its hands:

- (a) to satisfy the indemnity under Rule 1.5.4(a); and
- (b) to pay all costs, charges and expenses of administering the Fund or otherwise performing its duties under the Deed or these Rules.

1.6 Appointment to Offices

1.6.1 Appointment of Actuary Administrator and Auditor

The Trustee from time to time with the approval of the Principal Employer, may appoint to the following offices on such conditions as it determines:

- (a) an Actuary;
- (b) an Administrator;
- (c) an Auditor, who is either a person or a firm registered as a company auditor under the *Corporations Act 2001*, provided that a Trustee hereof or a director of a company which is a Trustee hereof shall not be appointed as Auditor; and
- (d) such other officers as it considers desirable for the proper management of the Fund.

1.6.2 Removal from Office

The Trustee may remove from office any person firm or company appointed pursuant to this Rule and with the approval of the Principal Employer, may appoint another in their stead.

1.6.3 Offices to be Kept Filled

The Trustee shall use its best endeavours to ensure that none of the offices specified in Rule 1.6.1 remains vacant for longer than is necessary to effect a new appointment.

1.6.4 Power to Establish Committees

- (a) The Trustee may appoint one or more committees to perform such duties as may be delegated or conferred by the Trustee at its discretion.

- (b) The members of such committee may be removed from office by the Trustee at any time.
- (c) Any committee so appointed must conform with any directions which may be given by the Trustee.
- (d) The Trustee will not be liable for any breach of duty or other wrongful act of any committee or of any member of any committee.

1.6.5 Policy Committee

- (a) The Trustee shall establish and maintain a policy committee in accordance with the requirements of Superannuation Law.
- (b) The policy committee shall have the functions set out in Superannuation Law and such other functions as the Trustee may delegate to it.

1.7 Records and Financial Statements

1.7.1 Fund Receipts

(a) Receipt and Payment of Moneys

All moneys of the Fund shall be lodged as soon as practicable to the credit of an account in the name of the Fund kept with a bank, building society or similar body determined from time to time by the Trustee or the like account of a custodian appointed pursuant to the Rules.

All cash payments out of the Fund shall be signed by at least two persons who shall from time to time be authorised in writing by the Trustee or the Administrator for that purpose.

(b) Issue of Receipts

A receipt given on behalf of the Fund by the Trustee or by the Administrator or by any other person who may from time to time be authorised by the Trustee in writing to receive any moneys of the Fund shall be a sufficient discharge to the person by whom the moneys are paid.

1.7.2 Records and Accounts to be Kept

The Trustee shall:

- (a) keep account of all moneys received for and disbursed from the Fund and of all dealings in connection therewith;
- (b) collect, and pay promptly into the bank account of the Fund, all moneys from time to time due to the Fund;
- (c) keep appropriate records and accounts in proper order, and make suitable arrangements for their custody and for custody of documents relating to the investments; and

- (d) prepare after the end of each Fund Year Financial Statements for the Fund as at the end of the Fund Year.

1.7.3 Audit of Financial Statements

The Financial Statements shall be audited by the Auditor, reported upon and signed by the Auditor and the Trustee and presented to the Principal Employer.

1.7.4 Copy of the Rules and Financial Statements available to Members

A copy of the Rules and the latest Financial Statements shall be made available on request for inspection by any Member or Beneficiary.

1.8 Actuarial Investigations

1.8.1 Regular Actuarial Investigations

- (a) **Timing of Investigations**

Subject to Superannuation Law, as at the date not later than 30 June 2005 and thereafter at intervals not exceeding three years, the Trustee shall cause the Actuary to make any actuarial investigation of the Fund and to report in writing on the results of his investigation and on the state and sufficiency of the Fund, having regard to the present and future liabilities thereof and to make any recommendations which the Member may see fit in regard to the Fund.

- (b) **Information to be Supplied to Actuary**

The Trustee, the Administrator and the Employers shall give the Actuary the information the Actuary may require for the purposes of the actuarial investigation under Rule 1.8.1(a).

- (c) **Actuary's Reports to Principal Employer**

The Trustee shall send a copy of each report furnished by the Actuary to the Principal Employer.

1.8.2 Variation in Benefits or Contributions following Surplus or Deficit

Where the report by the Actuary in accordance with Rule 1.8.1 discloses that the Fund is more than or less than sufficient to provide the Benefits under the Rules, the Trustee, after obtaining the advice of the Actuary and subject to the consent of the Principal Employer, may, in a manner which in the opinion of the Trustee is equitable to all persons concerned, subject to Superannuation Law, change:

- (a) the Contributions payable by the Employers or by any one or more of them;
- (b) the Contributions payable by Members or by any section or class of Members; or
- (c) the amount of Benefits or any particular section or class of Benefits, including Benefits in the course of payment, either to Members or Beneficiaries generally or to any section or class of Members or Beneficiaries.

1.9 Investments

1.9.1 Investments Authorised

Subject to Superannuation Law, any assets or money of the Fund may be invested or applied by the Trustee in or towards investments, property, assets or rights:

- (a) of whatsoever nature;
- (b) whether involving liability or not;
- (c) whether producing income or not; or
- (d) upon personal credit (with or without security),

as if the Trustee were the beneficial owner of the assets or money. The Trustee has power to sell, deal with, realise and re-invest any such assets, investments, property or rights or any proceeds of sale or realisation.

1.9.2 Financial Instruments and Derivatives

- (a) Subject to Superannuation Law, the Trustee may enter into arrangements relating to financial instruments, contracts and other derivative transactions of whatsoever nature (whether in Australia or elsewhere) including:
 - (i) current hedging arrangements;
 - (ii) options;
 - (iii) interest rate swaps;
 - (iv) futures;
 - (v) any index traded on an options, futures or forward market;
 - (vi) any other similar transactions or whatever nature.
- (b) Subject to Superannuation Law, the Trustee may give a charge or other security over, or in relation to, an asset of the Fund for the purpose of securing the performance of the Trustee's obligations in relation to an arrangement within the meaning of paragraph (a).

1.9.3 Power to Underwrite

- (a) The Trustee may underwrite or sub-underwrite the subscription of any investments permissible under the Rules; and
- (b) in exercising its powers of delegation under this Rule, give an investment manager general authority to enter into underwriting or sub-underwriting arrangements (whether for the Fund alone or for the Fund in conjunction with others).

1.9.4 Appointment of Custodians and Investment Managers

- (a) The Trustee may at any time on such terms and conditions as the Trustee determines appoint:
 - (i) custodians; or
 - (ii) investment managers,to perform such authorities, powers and discretions as may be delegated by the Trustee. The Trustee may remove or replace a custodian or investment manager at any time.
- (b) Subject to Superannuation Law, the Trustee will not be liable for any act, omission, error of judgment, negligence or breach of trust of any custodian or investment manager.
- (c) The Trustee has no obligation to take proceedings against any custodian or investment manager.
- (d) The Trustee may remunerate custodians and investment managers out of the assets of the Fund.
- (e) The Trustee will ensure that the assets of the Fund are not invested inconsistently with Superannuation Law.

1.10 Member Investment Choice

1.10.1 Trustee's General Power

Subject to Superannuation Law, the Trustee may invite or require Members (or categories or classes of Members) to direct the Trustee as to the strategy to be adopted in relation to the investment of assets of the Fund or assets attributable to the relevant Members.

1.10.2 Trustee's Ancillary Powers

For the purposes of this Rule, the Trustee may:

- (a) make (or amend) Regulations relating to choices of investment strategies, including Regulations relating to the basis on which costs and expenses referable to the choice of investment strategies are to be apportioned or allocated;
- (b) create one or more sub-funds of the Fund in respect of Members (or categories or classes of Members) by allocating such assets and liabilities of the Fund as the Trustee determines;
- (c) make provision for the payment of benefits from the assets of the sub-funds created under paragraph (b) in such manner as the Trustee thinks fit;
- (d) invest the assets of each sub-fund created under paragraph (b) separately from the assets of the other sub-funds or other assets of the Fund;
- (e) determine the earning rate (which may be positive or negative) including, where necessary, an interim earning rate in relation to the assets of each sub-fund created

under paragraph (b) as if each sub-fund were the Fund and apply that earning rate to Members covered by the relevant sub-fund; and

- (f) do such other acts and things as may in the opinion of the Trustee be necessary or desirable in order to give effect to the intention of this Rule.

1.10.3 Trustee's Powers to Determine Fund Earning Rate

The Trustee shall have power to determine in relation to any period for the purposes of the Fund or any Division or section of the Fund, a Fund Earning Rate being the Trustee's determination of the rate of earning of the Fund, the Division or section of the Fund for the period in relation to which the determination is made.

1.11 Membership

1.11.1 Application to Join the Fund

An Employee may nominate an Eligible Employee for membership of the Fund. The Eligible Employee shall apply to join the Fund by:

- (a) making written application in the form from time to time required by the Trustee;
- (b) submitting evidence of the Member's age and any evidence of state of health required by the Trustee;
- (c) providing any other information reasonably required by the Trustee; and
- (d) declaring in writing that on acceptance of the Member's application the Member shall be bound by the terms and conditions of the Rules.

If at any time the Eligible Employee has not so applied (whether by reason of death, incapacity, termination of service or otherwise), and if, in the opinion of the Employer, it is necessary that the Eligible Employee be a Member entitled to an SGC Benefit so that superannuation guarantee charge is not payable, the Employer may complete an application for membership in relation to such Eligible Employee. Such application shall be deemed to be an application by the Eligible Employee. No such application shall be effective to impose on the Member any liability to make contributions.

1.11.2 Admission of Applicants

Subject to Superannuation Law and the provisions of this Rule, the Trustee must admit the applicant as a Division 5 Member, or, with the approval of the Principal Employer, as a Member of another Division.

1.11.3 Conditions Imposed on Member

Subject to any other conditions which may be applied pursuant to the Rules, the Trustee, after obtaining the advice of the Actuary, may impose conditions on any applicant's admission and the Member's rights and duties as a Member may limit and impose conditions upon Benefits as it sees fit. The Trustee may remove or vary at any time all or any of the aforesaid conditions.

Where an Employee is admitted to the Fund and the Benefits payable in any circumstance differ from those provided under the relevant Rules, the Trustee shall advise the Member in writing to this effect.

On acceptance of the application by the Trustee, whether or without conditions or limitations, the Eligible Employee shall become a Member of the class to which the Member is admitted and be deemed to have joined the Fund on a date determined by the Trustee. The Trustee shall ensure that the Member is notified in writing of the Member's Dependants rights to receive Benefits under the Fund.

1.11.4 Re-Employment of Former Employees

Subject to such special terms and conditions, if any, as may be determined by the Principal Employer either generally or in any particular case, if a person who, having previously left the employ of an Employer, rejoins the employ of an Employer, then during and in respect of the period after the date the Member rejoins the employ of the Employer that person shall for all intents and purposes under the Rules be treated as if the Member had never previously been an Employee of the Employer or a Member of the Fund **provided that**, if that person is already a Member of the Fund by reason of a deferred, preserved or other continuing Benefit secured under the Rules in respect of a previous period of membership of the Fund, then, subject to any contrary agreement between the Trustee, that person and the Principal Employer, that person's rights and interests in respect of any such continuing Benefit, and the conditions upon which that Benefit is secured, shall not be affected by the recommencement of employment.

1.11.5 Ceasing to be a Member

A person shall cease to be a Member:

- (i) in the event of death; or
- (ii) when all Benefits to which that person could have become entitled have been paid or have otherwise ceased or been terminated as provided in the Rules, whichever first occurs; or
- (iii) where the Member selects another superannuation fund as the Member's chosen fund under Superannuation Law, the effective time of that selection, as determined by the Trustee.

1.11.6 Retained Benefit Members

Where a person ceases to be in the Service otherwise than by reason of death and fails to give the Trustee instructions as to the Benefit payable to the Member concerned within seven days of ceasing to be in the Service, the Benefit will be transferred to Division 14 in respect of the Member and the person shall cease to be entitled to Benefits under any Division other than under Division 14 or, where applicable, Rule 1.15.6(a).

1.11.7 Member Bound by Rules

A Member by virtue of becoming a Member shall be deemed to have agreed to and be bound by the Rules.

1.12 Information which may be Required by the Trustee

1.12.1 Trustee to Require Information

The Trustee may:

- (a) require Employers to provide information in relation to their Employees to the extent that such information is relevant to the Fund;
- (b) require Employers to certify that information provided pursuant to this Rule is true, accurate and complete;
- (c) rely on certificates provided pursuant to this Rule as conclusive evidence of the matters certified for all purposes connected with the Fund whatsoever; and
- (d) require any Member (or any person claiming an amount from the Fund):
 - (i) to supply information or documents; or
 - (ii) to undergo medical examinations (including blood tests) by a medical practitioner or other person selected by the Trustee,for any purpose connected with the Fund.

1.12.2 Failure to Supply Information

If a Member or person does not comply with Rule 1.12.1(d), the Trustee may:

- (a) suspend payment of any amount in respect of the Member or person; and
- (b) suspend consideration of any claim by the Member or person.

1.12.3 Information to be kept Confidential

The Trustee, the Principal Employer and every other Employer, shall regard as strictly confidential (so far as shall be practicable) all information disclosed to or gained by it in the course of administering the Fund or otherwise in connection with the Rules.

1.13 Transfers

1.13.1 Transfers to the Fund

Subject to Superannuation Law, the Trustee may enter into an arrangement on such terms and conditions as are acceptable to the Trustee with the trustees, administrators or other controlling body (the *transferor fund trustee*) of an Approved Benefit Arrangement (the *transferor fund*) under which the Trustee agrees:

- (a) to accept into the Fund money or other assets from the transferor fund trustee;
- (b) to admit persons who were members of the transferor fund to membership of the Fund;
- (c) if appropriate, to confer on such persons rights in respect of benefits which are equivalent to the rights that such persons had under the governing rules relating to the transferor fund;

- (d) at the Trustee's discretion, to assume the liability of the transferor fund trustee to pay or provide benefits out of the transferor fund to or in respect of such persons.

1.13.2 Transfers from the Fund

(a) **Transfer to a Successor Fund**

Subject to Superannuation Law, the Trustee may with the consent of the Principal Employer enter into and carry out a successor fund transfer in respect of the benefits of a Member with the trustee or other controlling body of an Approved Benefit Arrangement (the *Other Fund*) which is a successor fund in relation to the Fund within the meaning of Superannuation Law. For the avoidance of doubt, a transfer made under this provision does not require the consent of the Member concerned and the Trustee shall have the power, after obtaining the advice of the Actuary, to determine the amount representing the interest of the Member in the Fund to be transferred to the Trustee of the Other Fund (hereinafter called the *Transferred Amount*). Such amount may be transferred on such terms and conditions as the Trustee and the Trustee of the Other Fund agree.

(b) **Member joins other Fund**

Where a Member joins or is eligible to join another Approved Benefit Arrangement (hereinafter called the *Other Fund*) the Trustee with the approval of the Member and the Principal Employer, may pay to the Trustee of the Other Fund an amount (hereinafter called the *Transferred Amount*) as determined by the Trustee after obtaining the advice of the Actuary.

(c) **Application of Transferred Amount**

The Trustee may determine what portion of the Transferred Amount shall be allocated as referable to employee contributions in the Other Fund.

(d) **Benefits Cease**

A former Member in respect of whom a Transferred Amount is paid under this Rule and the Member's Dependants shall not be entitled to any other Benefit and the receipt of the proper office of the Other Fund shall be a complete discharge to the Trustee of all liability to and in respect of that former Member and the Trustee shall have no responsibility to see to the application of the Transferred Amount.

(e) **Portability Benefit**

Where a Member makes a request to the Trustee in writing in the required manner to have part or all of the Member's Benefit transferred to an Approved Benefit Arrangement, subject to Superannuation Law, the Trustee shall make such payment or payments on the instruction of the Member to the Approved Benefit Arrangement. Following the payment to the Approved Benefit Arrangement and the payment of the remainder of the Benefit (if any) to the Member, the Member shall not be entitled to any other Benefit from the Fund and the Trustee shall be discharged of all liability to and in respect of that former Member.

1.13.3 Transfers between Divisions

- (a) A Division 3 Member or a Division 4 Member may with the approval of the Principal Employer (whether such approval relates to such Members generally or a particular category or class of such Members) elect to transfer to Division 2 from 31 December 1997 on the basis that the Member's entitlements under Division 3 and/or Division 4 (as the case may be) as at 31 December 1997 are transferred to Division 5 and otherwise on such terms and conditions (if any) as the Principal Employer determines with the approval of the Trustee.
- (b) A Member to whom Division 2 applies may with the approval of the Principal Employer (whether such approval relates to such Members generally or a particular category or class of such Members) elect to transfer to Division 5 from 31 December 1997, or such other date as may be agreed by the Trustee and the Principal Employer, and on such terms and conditions (if any) as the Principal Employer determines with the approval of the Trustee.
- (c) A Member to whom any Division (including Division 2) applies may with the approval of the Principal Employer (whether such approval relates to such Members generally, or one or more Divisions, categories or classes of such Members), elect to transfer to Division 5 from such date, and on such terms and conditions (if any), as the Principal Employer determines with the approval of the Trustee.
- (d) An election under this Rule shall be irrevocable.
- (e) Except as provided in this Rule, a Member shall not be permitted to transfer from one Division to another Division.

1.13.4 Transfer of Service from one Employer to Another

Notwithstanding anything expressed or implied to the contrary in the Rules, unless the Principal Employer otherwise determines with the consent of the Trustee in any particular case or cases, if a Member transfers from the service or employment of one Employer to another Employer, the Member shall remain a Member and that transfer of service or employment shall not be deemed to be ceasing to be in the service or employment of the Member's Employer by retirement or otherwise for the purposes of the Rules.

1.14 General Provisions relating to Contributions and Expenses

1.14.1 Deduction and Payment of Contributions

- (a) **Member's Contributions Deducted from the Member's Salary**

Unless the Trustee otherwise determines or the law does not so allow, the Contributions payable by a Member shall be deducted by the Employer from each payment of or on account of the Member's Salary, and forthwith or as directed by the Trustee shall be paid or remitted to the Fund.

(b) **Member's Contributions Paid Direct to Fund**

If the Trustee otherwise determines or the law does not allow the deduction, the Member shall pay the Member's Contributions as and when the Member receives each payment of or on account of the Member's Salary to the Fund in such manner as the Trustee may determine.

(c) **Period during which Member shall make Contributions**

Unless otherwise specified in the Rules or agreed between the Trustee, the Principal Employer and the Member concerned, no Contribution shall be payable by a Member after the earlier of the date the Member ceases to be in the employ of any Employer and the date the Member attains the Normal Latest Contribution Age.

1.14.2 Benefits and Contributions when Special Leave is taken

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

1.14.3 Employer's Contributions

The Trustee, after obtaining the advice of the Actuary and with the approval of the Principal Employer, shall determine the Contributions payable by each Employer from time to time on and from:

- (a) the date of each actuarial investigation; and
- (b) each date on which any amendment is made to the Rules which has a significant effect on the Benefits or the Contributions;

and after obtaining the like advice and with the like approval shall determine the Contributions payable by an Employer on its becoming a Participating Employer.

The Contributions payable by an Employer shall be paid to the Trustee free of all deductions, at the time, in the manner and by the instalments as agreed between the Trustee and the Employer.

1.14.4 Reduction of Employer Contributions

If an Employer is unwilling or unable to make Contributions in accordance with a determination made by the Trustee, pursuant to Rule 1.14.3, the Employer may, with the consent of the Principal Employer, make Contributions only to the extent that the Principal Employer shall agree and the Trustee may, after obtaining the advice of the Actuary, vary the Contributions payable by Members who are Employees of that Employer, after having obtained their unanimous consent to such a change, or the Benefits to or in respect of the said Members.

1.14.5 Interest on Contributions

The Trustee may require an Employer to pay interest on any of its Contributions in arrears or may require the Employer or Member, as appropriate, to pay interest on any Member's Contributions in arrears at a rate determined by the Trustee.

1.14.6 Superannuation Guarantee Contributions

- (a) An Employer who makes a Contribution to the Fund to avoid a superannuation guarantee shortfall under the Guarantee Act in respect of a Member, or who treats the making available of a Benefit from the Fund to avoid a superannuation guarantee shortfall under the Guarantee Act, shall notify the Trustee of that fact and shall give the Trustee such particulars as the Trustee may require.
- (b) The Trustee may receive payment of a Shortfall Component as a Contribution in respect of a Member. If the payment is made in respect of the Shortfall Component of an Employer, the Trustee shall deal with such Contribution in the same manner as if it were a Contribution by that Employer. In any other case the Trustee shall deal with it as if it were a voluntary contribution by the Member.

1.14.7 Co-contributions or similar payments

- (a) The Trustee may accept government co-contributions or similar payments into the Fund in respect of a Member and shall treat any such co-contributions or similar payments as additional voluntary contributions by the Member.
- (b) The Trustee may repay from the Fund in relation to a Member to the appropriate government authority any amount in respect of any co-contribution or similar payment which has been overpaid or incorrectly paid to the Fund and the Trustee shall reduce the benefit payable to and in respect of the Member or deduct from the Member's account in the Fund the amount which the Trustee has so paid.
- (c) The Trustee may refuse to accept any co-contribution or similar payment in such circumstances as the Trustee may think fit.

1.14.8 Splitting of Contributions

- (a) Subject to Superannuation Law and any Regulations made by the Trustee, a Member may split contributions made by or in respect of the Member with the Member's Spouse.
- (b) Regulations may determine the basis and terms (including, without limitation, the fees and charges applicable) on which Members may elect to split contributions with their Spouse.

1.15 General Provisions relating to Benefits

1.15.1 Change in Contributions and Benefits on Introduction of Statutory benefits

Where a scheme having government support or recognition whether in the Commonwealth of Australia or any State or Territory thereof or any other place with which the activities of

the Employer are or may for the time being be concerned (hereinafter called the **Statutory Scheme**) provides, or will provide, Members, the Dependants or Beneficiaries with benefits which in the opinion of the Trustee are of a similar nature to any Benefit provided under these Rules, the Trustee, with the approval of the Principal Employer, may alter in any way whatsoever provisions of the Rules which in the discretion of the Trustee correspond to provisions of the Statutory Scheme, including:

- (a) Contributions payable by Members and Employers; and
- (b) Benefits, including Benefits in course of payment, **provided that** any reduction in Benefit shall not exceed the amount of the similar benefit under the Statutory Scheme and **provided further that** any reduction in Benefits (unless expressly required by the Statutory Scheme) shall not apply in respect of any Benefits accrued under these Rules in respect of Service prior to the effective date of introduction or modification of the Statutory Scheme to the extent that those Benefits are secured by the Contributions made to the Fund prior to the said effective date.

The Trustee shall as soon as practicable notify each Member of the manner and the extent to which the Member's Benefits and/or Contributions are affected by operation of this Rule.

1.15.2 Other Schemes

Notwithstanding the provisions of Rule 1.15.1 and without in anyway limiting them, if in the opinion of the Employer a Benefit is or could reasonably be expected to become payable in respect of a Member from another scheme or arrangement any part of the costs of which are borne directly or indirectly by an Employer or any governmental authority on retirement, death or disablement or in any other circumstances similar to those in which a Benefit may be provided under the Rules, subject to Superannuation Law, the amount and conditions of payment of any Benefit shall be adjusted in such manner and to such extent as the Principal Employer determines to be appropriate in taking account of such actual or expected entitlement. The Principal Employer shall advise the Trustee in writing of such a determination, which shall be binding on all interested persons without the need to formally amend the Rules.

1.15.3 Minimum Benefits Under Guarantee Act

- (a) If the Benefit payable in respect of a Member under all provisions of the Rules other than this Rule 1.15.3 is less than the minimum amount to which the Member or Dependants in question needed to be entitled in addition to any other amounts in order that the superannuation guarantee charge would not be payable at any time under the Guarantee Act by the Employer in respect of the Member, then with the approval of the Principal Employer, the Trustee shall increase the Benefits to that minimum amount.
- (b) If the determination of a minimum amount referred to in Rule 1.15.3(a) depends upon whether or to what extent increased or additional Benefits are to be provided from the Fund or from another superannuation fund of which the Member is a member and from which increased or additional Benefits could also be provided in

addition to other Benefits in respect of the Member in order that the superannuation guarantee charge would not be payable at any time under the Guarantee Act by the Employer in respect of the Member, then the Actuary shall determine the extent (if any) to which in the opinion of the Actuary increased or additional benefits will be provided from such other fund, and any increase in the Benefit payable under Rule 1.15.3(a) shall be determined by the Actuary having regard to the Actuary's determination in relation to such other fund.

- (c) An Employer shall contribute such amount (if any) as certified by the Actuary as being necessary to enable the Fund to pay any amount payable under this Rule 1.15.3 in respect of any Member who was an Employee of that Employer and the payment of which is due in consequence of that Employer having been relieved from the need to make Contributions in respect of that Member.
- (d) If an Employer's Contributions are terminated pursuant to the Rules, the Employer shall thereupon pay to the Fund, in addition to any other sum payable, such amount as is certified by the Actuary to be the estimated amount of that Employer's liability under Rule 1.15.3(c).

1.15.4 Additional Benefits

Where in respect of any Employee the Employer or the Employee, with the prior approval of the Principal Employer, pays or transfers to the Trustee for the credit of the Fund an amount either as a capital sum at or after the date of the Member's admittance or additional Contributions, whilst the Member is a Member or for a limited period, the Trustee shall provide the Member with additional or accrued Benefits in such manner as it shall determine.

1.15.5 Sickness Benefits

Subject to Superannuation Law, the Trustee may agree to provide temporary sickness benefits to or for the benefit of any Member or any group of Members representing all or part of their normal remuneration whilst absent from an Employer due to ill health and may make such arrangements with the Principal Employer and any Participating Employer as it sees fit to cover the cost of such benefits whether by way of insurance or payment of additional contributions by the Principal Employer or any Participating Employer or otherwise.

1.15.6 Insured Benefits

(a) Insurance of Benefits

Notwithstanding anything expressed or implied to the contrary in these Rules, if the Trustee effects or seeks to effect insurance with an Insurer in respect of any part of a Benefit payable on death or Total and Permanent Disablement and:

- (i) that insurer refuses to provide or increase insurance in respect of that part of the Benefit on its standard terms; or

- (ii) in respect of that part of the Benefit, that insurer for any reason whatever fails to provide increase or maintain or reduces terminates or withholds insurance or does not admit or refuses to consider or defers a claim in whole or in part;

then, unless otherwise agreed between the Trustee and the Principal Employer, that Benefit shall be reduced to the extent that insurance has not been effected on standard terms or has otherwise not been obtained, increased or maintained or has been reduced, terminated or withheld or such a claim is deferred or not admitted, and the Trustee shall adjust that Benefit in such manner as the Trustee, after obtaining the advice of the Actuary, considers appropriate in effecting such a reduction.

(b) Non-Insurance of Benefits

If the Trustee does not seek to effect insurance in respect of that part of the Benefit but the Principal Employer believes that an event provided for in Rule 1.15.6(a) would or would likely have occurred if the Trustee had done so, then (unless otherwise agreed between the Trustee and the Principal Employer) Rule 1.15.6(a) shall apply if:

- (i) the Trustee had in fact sought or effected insurance in respect of that part of the Benefit of such amount and on such conditions as shall be determined by the Principal Employer; and
- (ii) such of the events provided for in Rule 1.15.6(a) as the Principal Employer shall determine had in fact occurred and for such reasons, in such circumstances and with such effect as the Principal Employer shall determine.

(c) Extended Cover

Subject to the Rules and Superannuation Law, where the Trustee has effected an Insurance Policy which provides extended cover in respect of a Member who has ceased to be an Employee and an amount is received under that Insurance Policy in respect of an insurable event that has occurred in relation to that Member, the Trustee shall pay the amount received (after deduction of any applicable Taxation) to or in respect of the Member.

The amount payable under this Rule 1.15.6(c) shall be payable to the Member if the Member is alive or in accordance with Rule 1.17.1 in the event of the Member's death.

(d) Optional Insurance – Post 15 March 2005 Members

In relation to a Member who joined the Fund after 15 March 2005 or who applied for and was provided with an increase in Optional Insurance Cover after that date where the Trustee is of the opinion that had the Trustee entered into a policy of insurance in respect of the Member and the Insurer under the policy would have declined or reduced the amount otherwise payable to the Trustee in respect of the Member, then, notwithstanding anything expressed or implied to the contrary in the Rules, the Trustee shall reduce the benefit otherwise payable to or in respect of

the Member by the amount which the Trustee believes the Insurer would have declined or reduced.

(e) **Pre 15 August 1988 Division 2 Members**

Rule 1.15.6(a) does not apply in respect of the Benefits provided under the Rules in force on 15 August 1988 in respect of Division 2 Members who were last admitted to Membership of Division 2 prior to that date.

1.15.7 Moneys Owing to Fund

Where a Member at the time the Member ceases to be an Employee owes any moneys to the Trustee or the Fund, the Member shall be deemed to have forfeited a sum equal to the amount owed to the Trustee and any Benefit payable to or in respect of the Member shall be reduced accordingly and the Trustee may retain the amount in the Fund.

1.15.8 Benefits are Personal

(a) **Forfeiture of Benefits**

Subject to Superannuation Law, any Member or Beneficiary:

- (i) who assigns or charges or attempts to assign or charge any Benefits;
- (ii) whose Benefits whether by the Member's own act, operation of law or otherwise become payable to or vested in any other person, company, government or other public authority;
- (iii) who becomes bankrupt or insolvent;
- (iv) who for any reason is unable personally to receive or enjoy the whole or any portion of the Member's Benefits or, in the opinion of the Trustee, is incapable of managing his or her affairs;
- (v) who, in the opinion of the Principal Employer, commits any fraud or is guilty of dishonesty, defalcation or serious misconduct;
- (vi) who (subject to reasonable enquiries having been made) cannot be located and whose Dependants cannot be located by the Trustee during a period of five years after a payment was last made to the Member by the Member's Employer or by the Trustee;

shall forfeit entitlement to all the Member's Benefits.

(b) **Application of Forfeited Benefits**

The Trustee shall hold and apply the Benefits which would have been payable had the Benefits not been forfeited as aforesaid upon trust to make any payments pursuant to Rule 1.15.7 and subject thereto to pay or apply the balance thereto to or for the benefit of the former Member or Beneficiary (as the case requires) and the Member's Dependants or any one or more of them in such proportions between them and on such terms as the Trustee may from time to time in its absolute discretion determine, provided that no Benefit shall be paid in respect of a Member while the Member remains an Employee other than for the support and

maintenance of that Member and or the Member's Dependants in the case of hardship.

(c) **Moneys not Applied to Benefits to Remain in the Fund**

Subject to Superannuation Law, moneys released in respect of any Benefits forfeited and not subsequently paid or applied pursuant to the Rules shall remain in the Fund.

1.16 Pensions

1.16.1 Pension Options

(a) **Lump Sum may be Converted to Pension**

On the written application of a Member or Beneficiary, the Trustee may pay from the Fund a Pension or Pensions payable for life or any period certain, in lieu of the whole or portion of any cash Benefit otherwise payable to the Member or Beneficiary. The decision of the Trustee as to whether or not any Pension shall be paid or provided shall be final and binding and accepted without question by any applicant.

(b) **Amount of Pension**

The amount of any Pension payable pursuant to this Rule shall be determined by the Trustee, after obtaining the advice of the Actuary, who, unless otherwise directed by the Trustee, shall make due allowance in his calculations for the expenses of its future management.

(c) **Other Arrangements**

Notwithstanding the provisions of paragraph (a) and (b) of this Rule 1.16.1 and without in any way limiting them,

- (i) Subject to the agreement of the Trustee and the approval of the Principal Employer and to such terms and conditions as the Trustee may impose, a Member or Beneficiary may elect that (in lieu of the normal or specified terms and conditions of payment) all or part of a Benefit to which that person is or may otherwise become entitled shall be replaced by a Benefit payable in other circumstances or in another manner and form or shall be paid upon other terms and conditions. Any such election shall be final and binding on all interested persons (including without limitation all persons who may be or become contingently entitled to receive a Benefit in respect of the Member or Beneficiary making such election) and, in giving effect to and taking account of such an election, the Trustee may adjust the Benefits which are or would or might otherwise become payable to or in respect of that Member or Beneficiary or any other person then or thereafter claiming under or in respect of the Member or Beneficiary in such manner and to such extent as the Trustee may think fit.

- (ii) Any Benefit which pursuant to an election made under this paragraph (c) is due and payable after the death of a person shall be payable by the Trustee in the manner provided in Rule 1.17.1 unless the terms and conditions on which that Benefit was granted provide otherwise.
- (iii) The Trustee, after obtaining the advice of the Actuary and with the approval of the Principal Employer, may unilaterally commute to a lump sum any Pension or instalment Benefit which is or would otherwise become payable from the Fund if, in the opinion of the Trustee, the amount of that Pension or instalment Benefit is or would be trivial.

1.16.2 Conditions Applicable to Pension Payments

If any Benefit is payable in the form of a Pension the following conditions shall apply:

(a) Accrual and Payment of Pensions

No Pension shall be payable to or in respect of a Beneficiary for any day on which Salary is payable to the Member.

A Pension shall commence on the day following the event which gives rise to its payment.

Pensions shall accrue from day to day.

(b) Termination of Pensions

A Pension terminating on the death of a Pensioner shall be payable up to and including the day of the Pensioner's death.

A Pension terminating for any reason other than death shall not be payable on and from the day of the happening of the event which gave rise to its termination.

(c) Pensions Payable by Instalment

Pensions shall be payable by instalments which may be equal or unequal, and on the dates the Trustee determines.

(d) Trustee may Approve Commutation

Following the request of a Member, Pensioner or Beneficiary, the Trustee, subject to the conditions set out in Rule 1.16.2(e), may in its absolute discretion commute to a lump sum part or all of any Pension payable from the Fund in respect of the person making the request.

(e) Conditions Governing Commutation

The following conditions shall govern the commutation of Pensions payable from the Fund:

- (i) The commutation in the opinion of the Trustee, after obtaining the advice of the Actuary, should not disadvantage the Fund, an Employer, Members or Beneficiaries.

- (ii) The Trustee may instruct the Actuary in furnishing advice for the purposes of this Rule to regard the state of health of the person receiving or to receive the Pension as being unaffected by any significant impairment and to make such other assumptions as the Trustee determines or the Actuary considers appropriate.

1.17 Payments of Death Benefits

1.17.1 Benefits on Death of Member

(a) Payment of Benefit on Death

Where the Rules provide for the payment of a Benefit on the death of a Member in accordance with this Rule, the Trustee shall pay the Benefit to such one or more of:

- (i) the deceased Member's Dependants; or
- (ii) the deceased Member's legal personal representative,

to the exclusion of the others or other of them or in such shares or proportions between them as the Trustee may in its absolute discretion determine.

(b) Identifying Dependants

In ascertaining the Dependants of a Member:

- (i) the Trustee has no obligation to locate, establish or identify all the persons who may qualify; and
- (ii) the Trustee may act upon such information as it thinks fit to locate, establish and identify persons as Dependants of that Member.

(c) Payments to Legal Personal Representatives

Any Benefit or other amount payable to a Member's legal personal representative will, subject to requirements governed by law, be paid on production of Probate or the Will or Letters of Administration of the estate of the deceased Member.

(d) No Dependant or Legal Personal Representative

If after reasonable enquiry the Trustee is reasonably satisfied that the deceased Member has not been survived by a Dependant the Trustee can satisfactorily locate or identify and that it is unlikely that a legal personal representative will be appointed in respect of the deceased Member, the Benefit shall in the absolute discretion of the Trustee:

- (i) cease to be payable and be retained by the Trustee for the general purposes of the Fund; or
- (ii) if Superannuation Law requires or permits the amount to be dealt with in a particular manner, the amount will (if required) or may be dealt with in that manner.

1.17.2 Beneficiary under Legal Disability

(a) Payment to others on behalf of Beneficiaries

When any Beneficiary is under the age of 18 years or when in the Trustee's opinion it would be in the best interests of the Beneficiary, the Trustee may pay all or part of any Benefit to any other person for application on behalf of the Beneficiary and/or to the Beneficiary's Dependants and the receipt of the person to whom the Benefit is paid shall be a complete discharge to the Trustee for the payment in respect of the Beneficiary. The Trustee shall not be bound or concerned to see to the application of the Benefit so paid.

(b) Retention of Benefits in Fund in Certain Cases

When in the opinion of the Trustee, it would be to the benefit of a former Member that a Benefit should not be paid to the former Member, the former Member shall cease to be entitled to any Benefit except as provided in this Rule.

The Trustee shall retain the Benefit in the separate account in the name of the former Member and shall pay or apply from time to time, to or for the benefit of the former Member, such sums as the Trustee thinks fit and, upon the death of the former Member, shall pay or apply any balance remaining in the account in accordance with Rule 1.17.1.

Any amount for the time being held in the account during a Fund Year shall be credited with interest at a rate determined by the Trustee.

1.18 Taxation

1.18.1 Power to deduct tax: general

The Trustee has power to deduct amounts (including from Benefits payable under the Rules) in respect of any:

- (a) tax or surcharge;
- (b) advance or instalment; and
- (c) similar or associated amounts,

which, in the opinion of the Trustee, is or may become assessable or payable in relation to the Fund, whether in respect of contributions, income or realised capital gains of the Fund or otherwise.

1.18.2 Dealing with tax deducted.

The Trustee has power to credit amounts deducted pursuant to Rule 1.18.1 to an account in the books of the Fund pending actual payment to the relevant government authority.

1.18.3 Discharge upon payment of taxes

The Trustee will be released and discharged in respect of amounts deducted pursuant to Rule 1.18.1 and which are paid to the relevant government authority.

1.18.4 Trustee may make adjustments to Member benefits

If the Trustee pays an amount of a kind described in Rule 1.18.1, Benefits payable to or in respect of the Member may be reduced in such manner as the Trustee considers fair and equitable having regard to:

- (a) the amount so paid; and
- (b) the accretions which would have accrued on that amount had the amount not been paid,

unless a reduction, deduction or adjustment has already been made to the relevant benefit under another provision of the Deed. For this purpose the Trustee must assume that the tax or surcharge (and any advance instalment and similar or associated amounts) is levied against affected Members having regard to the Employer's contribution in respect of each such Member.

1.19 Benefits

1.19.1 Benefit Payment

(a) Payment of Benefits

The Trustee may forward the Benefits to the postal address or bank account last notified pursuant to the Trustee or to such other place as the Trustee, at the request of the Beneficiary, approves.

(b) Address for Benefits

Every Beneficiary, or person to whom a Benefit is payable on behalf of or for the benefit of a Beneficiary shall, except where no further Benefit is payable from the Fund, notify the Trustee in writing at the time the Benefit becomes payable and immediately after the Member changes residence:

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

1.19.2 Receipt for Benefits

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

1.19.3 Augmentation of Benefits

Subject to such terms and conditions as the Principal Employer may determine, the Principal Employer may direct the Trustee to pay or provide a Benefit or other amount greater than would be provided but for such a direction and the Principal Employer may rescind or vary such a direction. The Trustee shall act on such a direction provided that, if and to the extent that, in the opinion of the Trustee (after obtaining the advice of the Actuary), to act on such a direction would cause a deficiency in the Fund, before acting on such a direction or in the course of doing so the Trustee may require an undertaking from

an Employer that it shall contribute to the Fund such additional amounts or rates of Contribution and at such times as the Trustee shall determine after obtaining the advice of the Actuary. If any undertaking required by the Trustee is not given or, having been given, is not fulfilled to the satisfaction of the Trustee, the Trustee may refuse to pay or provide (or to continue to pay or provide) the greater Benefit or amount to which the undertaking relates.

1.19.4 Early Release of Benefit

Subject to Superannuation Law, in the case of:

- (a) the severe financial hardship (within the meaning of Superannuation Law) of a Member;
- (b) compassionate grounds (within the meaning of Superannuation Law) arising in relation to a Member for the purposes of Superannuation Law; or
- (c) any other circumstances considered exceptional by the Trustee in relation to a Member,

the Trustee will have the power (but will not be obliged) to pay to, or in respect of, the Member a Benefit not exceeding the following:

- (i) with respect to a Division 2 Member, an amount calculated in accordance with Rule 2.3.6;
- (ii) with respect to a Division 5 Member, an amount calculated in accordance with Rule 5.7.2;
- (iii) with respect to a Division 6 Member, the amount calculated in accordance with Rule 6.16;
- (iv) with respect to a Division 7 Member, an amount calculated in accordance with Rule 7.15;
- (v) with respect to a Division 8 Member, an amount calculated in accordance with Rule 5.7.2;
- (vi) with respect to a Division 9 Member, an amount calculated in accordance with Rule 5.7.2;
- (vii) with respect to any Member not covered by any of the above provisions, an amount that would be payable to the Member on leaving service and ceasing to be a Member.

This Benefit may be provided in such form, by way of such arrangements and on such terms and conditions as the Trustee thinks fit.

1.19.5 Claims for Benefits

The Trustee must not consider any claim for a Benefit after the expiration of six years from the date on which, in the opinion of the Trustee, the claim could have first been made unless the Trustee has received advice from a legal adviser instructed by the Trustee to the effect that a court of competent jurisdiction is likely to extend the period in which an action may be commenced against the Trustee in relation to the claim.

1.19.6 Optional Insurance Cover

- (a) The Trustee may offer Optional Insurance Cover to a Member who is or may become entitled to such cover under the Division of the Rules applying to the Member in accordance with such terms and conditions as the Trustee may from time to time determine.
- (b) Where a Member has applied for or for an increase in Optional Insurance Cover:
 - (i) the Trustee may require the Member to undertake such medical or other examinations (including supplying blood samples) and to provide statements of medical history and other information and documents as the Trustee may require;
 - (ii) the Optional Insurance Charge shall be deducted from the Member's accounts in the Fund as the Trustee shall from time to time determine;
 - (iii) Notwithstanding the generality of the Trustee's powers under the Rules, the Trustee may effect a policy of insurance to provide Optional Insurance Cover provided to Members under this Rule.
- (c) Notwithstanding anything expressed or implied to the contrary in the Rules, an application to take out or increase Optional Insurance Cover will not take effect for the purposes of the Rules or the Fund unless and until the risk has been accepted by the Trustee or the Insurer (as the case may require) and the Member has been notified in writing.
- (d) It is expressly declared that Rule 1.15.6 applies in relation to any Optional Insurance Cover provided to, or in respect of any Member under this Rule.

1.19.7 Opt out of Insurance Cover (or similar) after age 60

- (a) A Member who has attained the age of 60 and who is entitled under the Division of the Rules applicable to the Member to have Basic Insurance Cover, an Insured Benefit or Optional Insurance Cover may elect to discontinue such cover by a notice in writing to the Trustee.
- (b) From the effective date of any such notice as determined by the Trustee the Member shall cease to be entitled to any Basic Insurance Cover, Insured Benefit or Optional Insurance Cover under the Rules.

1.20 Admission of Participating Employers

(a) Admission as Participating Employer

At the direction of the Principal Employer, the Trustee shall enter into an agreement with the Principal Employer and an Associated Employer to admit the Associated Employer as a Participating Employer for the purposes of the Rules. The form of the agreement shall be determined by the Principal Employer and the Trustee.

(b) Agreement with Associated Employer

The Trustee, after obtaining the advice of the Actuary, by agreement with the Associated Employer, may take over the assets and assume the liabilities of any existing superannuation arrangement conducted by the Associated Employer for the benefit of its employees and their dependants with the intent of preserving the existing rights and interests of any of the existing members and beneficiaries of that superannuation arrangement or providing them with Benefits which are equal in value to their rights and interests therein or on such other basis, as determined by the Trustee after obtaining the advice of the Actuary, as being fair and reasonable, and in this regard may:

- (i) exchange the said rights and interests for any Benefits which the Trustee shall determine; or
- (ii) incorporate in the Rules the rules of the said superannuation arrangement transferred, with or without amendments.

1.21 Termination or Suspension of Contributions or Reconstruction of the Principal Employer

1.21.1 Termination by Employer

(a) Termination of Employer's Contributions

Subject to Rule 1.21 and Rule 1.15.3(d), an Employer's Contributions shall terminate where:

- (i) the Employer goes into liquidation (except for the purpose of amalgamation or reconstruction);
- (ii) the Employer, other than the Principal Employer, ceases to be an Associated Employer (of which the Principal Employer shall be the sole judge) and the Principal Employer, by notice in writing to the Trustee, advises that Contributions of the former Associated Employer shall cease;
- (iii) the Employer voluntarily terminates its Contributions by notice in writing to the Trustee provided that where a Division specifies a period of notice to be given in respect of termination of Employer's Contributions that period of notice will apply in relation to that Division.

An Employer shall cease to be a Participating Employer on the termination of its Contributions.

(b) Exercise of Powers of the Principal Employer

If the Principal Employer terminates its Contributions pursuant to Rule 1.21.1(a), the powers and discretions vested in the Principal Employer under the Rules shall be exercisable by such of the Participating Employers as the Trustee shall from time to time determine.

(c) **Transfer of Participating Employer's Business**

If the Participating Employer (herein called the *Former Employer*) is amalgamated with or disposes of its undertaking to the Principal Employer or to another Participating Employer (herein called the *New Employer*) Contributions shall be deemed not to have terminated but the Members who are Employees of the Former Employer shall become Employees and Members with the New Employer and the New Employer shall pay future Contributions in respect of those Members.

(d) **Notice of Termination**

A notice of termination given by an Employer pursuant to sub-paragraphs (i) and (ii) of Rule 1.21.1(a) shall apply in respect of all the Members who are Employees of that Employer. A notice given by an Employer pursuant to provision (iii) of Rule 1.21.1(a) may, as stated in the notice, apply to all of the Members who are Employees of that Employer or any section or class of the Members who are Employees of that Employer. The notice shall be given to take effect on a date to be agreed to between the Employer giving the notice and the Trustee but not more than one year from the date of such notice, provided that in the event of liquidation, Contributions shall terminate immediately.

(e) **Suspension of Employer's Contributions**

An Employer may by notice in writing to the Trustee, suspend its Contributions for up to two years from a date specified in the notice. Such suspension shall not affect the Employer's obligations under Rule 1.15.3. The suspension may apply in respect of all the Members who are Employees of that Employer or any section or class of Members who are Employees of that Employer.

On a Member ceasing to be an Employee whilst the Member's Employer's Contributions are suspended and where the Benefit payable to the Member exceeds the Benefit on Resignation, the Benefit payable shall be determined by the Trustee acting on the advice of the Actuary.

If an Employer's Contributions remain suspended for a continuous period of two years, the Employer's Contributions shall be deemed to have terminated at the end of the two year period and the provisions of Rule 1.21.2 shall apply. If the Employer, by notice in writing to the Trustee, resumes making Contributions to the Fund, the Contributions of Members who are Employees of that Employer shall also be resumed at the same time and the future benefits payable from the Fund in respect of the relevant Members shall be advised to the Employer and the Members by the Trustee acting on the advice of the Actuary.

(f) **Member's Contributions**

No Contributions shall be made by a Member where the Member's Employer has terminated or suspended its Contributions in respect of the Member.

(g) **Employees Not to be Admitted**

No Employee of an Employer shall be admitted as a Member where the Employer's Contributions in respect of all of its Members have been terminated or suspended.

1.21.2 Provision for Members Following Termination of Contributions

(a) **Cessation of Membership**

At the date of termination of Contributions by the Employer the Trustee shall appropriate in respect of each Member who was an Employee of that Employer (the *Ex-Member*) as at that date, that portion of the assets of the Fund which the Trustee, after obtaining the advice of the Actuary, shall determine to be held in the Fund in respect of that Ex-Member.

(b) **Provision for Ex-Member**

The Trustee shall make provision for every Ex-Member out of the assets appropriated to the Member (the *Appropriated Benefit*) in any of the following ways as may be decided by the Trustee in its sole discretion, namely:

- (i) Where an Ex-Member ceases to be a Member following the sale of part or all of the business of an employer and becomes a member of another superannuation arrangement conducted by the company, firm, person or organisation purchasing the said part or all of the business, by transfer of the Appropriated Benefit to the trustees thereof.
- (ii) Where an Ex-Member is a member of another Approved Benefit Arrangement by transfer of the Appropriated Benefit to the trustee thereof.
- (iii) By paying the Appropriated Benefit for the Ex-Member to any other Approved Benefit Arrangement.
- (iv) By paying the Appropriated Benefit to the Ex-Member on the Member ceasing to be an Employee or in accordance with Rule 1.17.1 on the Member's death.

(c) **No Further Claims against the Fund**

An Ex-Member in respect of whom an Appropriated Benefit has been applied under the provisions of Rule 1.21.2(b) shall have no right to resort to nor claim against the Fund otherwise than in respect of the Member's Appropriated Benefit.

1.21.3 Reconstruction or Amalgamation of the Principal Employer

(a) **Agreement to Carry on Fund**

If the Principal Employer is reconstructed, goes into liquidation for the purpose of reconstruction, is amalgamated with another company or if it disposes of its undertaking, the Trustee may enter into an agreement with its successor (the *Successor*) for carrying on the Fund under the Rules or any similar deed or rules, and for this purpose the Trustee may agree to such alterations or modifications to the Rules as may be requisite so that the then Members and Beneficiaries will become entitled to benefits similar to those provided under the Rules.

(a) Agreement Binding

Any agreement made pursuant to Rule 1.21.3(a) shall bind all Members and Beneficiaries in addition to the parties thereto.

(b) Failure to Negotiate Agreement

In the event of its failing to negotiate agreement with the Successor; the Trustee may submit to all Members and to all Beneficiaries another superannuation arrangement which, subject to its approval by not less than 2/3 of the total number of Members and Beneficiaries, shall bind all Members, Beneficiaries and the Trustee.

If an arrangement is not approved as aforesaid within a period of six months after the reconstruction, amalgamation or disposal, the provisions of Rule 1.21.2 shall take effect.

1.22 Alteration to the Rules

1.22.1 Power of Alteration of the Rules

Subject to Rule 1.15.1 and the other provisions of this Rule 1.22, the Trustee may by resolution or by deed, with the consent of the Principal Employer, at any time alter modify or add to the Rules (including this Rule) with effect from a date before on or after the date of the amendment **provided that** no such alteration modification or addition shall be made unless the Actuary certifies that in the Actuary's opinion any such alteration modification or addition will not substantially prejudice the value of the rights secured for or in respect of any Member by the Contributions paid to the Fund prior to the date of such alteration modification or addition or unless at least 75% of Members for the time being give their consent in writing thereto and **further provided that** no alteration modification or addition may be made to the provisions of the Rules which may authorise the application or use of any part of the Fund for any purpose other than:

- (a) the provision of Benefits for Employees or their Dependants;
- (b) the making of any refund or allowance to Members;
- (c) the payment of the expenses arising out of the management control administration or protection of the Fund;
- (d) indemnity to the Trustees as herein provided;
- (e) reimbursement to the Principal Employer or to an Associated Employer of any losses of the nature herein specified.

1.22.2 Power of Alteration of the Rules for Maximum Exemption from Tax Duty and to Conform with Requirements of Governmental Authorities

The Trustee, with the consent of the Principal Employer, may by resolution or by deed from time to time amend the Rules with effect from a date before on or after the date of the amendment where the principal purpose of the amendment is to enable:

- (a) the Fund, the income of the Fund, or Contributions of Employer or Member, or a greater proportion thereof, to be exempted from Taxation or to be allowable deductions for Taxation, or to be assessable for Taxation at a lower rate; or
- (b) the maximum relief of the Fund, Employers, Members or Beneficiaries, to be obtained from probate, stamp, estate, succession and other duties in consequence of the death of a Member or Beneficiary, or payment of a Benefit or for any other reason; or
- (c) the Fund to comply with any law, custom or practice of the Commonwealth of Australia or any State or Territory thereof, or any other country, state or territory, as the case requires, in relation to superannuation benefits or funds or employee benefits generally or otherwise.

1.22.3 Power to Alter Register

The Trustee may at any time and from time to time alter delete or remove from the Register information or details concerning persons who have ceased to be Members and Beneficiaries and may consolidate the Register so that it contains up to date information and details concerning Members and Beneficiaries whose rights and entitlements are affected thereby provided that no information or details concerning a person who is for the time being a Member or Beneficiary shall be altered deleted or removed unless the Actuary certifies that in his opinion that information or detail to be altered, deleted or removed:

- (i) does not prejudicially affect the rights or entitlement of the Member or Beneficiary concerned; or
- (ii) corrects an error in the Register.

1.22.4 Limit of Power of Alteration of the Rules

Notwithstanding anything to the contrary in this Rule 1.22, these Rules must not be amended in such a way that:

- (a) an individual would be eligible to be appointed as Trustee unless these Rules provide, and will continue to provide after the amendment is made, that the Fund has, as its sole or primary purpose, the provision of old-age pensions; or
- (b) the sole or primary purpose of the Fund would be a purpose other than the provision of old-age pensions unless these Rules provide, and will continue to provide after the amendment is made, that the Trustee must be a constitutional corporation as defined in section 10 of the SIS Act.

1.23 Superannuation and Family Law Matters

1.23.1 Definitions

Words which are defined in the *Family Law Act 1975* and used in this Rule 1.23, or other provisions of these Rules which relate to this Rule 1.23, have the same meaning as in that Act.

1.23.2 Application

This Rule 1.23 will apply in respect of a Member and the Member's Spouse if they are (or have been) legally married to each other or are otherwise within the scope of the *Family Law Act 1975*.

1.23.3 Trustee may require Member and Spouse to provide details

A Member and/or the Member's Spouse must provide such information, declarations, proofs, documents and payments as the Trustee may require under Superannuation Law. The Trustee may determine that this Rule 1.23 will not apply in respect of a Member and the Member's Spouse if the requirements of this Rule 1.23 have not been complied with to the satisfaction of the Trustee.

1.23.4 Dealing with Spouse's Benefit

- (a) The Trustee will deal with a Spouse's entitlement in respect of the Member's interest in the Fund under the superannuation agreement, flag lifting agreement or court order (less any fees, costs and expenses charged by the Trustee) (the *Spouse's Benefit*) in accordance with this Rule 1.23.4. Despite the foregoing, this Rule 1.23.4 does not apply while a Member's interest in the Fund is subject to a payment flag or a flagging order.
- (b) For the avoidance of doubt, this Rule 1.23.4 applies in respect of all superannuation interests of a Member in the Fund whether an interest is in the growth phase, the payment phase or is being paid as a pension or annuity.
- (c) This Rule 1.23.4(c) applies unless the Spouse has made a valid request under Rule 1.23(4)(d), 1.23.4(e) or 1.23.4(f) within the period prescribed under Superannuation Law (if applicable) or otherwise within the period permitted by the Trustee or Rule 1.23.4(h) applies in respect of the Member and the Member's Spouse. Where there is a benefit split in favour of the Spouse the Trustee will, subject to Superannuation Law:
 - (i) in the case of a Spouse who is a Member – credit the Spouse's Benefit (after deduction of all fees, costs and expenses payable by the Spouse) to the Member's account in the Fund or, if no account has been established in the Fund for the Spouse, to an account to be established in the Fund for the Spouse on the same basis as applies to amounts transferred or rolled over to the Fund from an Approved Benefit Arrangement, and where the Spouse has more than one account in the Fund, the Trustee may with the Spouse's agreement credit the Spouse's Benefit to any one or more of the Spouse's accounts; or
 - (ii) in the case of any other Spouse – transfer or roll over the Spouse's Benefit (after deduction of all fees, costs and expenses payable by the Spouse) to an Approved Benefit Arrangement selected by the Trustee.
- (d) Subject to Superannuation Law, upon the request of the Spouse the Trustee will pay the Spouse's Benefit (after deduction of all fees, costs and expenses payable by the Spouse) in a lump sum to, or at the direction of, the Spouse.

- (e) Subject to Superannuation Law, upon the request of the Spouse the Trustee will transfer or roll over the Spouse's Benefit (after deduction of all fees, costs and expenses payable by the Spouse) to the Spouse's nominated Approved Benefit Arrangement to be held for the benefit of the Spouse.
- (f) Upon the request of the Spouse, the Trustee may agree to deal with the Spouse's benefit partly by one option specified in this Rule 1.23.4 and partly by one or more other options, and Rules 1.23.4(c), 1.23.4(d) and 1.23.4(e) will apply accordingly.
- (g) A request given by a Spouse under this Rule 1.23.4 must (where applicable) comply with Superannuation Law or otherwise must comply with any requirements of the Trustee.
- (h) This Rule 1.23.4 does not apply to, or in respect of, any Member and their Spouse:
 - (i) while the proposed Spouse's Benefit exceeds the Member's withdrawal benefit in the Fund if the Member's interest is a defined benefit interest, or a partially vested accumulation interest, in the growth phase; or
 - (ii) in circumstances determined by the Trustee,unless and until the Trustee determines that this Rule 1.23.4 will apply to them.

1.23.5 Non-splittable growth phase interests

- (a) This Rule 1.23.5 applies to, and in respect of, a Member's superannuation interest in the Fund which is not dealt with under Rule 1.23.4 while the interest is in the growth phase until the earlier of:
 - (i) the Trustee determining under Rule 1.23.4(h) that Rule 1.23.4 will apply to the Member and their Spouse;
 - (ii) the interest commences to be in the payment phase; or
 - (iii) the Trustee being required to deal with the Member's superannuation interest, and the Spouse Benefit in respect of that interest, under Superannuation Law.
- (b) The Trustee will deal with the Member's superannuation interest, and the Spouse's Benefit (within the meaning of Rule 1.23.4(a)) in respect of that interest, in such manner as Superannuation Law requires, or to the extent that a choice exists, in such manner as is permitted by Superannuation Law as the Trustee thinks fit.
- (c) When this Rule 1.23.5 ceases to apply to, and in respect of, the superannuation interest of a Member the interest, and the Spouse's Benefit in respect of the interest, will be dealt with under Rule 1.23.4 or otherwise as required by Superannuation Law.

1.23.6 Calculation of Benefits

The Trustee may:

- (a) make such adjustments, and take such steps, as may be necessary or desirable to reduce the Member's interest in the Fund to take account of the creation of the Spouse's Benefit; and

- (b) calculate the amount of the Spouse's Benefit.

Such adjustments, steps and calculations may be made on a basis determined by the Trustee which is not inconsistent with the relevant superannuation agreement, flag lifting agreement or court order and Superannuation Law.

1.23.7 Effect of payment flag on Member's Benefit

Despite any other provision of these Rules, the Trustee is not required to pay any amount in respect of a Member if any part of that amount is a splittable payment which is subject to a payment flag or a flagging order.

The Trustee will deal with such amounts in accordance with, and has power to take such steps as may be required by, this Rule 1.23 and Superannuation Law.

1.23.8 Provision of information

The Trustee may:

- (a) provide the Member and/or their Spouse or other person who is eligible under Superannuation Law to apply to the Trustee for information about the superannuation interest of a Member with information relating to the benefits and interests of the Member; and
- (b) require charges determined by the Trustee to be paid in connection with, and prior to, the provision of such information,

in accordance with Superannuation Law.

1.23.9 Fees

- (a) Subject to Superannuation Law, the Trustee may charge reasonable fees in respect of any matter contemplated by or arising in connection with this Rule 1.23, and may allocate any costs and expenses incurred in connection with the application and administration of the arrangements provided for in this Rule 1.14 between the Member and their Spouse on a basis determined by the Trustee.
- (b) The Trustee may debit any amount allocated under this Rule 1.23.9 to any one or more accounts maintained by the Trustee in respect of the Member, as the Trustee may determine.

1.23.10 Commutation power

Despite any other provision of the Rules, the Trustee may:

- (a) offer commutation options to a Member, or any other Beneficiary, to whom a pension is payable on terms and conditions determined by the Trustee; and
- (b) at any time commute a pension payable in respect of a Member, or any other Beneficiary, in whole or in part in circumstances where such commutation is expressly or impliedly required or permitted under Superannuation Law.

1.23.11 Meaning of 'accrued benefit multiple' for defined benefit Members

For the purposes of the Rules, the *Family Law Act 1975* and the *Family Law (Superannuation) Regulations* the accrued benefit multiple of a Member entitled to Benefits under Division 2, 7 or 12 (except, in the case of Division 7, to the extent (if any) that the Member is entitled to Benefits under the Schedule to Division 7) is the multiple determined by the Trustee having regard to the provisions of the relevant Division.

1.23.12 Overriding compliance with Superannuation Law

This Rule 1.23 is subject to Superannuation Law. Accordingly, to the extent (if any) that the Trustee is, in its opinion, prevented by Superannuation Law from dealing with a Member and their Spouse in accordance with this Rule the Trustee will deal with the Member and their Spouse as required by Superannuation Law.

1.24 Overriding Restrictions on Contributions

The Trustee shall refuse to accept all or part of any Contributions from any particular person or persons if it considers that to do so is necessary in order to ensure compliance with any applicable requirement under the Superannuation Law. After such refusal, the Trustee may reduce all or any of the Benefits payable or to be provided from the Fund for or in respect of any person whom the Trustee considers to be affected by such refusal in such manner and to such extent as the Trustee consider appropriate and equitable and the reduced Benefits shall be substituted for the Benefits otherwise provided for under the Rules.

DIVISION 2 BENEFITS AND CONTRIBUTIONS

2.1 General Provisions

2.1.1 Application

(a) **Division 2 Members**

The provisions of Division 2 shall apply to Division 2 Members.

(b) **Closure of Division 2 from 1 December 1997**

Notwithstanding anything expressed or implied to the contrary in the Rules, the provisions of Division 2 shall not, unless the Principal Employer and the Trustee otherwise agree apply to or in respect of:

- (a) any person admitted to the Fund at any time on or after 1 December 1997;
or
- (b) any Division 2 Member who at any time on or after 1 December 1997 transfers to Division 5 in accordance with Rule 1.13.3 unless the transfer is made under Rule 1.13.3(a).

2.1.2 Benefits under other Divisions or from other funds

(a) Notwithstanding any provision of these Rules other than Rule 1.2, if:

- (i) a Division 2 Member is entitled to a Benefit (the **Other Benefit**) under Division 5 or from another Employer-sponsored Scheme; and
- (ii) the Other Benefit is computed (wholly or partly) by reference to a period of Service that is also included in the period of the Member's Fund Membership,

then the Benefit under Division 2 shall be reduced by such amount as is determined by the Actuary to be included in the Other Benefit by reference to that period of Service (not being an amount consisting of or arising from the Member's own contributions) provided that the Benefit under Division 2 shall not be reduced below the sum of the Member's Accumulated Contributions.

- (b) for the purposes of this Rule 2.1.2 **Employer-sponsored Scheme** means a superannuation scheme any part of the costs of which are borne, directly or indirectly, by an Employer;
- (c) an amount shall be deemed to be included in a Benefit by reference to a period of Service if:
 - (i) it consists of, or is derived from, contributions made by an Employer because of the Member being employed during that period; or

- (ii) the Benefit was otherwise increased by that amount in consequence of the Member being employed during that period.

2.1.3 Definitions

For the purposes of the Rules, the following expressions shall have the meanings as shown in respect of Members who are entitled to Benefits under this Division 2.

Early Retirement Age means the age of 55 years.

Final Average Salary in respect of a Member means the Member's average Salary during the three years of the Member's Service immediately prior to the Member's ceasing to be an Employee or the Member's attainment of the Normal Latest Contribution Age (whichever first occurs) or where this period of Service is less than three years, the actual period of service.

Fund Membership in respect of a Member means the latest continuous period of Division 2 Membership during which the Member is in the Service and Employer's Contributions in respect of the Member have not been terminated or suspended.

Member's Accumulated Contributions in respect of a Member means the Contributions made by the Member to the Fund plus, in the case of a Member who has not contributed to the Fund from time to time pursuant to the proviso to Rule 2.2, an amount equal to 5% of the Member's Salary from time to time while the Member has not contributed to the Fund, together with interest at the DB Earning Rate from the date payable to the Fund to the said date and compounded at such times as the Trustee may on the advice of the Actuary decide.

Member's Benefit Multiple in respect of a Member means 15% for each year of the Member's Fund Membership occurring before 1 July 1993 and 17.75% for each year of the Member's Fund Membership occurring as from 1 July 1993, and pro rata for each part of a year in complete months provided that a Member's Benefit Multiple shall not in any event exceed seven.

Member's Reserve in respect of a Member means the product of (i), (ii) and (iii) hereof, where:

- (i) is the Member's Benefit Multiple;
- (ii) is the Member's Final Average Salary; and
- (iii) is the factor set out in Table 1 attached to this Division 2 according to the age of the Member in years and complete months at the date the Member ceases to be an Employee.

2.2 Contributions by Members

A Member shall make Contributions at the rate of 5% of the Member's Salary from time to time until the Member ceases to be an Employee or until the Member reaches the Normal Latest Contribution Age, whichever event first occurs, provided that the Principal Employer may determine from time to time that a certain class or group of Members shall

not be required to make Contributions to the Fund and the Principal Employer shall notify the Trustee of the Members to whom this provision applies.

2.3 Benefits

2.3.1 Cessation of Service between Normal Retirement Age and Normal Latest Contribution Age

The Trustee shall pay a lump sum Benefit to a Member, on the Member ceasing to be an Employee for any reason (including Total and Permanent Disablement) other than by reason of death at or after the Normal Retirement Age and before the Normal Latest Contribution Age.

The Benefit shall be equal to the product of (i) and (ii) hereof, where:

- (i) is the Member's Benefit Multiple; and
- (ii) is the Member's Final Average Salary.

2.3.2 Cessation of Service on or after the Normal Latest Contribution Age

The Trustee shall pay a lump sum Benefit to a Member on the Member ceasing to be an Employee for any reason (including Total and Permanent Disablement) other than death on or after the Normal Latest Contribution Age.

The Benefit shall be equal to the aggregate of the following amounts:

- (a) the Benefit that would have been paid had the Member ceased to be an Employee on the Member's Normal Latest Contribution Age, together with earnings at the DB Earning Rate, from the date the Member attained the Normal Latest Contribution Age to the date the Member ceased to be an Employee; and
- (b) all Mandated Employer Contributions (if any) which the Employer makes in respect of the Member between the date the Member attained the Normal Latest Contribution Age and the date the Member ceased to be an Employee that are not made under Division 5 together with earnings determined as under Rule 2.3.2(a), from the date payable to the date the Member ceased to be an Employee.

2.3.3 Retirement at or after Early Retirement Age

Subject to Superannuation Law, the Trustee shall pay a lump sum Benefit to a Member the Member ceasing to be an Employee on or after the Early Retirement Age, and before the Normal Retirement Age, other than by reason of death or Total and Permanent Disablement.

The Benefit shall be the product of (i) and (ii), where:

- (i) is the Member's Benefit Multiple, and
- (ii) is the Member's Final Average Salary.



2.3.4 Retirement on Total and Permanent Disablement

Subject to Superannuation Law, the Trustee shall pay a lump sum Benefit to a Member, on the Member ceasing to be an Employee before the Normal Retirement Age on account of the Member's Total and Permanent Disablement plus the Member's Optional Insurance cover (if any).

The Benefit shall be equal to the Benefit that would have been paid pursuant to Rule 2.3.1 had the Member continued in Service to the Normal Retirement Age and, for the purposes of determining the Member's Final Average Salary, it is to be assumed that the Member's Salary continued unaltered to the Normal Retirement Age plus the Member's Optional Insurance Cover (if any).

2.3.5 Death

- (a) The Trustee shall pay a lump sum Benefit in accordance with Rule 1.17.1 on the death of a Member while an Employee before the Normal Retirement Age.

The Benefit shall be equal to the Benefit that would have been paid pursuant to Rule 2.3.1 if the Member had continued in Service to the Normal Retirement Age and, for the purposes of determining the Member's Final Average Salary, it is further assumed that the Member's Salary continued unaltered to the Normal Retirement Age plus the Member's Optional Insurance Cover (if any).

- (b) The Trustee shall pay a Benefit in accordance with Rule 1.17.1 on the death of a Member on or after the Normal Retirement Age.

The Benefit shall be equal to the Benefit that would have been paid pursuant to Rule 2.3.1 or 2.3.2 (as applicable) if the Member had ceased to be an Employee for the purposes of Rule 2.3.1 or 2.3.2 (as the case may be) on the date of the Member's death.

2.3.6 Resignation

Subject to the Preservation Requirements, the Trustee shall pay a lump sum benefit to a Member, on the Member ceasing to be an Employee before the Early Retirement Age where a benefit is not payable under Rule 2.3.4 or Rule 2.3.5.

The Benefit shall be the Member's Reserve.

2.3.7 Pension Option

Where a Member is entitled to a lump sum Benefit pursuant to Rules 2.3.1 to 2.3.3 inclusive, the Member may elect to receive part or all of the Member's Benefit as a Pension instead of a lump sum Benefit. The amount of the Pension shall be determined by the Trustee, after obtaining the advice of the Actuary, as being equivalent in value to the lump sum Benefit in accordance with Rule 1.16.

2.3.8 Optional Insurance Cover

Where a Division 2 Member has effected Optional Insurance Cover under Rule 1.19.6, the Optional Insurance Charge shall be met by the Member arranging for additional contributions (on an after tax basis) necessary to cover the Optional Insurance Charge

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incurred from time to time to be contributed to the Fund or where the Member does not arrange for such contributions to be made or such contribution does not meet the Optional Insurance Charge in full, the Optional Insurance Charge or the amount not met by contributions arranged by the Member under this Rule shall be treated as if it were a contribution surcharge tax in respect of the Member within the meaning of Rule 1.18.1 and the benefit payable to or in respect of the Member under this Division shall be reduced in the manner set out in Rule 1.18.1(c) accordingly.

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Table 1
Member's Reserve Factors

| Age of Member (Years) | Factor | Age of Member (Years) | Factor |
|-----------------------------|--------|-----------------------------|--------|
| Up to 25 | .600 | 40 | .775 |
| 26 | .610 | 41 | .790 |
| 27 | .620 | 42 | .805 |
| 28 | .630 | 43 | .820 |
| 29 | .640 | 44 | .835 |
| 30 | .650 | 45 | .850 |
| 31 | .660 | 46 | .865 |
| 32 | .670 | 47 | .880 |
| 33 | .680 | 48 | .895 |
| 34 | .690 | 49 | .910 |
| 35 | .700 | 50 | .925 |
| 36 | .715 | 51 | .940 |
| 37 | .730 | 52 | .955 |
| 38 | .745 | 53 | .970 |
| 39 | .760 | 54 | .985 |
| | | 55 & over | 1.000 |

Where the Member's age involves years and months, the appropriate factor is to be interpolated between the factors for adjacent integral ages.

DIVISION 5

EXPANDED ACCUMULATION BENEFITS AND CONTRIBUTIONS

5.1 Application

This Division 5 shall apply to and in respect of:

- (a) each Eligible Employee who is admitted as a Member of this Division on or after 1 December 1997;
- (b) each Member who elects to transfer all of the Member's entitlements under Division 2 to this Division 5, in accordance with Rule 1.13.3(b);
- (c) each Member who elects to transfer entitlements from any Division to this Division 5 in accordance with Rule 1.13.3(c);
- (d) each Member to whom Division 2 applied as at 31 December 1997 and who did not elect to transfer all of the Member's entitlements under Division 2 to this Division 5 but who either:
 - (i) has entitlements under Rule 2.4 of the Pre-Division 5 Rules, in which case this Division 5 shall apply only in respect of those entitlements and any entitlements arising under this Division 5 on or after 31 December 1997; or
 - (ii) does not have any entitlements under Rule 2.4 of the Pre-Division 5 Rules and who is approved by the Employer for the purposes of this paragraph, in which case this Division 5 shall apply only in respect of any entitlements arising under this Division 5 on or after 31 December 1997;
- (e) each Former Division 3 Member; and
- (f) each Former Division 4 Member,

provided that in the case of a Former Division 3 Member or a Former Division 4 Member who elects under Rule 1.13.3(a) to receive entitlements in respect of service on and after 31 December 1997 under Division 2 this Division 5 shall apply only in respect of those entitlements which are transferred to this Division 5 by operation of Rule 1.13.3(a) and Rule 5.5.2(h) and any entitlements arising under this Division 5 on or after 31 December 1997.

A Member who is admitted to this Division 5 shall be known as a *Division 5 Member*.

5.2 Definitions

For the purposes of the Rules, the following expressions shall have the meanings as shown in respect of Division 5 Members:

Accumulation Account in relation to a Member, means the Accumulation Account established and maintained by the Trustee in respect of the Member under Rule 5.5.

Accumulation Account Balance in relation to a Member at a particular date, means the amount standing to the credit of the Member's Accumulation Account at that date in accordance with this Division 5.

Additional Voluntary Contributions Account has the meaning given to it under Rule 2.1.3 of the Pre-Division 5 Rules.

Additional Voluntary Contributions Account Balance has the meaning given to it under Rule 2.1.3 of the Pre-Division 5 Rules.

Annual First Switch Charge in relation to a Member who gives or is required to give directions to the Trustee in relation to investment strategies, means at any time the amount (if any) applicable at that time under Regulations prescribed by the Trustee where a Member elects to change investment strategies in the first occasion in a twelve month period specified under the rules.

Employer Amount in relation to a Member in respect of a particular period, means the amount applicable under Rule 5.3.2 in respect of that period.

Former Division 2 Member means a Member who transfers to this Division 5 from Division 2 under Rule 1.13.3(b) and Rule 5.1(b).

Former Division 3 Member means a Member to whom Division 3 applied as at 31 December 1997 under the provisions of the Pre-Division 5 Rules including (without limitation) a Division 3 Member referred to in the proviso to Rule 5.1.

Former Division 4 Member means a Member to whom Division 4 applied as at 31 December 1997 under the provisions of the Pre-Division 5 Rules including (without limitation) a Division 4 Member referred to in the proviso to Rule 5.1.

General Administration Charge in relation to a Member, means at any time such amount (if any) determined by the Trustee with the approval of the Principal Employer (and applicable at that time) as representing the Member's share of the costs and expenses of administering the Fund which are referable to Division 5 Members, other than Investment Choice Charges or the Annual First Switch Charge.

Initial Credit means the aggregate of the following amounts (as applicable):

- (a) in the case of a Former Division 3 Member other than a Member who is also a Former Division 2 Member: the balance (if applicable) of the Member's Preserved Account (within the meaning of Division 3 of the Pre-Division 5 Rules) as at 30 June 1997 plus or minus (as the case may be) the net amount credited or debited to the Member's Preserved Account (within the meaning of Division 3 of the Pre-Division 5 Rules) during the period commencing on 1 July 1997 and ending on 31 December 1997 under the provisions of the Pre-Division 5 Rules;
- (b) in the case of a Former Division 4 Member other than a Member who is also a Former Division 2 Member: the aggregate of the balances (if applicable) of the Member's Accounts (within the meaning of Division 4 of the Pre-Division 5 Rules) as at 30 June 1997 plus or minus (as the case may be) the aggregate of the net amount credited or debited to the Member's Accounts (within the meaning of Division 4 of the Pre-Division 5 Rules) during the period commencing on 1 July



1997 and ending on 31 December 1997 under the provisions of the Pre-Division 5 Rules; and

- (c) in the case of a Member admitted to this Division 5 under Rule 5.1(d): the Member's Additional Voluntary Contributions Account Balance as at 30 June 1997 plus or minus (as the case may be) the net amount credited or debited to the Member's Additional Voluntary Contributions Account during the period commencing on 1 July 1997 and ending on 31 December 1997 under the provisions of the Pre-Division 5 Rules.

Investment Choice Charges in relation to a Member who gives or is required to give directions to the Trustee in relation to investment strategies, means at any time such amount or amounts (if any) applicable at that time in respect of the Member in relation to the costs and expenses referable to the investment choice facility in accordance with Regulations prescribed by the Trustee, but not including the Annual First Switch Charge.

Normal Retirement Age in relation to a Member, means the age of 65 years or, subject to Superannuation Law, such other age agreed by the Trustee and the Principal Employer.

Pre-Division 5 Rules means the Rules as in force on 31 December 1997 or, in the case of the first reference to *the Pre-Division 5 Rules* in each of paragraph (a), (b) and (c) of the definition *Initial Credit* and paragraph (a)(ii), (a)(iii) and (a)(iv) of the definition of *Transfer Amount*, 30 June 1997.

Taxation Amount in relation to a Member, means such amount (if any) as is determined by the Trustee from time to time having regard to any Taxation (including any advance instalments and associated amounts) which in the opinion of the Trustee have or may be assessed against the Fund in respect of the Member, or in connection with a Contribution made or deemed to be made to the Fund in respect of the Member, from time to time on account of or attributable to the Member's Accumulation Account, and in respect of which no adjustment has been made under other provisions of the Rules to the Benefits accruing under or payable from the Fund in respect of the Member under this Division 5.

Transfer Amount means:

- (a) in the case of a Former Division 2 Member: the aggregate of the following amounts:
- (i) the Member's Reserve (within the meaning of Division 2 of the Pre-Division 5 Rules) as at 31 December 1997;
 - (ii) in the case of a Former Division 2 Member who is also a Former Division 3 Member: the balance (if applicable) of the Member's Preserved Amount (within the meaning of Division 3 of the Pre-Division 5 Rules) as at 30 June 1997 plus or minus (as the case may be) the net amount credited or debited to the Member's Preserved Account (within the meaning of Division 3 of the Pre-Division 5 Rules) during the period commencing on 1 July 1997 and ending on 31 December 1997 under the provisions of the Pre-Division 5 Rules;

- (iii) in the case of a Former Division 2 Member who is also a Former Division 4 Member: the aggregate of the balances (if applicable) of the Member's Accounts (within the meaning of Division 4 of the Pre-Division 5 Rules) as at 30 June 1997 plus or minus (as the case may be) the aggregate of the net amount credited or debited to the Member's Accounts (within the meaning of Division 4 of the Pre-Division 5 Rules) during the period commencing on 1 July 1997 and ending on 31 December 1997 under the provisions of the Pre-Division 5 Rules; and
- (iv) the Member's Additional Voluntary Contributions Account Balance (if applicable) as at 30 June 1997 plus or minus (as the case may be) the net amount credited or debited to the Member's Additional Voluntary Contributions Account during the period commencing on 1 July 1997 and ending on 31 December 1997 under provisions of the Pre-Division 5 Rules; and
- (b) in the case of any other Member who transfers to this Division 5 from another Division: the amount agreed by the Trustee and the Principal Employer.

5.3 Contributions

5.3.1 Member's Contributions

A Member may contribute to the Fund such amount, or at such rate, as the Trustee and the Member may agree from time to time.

5.3.2 Employer Amount

The Employer Amount in relation to a Member in respect of any particular period is:

- (a) such amount (if any) as, in the opinion of the Employer, the Employer is required in respect of that period to contribute or otherwise satisfy in respect of the Member (in addition to any contributions which are from time to time paid, whether actually or notionally, by or on behalf of the Employer to other complying superannuation funds (within the meaning of Superannuation Law) in order to ensure that the Employer does not become liable to pay the superannuation guarantee charge under the Guarantee Act in relation to the Member; and
- (b) such additional amounts (if any) as the Employer may in respect of that period determine from time to time (whether in relation to Members generally or in relation to any one or more particular Members or Divisions, categories or classes of Members).

5.3.3 Additional Employer Contributions

- (a) Subject to Superannuation Law, the Employer and the Trustee may agree that, in addition to the Employer Amount, specified amounts shall be credited to a Member's Accumulation Account as Employer Contributions.

- (b) Where an amount is, or is to be, credited pursuant to Rule 5.3.3(a) the Employer agrees to contribute such amount (if any) as the Trustee (after having obtained the advice of the Actuary) determines is necessary to enable the credit to the Member's Accumulation Account without causing (in the opinion of the Trustee) a deficiency in the Fund.

5.4 Insurance Cover

- (a) Subject to the provisions of the Rules, Basic Insurance Cover will be provided from the Fund in respect of each Member other than a Former Division 2 Member, a Member admitted to this Division 5 under Rule 5.1(d) or a Member referred to in the proviso to Rule 5.1.
- (b) Without limiting the generality of the Trustee's powers under the Rules, the Trustee may effect insurance under the Rules to cover the liabilities of the Fund under Rule 5.4.
- (c) It is expressly declared that Rule 1.15.6 shall apply in relation to any Basic Insurance Cover provided to, or in respect of, a Member under this Rule 5.4.

5.5 Member's Accumulation Account

5.5.1 Member's Accumulation Account

Upon admission of an Eligible Employee to the Fund as a Division 5 Member in accordance with the Rules, the Trustee will:

- (a) establish and maintain an Accumulation Account in the Member's name in the books of the Fund; and
- (b) maintain a record of the amount standing to the credit of the Member's Accumulation Account.

5.5.2 Credits to Member's Accumulation Account

The Trustee will credit to a Member's Accumulation Account:

- (a) the Transfer Amount (if applicable);
- (b) any Contribution made to the Fund by, or in respect of, the Member under Rule 5.3.1;
- (c) the Employer Amount under Rule 5.3.2;
- (d) any Contribution made to the Fund by the Employer under Rule 5.3.3;
- (e) any amount which the Trustee determines to credit to the Member's Accumulation Account as a consequence of a transfer to the Fund in respect of the Member under Rule 1.13.1;
- (f) any amount of interest required to be credited to the Member's Accumulation Account under Rule 5.5.4;

- (g) the amount of any adjustment, credit or refund of any tax, duty, levy or surcharge (however described) or any advance instalment or associated amount which in the opinion of the Trustee has been made in favour of or received in respect of the Member's Accumulation Account, being an adjustment, credit or refund in respect to a tax, duty, levy, surcharge, advance instalment or associated amount (as the case may be) previously debited from the Member's Accumulation Account pursuant to Rule 5.5.3(d);
- (h) the Initial Credit (if applicable); and
- (i) such other amounts which:
 - (i) are expressly or (in the opinion of the Trustee) impliedly required to be credited to the Member's Accumulation Account under the Rules; or
 - (ii) the Trustee considers is appropriate or equitable to credit to the Member's Accumulation Account.

5.5.3 Debits to Member's Accumulation Account

Subject to Superannuation Law and Rule 5.5.5, the Trustee will debit from a Member's Accumulation Account:

- (a) the General Administration Charge;
- (b) in the case of a Member who under Rule 1.10.1 gives or is required to give directions to the Trustee in relation to investment strategies, the Investment Choice Charges;
- (c) the Annual First Switch Charge;
- (d) the Taxation Amount;
- (e) the Optional Insurance Charge;
- (f) any amount of interest required to be debited from the Member's Accumulation Account under Rule 5.5.4;
- (g) any Benefit paid from the Member's Accumulation Account under the Rules;
- (h) any amounts which the Trustee determines to debit to the Member's Accumulation Account as a consequence of a transfer out of the Fund under the Rules;
- (i) any amount deducted from the Member's Accumulation Account under Rule 1.18.1; and
- (j) such other amounts which:
 - (i) are expressly or (in the opinion of the Trustee) impliedly required to be debited to the Member's Accumulation Account under the Rules; or
 - (ii) the Trustee considers is appropriate or equitable to debit to the Member's Accumulation Account.



5.5.4 Interest

Interest will be credited or debited (as the case may be) to each Member's Accumulation Account at the rates determined in accordance with Rule 1.10.2 or, where applicable, Rule 1.10.3;

5.5.5 Special arrangements regarding costs

All or part of one or more of the General Administration Charge, the Annual First Switch Charge and the Basic Insurance Charge applicable in respect of a Member in respect of a period will not be debited from the relevant Member's Accumulation Account as provided in Rule 5.5.3 if:

- (a) the Employer (or another Employer) meets the cost or costs (as the case may be) to which that charge or amount, or those charges or amounts, relate in accordance with arrangements suitable to the Trustee, being arrangements which comply with Superannuation Law; or
- (b) the Principal Employer and the Trustee agree having regard to the advice of the Actuary that a deficiency in the Fund would not arise and the requirements of Superannuation Law are satisfied.

5.5.6 Operation of Member's Accumulation Account

The Trustee will have power to credit or debit a Member's Accumulation Account at such time or times as the Trustee thinks fit provided that:

- (a) the credit (if any) required to be made under Rule 5.5.2(a) in respect of a Member who transfers to this Division 5 from any other Division shall be made as at the effective date of the transfer;
- (b) the credit (if any) required to be made under Rule 5.5.2(h) in respect of a Member admitted to this Division 5 under Rule 5.1(d), certain Former Division 3 Members and certain Former Division 4 Members shall be made as at 31 December 1997;
- (c) the credits (if any) required to be made under Rule 5.5.2(b) must (where applicable) be made at such times, and in a manner, which complies with Superannuation Law;
- (d) the credits required to be made under Rule 5.5.2(c) must be made at such times, and in a manner, which will ensure that no Employer is liable to pay the superannuation guarantee charge within the meaning of the *Superannuation Guarantee Charge Act 1992*;
- (e) such other credits (if any) and debits (if any) required to be made shall, subject to Superannuation Law, be made at least once in each year of income of the Fund; and
- (f) all credits and debits as are required to be made will be made up to each date a Member's Accumulation Account Balance is required to be determined, and where a Member's Accumulation Account Balance is determined on a date other than the Review Date credits and debits will be made on a pro-rata basis in a manner determined by the Trustee.

5.6 Division 5 Accounts

5.6.1 Other Division 5 Accounts

The Trustee shall have power to establish and maintain such accounts in the books of the Fund which are additional to those required to be established under Rule 5.5.1 as the Trustee considers necessary or desirable for the efficient operation of the Fund.

5.6.2 Establishment of sub-accounts

The Trustee may establish and operate sub-accounts within any account (including, without limitation, any Member's Accumulation Account) in the manner and for the purposes the Trustee thinks fit from time to time.

5.6.3 Operation of Division 5 Accounts

The Trustee may make rules and adopt procedures in relation to the operation of Members' Accumulation Accounts, and any other accounts established under Rule 5.6.1 including (without limitation) procedures in relation to the calculation and rounding-off of amounts to be credited and debited to such accounts.

5.7 Benefits

5.7.1 General provisions relating to Benefits

Subject to the provisions of the Rules and Superannuation Law:

- (a) all Benefits payable under this Division 5 will be paid in the form of a lump sum; and
- (b) Benefits will be payable from the Fund to, or in respect of, a Member in the circumstances provided in this Rule 5.7.

5.7.2 Cessation of Service Benefit

If a Member ceases to be in the Service for any reason other than Total and Permanent Disablement or death, the Trustee will pay, or cause to be paid, from the Fund to the Member a lump sum Benefit of an amount equal to the Member's Account Balance.

5.7.3 Death in Service Benefit

If a Member dies while in the Service, the Trustee will pay in accordance with Rule 1.17.1 a lump sum Benefit as follows:

- (a) In the case of a Member in respect of whom either Rule 5.1(d) or the proviso to Rule 5.1 applies, an amount equal to the Member's Account Balance;
- (b) in the case of a Member not being a Former Division 2 Member- an amount equal to the aggregate of:
 - (i) the Member's Accumulation Account Balance;
 - (ii) if the Member's death occurs prior to the Normal Retirement Age, the Member's Basic Insurance Cover (if any); and

- (iii) if the Member's death occurs prior to the Normal Retirement Age, the Member's Optional Insurance Cover (if any), and
- (c) in the case of a Former Division 2 Member: the greater of the following amounts:
 - (i) (A) the Benefit which would have been payable in respect of the Member under Rule 2.3.5 (but not Rule 2.4 of the Pre-Division 5 Rules) if the Member had remained a Member of Division 2 up to the date of death; and
 - (B) in the case of a Former Division 2 Member who is also a Former Division 3 Member: the balance of the Member's Preserved Account (within the meaning of Division 3 of the Pre-Division 5 Rules) as at 31 December 1997 together with interest (which may be positive or negative) for the period from 1 January 1998 to the date of death at rates determined in accordance with Rule 1.10.2 and (where applicable) Rule 1.10.3; and
 - (C) in the case of a Former Division 2 Member who is also a Former Division 4 Member the aggregate of the balances of the Member's Accounts (within the meaning of Division 4 of the Pre-Division 5 Rules) as at 31 December 1997 together with interest (which may be positive or negative) for the period from 1 January 1998 to the date of death at rates determined in accordance with Rule 1.10.2 and (where applicable) Rule 1.10.3; and
 - (D) the Member's Additional Voluntary Contributions Account Balance (if applicable) as at 31 December 1997 together with interest (which may be positive or negative) for the period from 1 January 1998 to the date of death at rates determined in accordance with Rule 1.10.2; and
- (ii) the Member's Accumulation Account Balance at the date of death.

Notwithstanding anything expressed or implied to the contrary in the Rules, this Rule 5.7.3 shall not apply to or in respect of a Former Division 3 Member or a Former Division 4 Member who is also a Member in respect of whom Division 2 applied as at 31 December 1997 and who did not transfer to this Division 5 from Division 2 under Rule 1.13.3(b).

5.7.4 Total and Permanent Disablement Benefit

If a Member ceases to be in the Service by reason of being Totally and Permanently Disabled and a Benefit, the Trustee will pay, or cause to be paid, from the Fund to the Member a lump sum Benefit as follows:

- (a) in the case of a Member in respect of whom either Rule 5.1(d) or the proviso to Rule 5.1 applies, an amount equal to the Member's Account Balance.
- (b) in the case of a Member not being a Former Division 2 Member: an amount equal to the aggregate of:

- (i) the Member's Accumulation Account Balance;
 - (ii) if the Member's cessation of Service occurs prior to the Normal Retirement Age, the Member's Basic Insurance Cover (if any); and
 - (iii) if the Member's cessation of Service occurs prior to the Normal Retirement Age, the Member's Optional Insurance Cover (if any); and
- (c) in the case of a Former Division 2 Member the amount which would have been payable under Rule 5.7.3(c) had the Member died on the date of cessation of Service.

5.7.5 Pension option

Where a Member is entitled to a lump sum Benefit pursuant to this Division 5, the Member may elect to receive part or all of the Benefit as a Pension instead of a lump sum Benefit. The amount of the Pension shall be determined by the Trustee after obtaining the advice of the Actuary, as being equivalent in value of the lump sum Benefit in accordance with Rule 1.16.

5.8 Non-duplication of Benefits

5.8.1 Entitlement to one type of Benefit

Subject to Superannuation Law and the provisions of the Rules, upon the payment to or in respect of a Member of a Benefit in accordance with Rules 5.7.2, 5.7.3 or 5.7.4 (as the case may be) no other Benefits under this Division 5 will be payable in respect of the period of membership of Division 5 for which the Benefit is paid.

5.8.2 Non-Duplication where More than One Membership Period

- (a) Where a Member has more than one period of continuous membership of this Division 5, any benefit payable to or in respect of the Member in respect of any particular period of membership of this Division 5 will be based on Contributions made to the Fund by and/or in respect of that Member during that period of membership only.
- (b) Rule 5.8.2(a) is subject to any express arrangement to the contrary between the Trustee, the Employer and the Member concerned.



DIVISION 6

FORMER CARLTON & UNITED BREWERIES EMPLOYEES SUPERANNUATION SCHEME MEMBERS

6.1 Definitions

In this Division 6 the following words and expressions shall unless the context requires otherwise have the following meaning:

Account means in relation to a Division 6 Member any of the accounts established and maintained in the Fund for that Division 6 Member pursuant to Rule 6.9.1.

Additional Voluntary Contributions means Contributions made by the Division 6 Member pursuant to Rule 6.5.

Additional Voluntary Contribution Account means the Account established and maintained in the name of the Division 6 Member pursuant to Rule 6.9.1.

Alteration Date means 1 July 1981.

Annual Wage means 52 times the Division 6 Member's Wage.

Balance Date means 30 June in each year or such other date as the Trustee may determine in any year.

Category A means the classification assigned to a particular Division 6 Member by the Principal Employer for the purpose of determining the Contributions and Benefits payable in respect of that Division 6 Member.

Company means Carlton and United Breweries Limited or any other Company which entered into a Deed of Accession pursuant to Rule 82 of the Predecessor Fund deed and includes any company formed in reconstruction of or succession to any such company but does not include any company which ceased to be bound by the rules of the Predecessor Fund pursuant to Rule 83 of the Predecessor Fund deed and **Companies** has a corresponding meaning.

Company Contribution Account means the Account established and maintained in the name of the Division 6 Member pursuant to Rule 6.9.


Deficiency means the amount (if any) determined by the Trustee to be allocated in accordance with Rule 6.11.

Division 6 Member means an Employee who was a Predecessor Fund Member on the day immediately prior to the Merger Date and any other Employee admitted as a Division 6 Member.

Employee means a person who is employed by the Company on the general weekly paid staff.

Initial Credit in relation to a Division 6 Member who was a Predecessor Fund Member on the day immediately prior to the Merger Date, means:

Foster's Group Superannuation Amending Deed

Allen Arthur Robinson 

- (a) in the case of the Division 6 Member's Member Contribution Account – the amount (if any) equal to the balance of the Division 6 Member's Member Contribution Account under the Predecessor Fund as at the Merger Date subject to the adjustments (if any) necessary to take account of the period between the Merger Date and the date on which the Trustee receives from the trustee of the Predecessor Fund the assets of the Predecessor Fund under Rule 1.13.1;
- (b) in the case of the Division 6 Member's Company Contribution Account – the amount (if any) equal to the balance of the Division 6 Member's Company Contribution Account under the Predecessor Fund as at the Merger Date subject to the adjustments (if any) necessary to take account of the period between the Merger Date and the date on which the Trustee receives from the trustee of the Predecessor Fund the assets of the Predecessor Fund under Rule 1.13.1;
- (c) in the case of the Division 6 Member's Special Contribution Account – the amount (if any) equal to the balance of the Division 6 Member's Special Contribution Account under the Predecessor Fund as at the Merger Date subject to the adjustments (if any) necessary to take account of the period between the Merger Date and the date on which the Trustee receives from the trustee of the Predecessor Fund the assets of the Predecessor Fund under Rule 1.13.1; and
- (d) in the case of the Division 6 Member's Additional Voluntary Contribution Account – the amount (if any) equal to the balance of the Division 6 Member's Additional Voluntary Contribution Account under the Predecessor Fund as at the Merger Date subject to the adjustments (if any) necessary to take account of the period between the Merger Date and the date on which the Trustee receives from the trustee of the Predecessor Fund the assets of the Predecessor Fund under Rule 1.13.1.

Insurer means any insurer or assurer with whom the Trustee effect any insurance or assurance in accordance with the Rules.

Membership means in relation to a Division 6 Member the most recent uninterrupted period during which the Member has been a Division 6 Member in the Service and the most recent uninterrupted period (up to and including the Merger Date) during which the Member was a Predecessor Fund Member in the Service and also such other period as the Principal Employer may declare to be Membership for the purposes of all or any part of the Rules.

Member Contribution Account means the Account established and maintained in the name of the Division 6 Member pursuant to Rule 6.9.1.

Merger Date with respect to a Division 6 Member means 1 May 1999.

Predecessor Fund means the Carlton and United Breweries Employees Superannuation Scheme.

Predecessor Fund Member means a person who was considered by the trustee of the Predecessor Fund to be a member of the Predecessor Fund under the rules of the Predecessor Fund as they existed at any time before the Merger Date.

Reserve Account means the Reserve Account established and maintained in the Fund pursuant to Rule 6.9.2.

Reserve Account Initial Credit in relation to the Reserve Account, means the amount (if any) equal to the balance of the Reserve Account under the Predecessor Fund as at the Merger Date subject to the adjustments (if any) necessary to take account of the period between the Merger Date and the date on which the Trustee receives from the trustee of the Predecessor Fund the assets of the Predecessor Fund under Rule 1.13.1 of Division 1.

Special Contribution Account means the Account established and maintained in the name of the Division 6 Member pursuant to Rule 6.9.1.

Surplus means the amount (if any) determined by the Trustee to be allocated in accordance with Rule 6.11.

Wage means in relation to a Division 6 Member the weekly rate of ordinary pay for the classification at which the Division 6 Member is employed by the Employer but except to the extent approved from time to time by the Principal Employer does not include overtime bonuses shift allowances or other allowances or emoluments of a like nature provided that in any particular case Wage for the purposes of the Rules shall be such other amount or determined in such other manner as shall be agreed to by the Principal Employer and the Division 6 Member.

6.2 Predecessor Fund Beneficiaries

(a) In this Rule:

Predecessor Fund Beneficiary means:

- (i) any person entitled to receive a Benefit under Rule 6.9 of the governing rules of the Predecessor Fund on the day immediately prior to the Merger Date; and
- (ii) any other person who is a Member within the meaning of Rule 51A of the governing rules of the Predecessor Fund immediately prior to the Merger Date and who is not an Employee as at that date; and

Division 6 Beneficiary means a person referred to in Rule 6.2(b).

- (b) Each Predecessor Fund Beneficiary shall become a Division 6 Beneficiary on the Merger Date.
- (c) The Benefits, rights and obligations of a Division 6 Beneficiary shall be determined in accordance with the provisions of the governing rules of the Predecessor Fund as amended and in force on the Merger Date, and for this purpose those provisions are incorporated in and form part of this Division 6.
- (d) The Trustee will pay Benefits to, or in respect of, each Division 6 Beneficiary in accordance with Rule 6.2(c).
- (e) Where this Rule applies to, or in respect of, a person the other provisions of this Division 6 (excluding Rule 6.1) shall not apply to, or in respect of, that person.

Membership

6.3 Admission of Members

- (a) Any Predecessor Fund Member who was a Predecessor Fund Member immediately before the Merger Date shall become a Division 6 Member on the Merger Date.
- (b) Any Employee who is not a Division 6 Member on the Merger Date shall be eligible to become a Division 6 Member from the later of that date and the date on which the Member becomes an Employee who has completed at least one year in the Service and may make application in such form and within such time as the Trustee may from time to time require to become a Division 6 Member from the date on which the Member first becomes eligible as aforesaid or from such earlier or later date as is approved by the Principal Employer in any particular case.
- (c) Upon acceptance of the aforesaid application by the Trustee the Employee shall become a Division 6 Member from that date.

6.4 Member's Contributions

- (a) Each Division 6 Member who has completed at least twelve months in the Service shall either contribute to the Fund 2%, 3%, 4% or 5% of the Member's Wage or shall not make any Contributions, whichever the Member elects, but, if no such election is made shall be deemed to have decided not to contribute.
- (b) A Division 6 Member may from time to time by notice in writing to the Trustee elect to alter the percentage of the Member's Wage which the Member will contribute to the Fund to a rate of 2%, 3%, 4% or 5% or the Member may elect not to make any Contributions.
- (c) An election referred to in this Rule shall be made in such form as is acceptable to the Trustee.
- (d) Unless otherwise determined by the Trustee any such election shall have and shall be deemed always to have had effect on the Review Date which first occurs not earlier than two months after the date on which the notice of election is given to the Trustee and shall apply to payments of Wage due on or after the Review Date on which the election takes effect. Notwithstanding the foregoing, a Category A Division 6 Member shall not make Contributions to the Fund under this Rule 6.4.
- (e) Division 6 Members' Contributions calculated pursuant to the provisions of this Rule shall be adjusted to the nearest multiple of 10 cents each pay period and five cents shall be adjusted to 10 cents.

6.5 Additional Voluntary Contributions

With the prior approval of the Trustee, a Category A Division 6 Member or any Division 6 Member who has made Contributions pursuant to Rule 6.4 may contribute such amounts to the Fund to be called Additional Voluntary Contributions **provided that** the Additional



Voluntary Contributions made by a Division 6 Member during a period of 12 months following a Review Date shall not exceed any amount fixed by the Trustee at the relevant time.

6.6 Deduction of Member's Contributions

The Contribution of a Division 6 Member shall be deducted from the Member's Wage by the Employer when each payment of Wage is made and shall be paid by the Employer to the Trustee.

6.7 Company's Contributions

Subject to Superannuation Law:

- (a) Each Company shall contribute or otherwise satisfy in respect of each Division 6 Member in its Service an amount equal to that paid by the Division 6 Member together with such additional amounts as the Company shall elect and the Principal Employer shall approve from time to time **provided that** the Contributions required to be made or satisfied in respect of a Category A Division 6 Member shall be 10% of the Member's Wage, or such other Contribution as determined from time to time by the Principal Employer.
- (b)
 - (i) the Employer and the Trustee may agree that specified amounts shall be credited to a Member's Accumulation Account as an Employer Contribution; and
 - (ii) where an amount is, or is to be, credited pursuant to Rule 6.7(b)(i) the Employer agrees to contribute such amount (if any) as the Trustee (after having obtained the advice of the Actuary) determines is necessary to enable the credit to the Member's Accumulation Account without causing (in the opinion of the Trustee) a deficiency in the Fund.

6.8 Temporary Cessation of Service and Leave Without Pay

If any Division 6 Member ceases to be in the Service in circumstances in which it is reasonable to expect that cessation will only be of a temporary nature and that the Member will rejoin the Service (or if a Division 6 Member is temporarily absent through sickness or upon leave from the Employer and is not in receipt of any Wage from the Employer) the Trustee may with the consent of the Employer and of the Division 6 Member continue membership of the Fund subject to such conditions as may be agreed upon by the Trustee the Employer and the Division 6 Member.

6.9 Accounts

6.9.1 Contribution Account

- (a) For the purpose of determining the Benefits to which a Division 6 Member may become entitled the Trustee shall establish and maintain in the name of each Division 6 Member a Member Contribution Account, a Company Contribution Account, a Special Contribution Account and (if necessary) an Additional Voluntary Contribution Account.
- (b) There shall be credited to the Member Contribution Account in respect of a Division 6 Member:
 - (i) the Initial Credit (if applicable and if any) as at the Merger Date;
 - (ii) Contributions made or deemed to be made by the Division 6 Member pursuant to these Rules on or after the Merger Date;
 - (iii) any Surplus to be allocated to such account pursuant to Rule 6.11; and
 - (iv) such other amounts as the Trustee may consider equitable and desirable to credit thereto from time to time,and there shall be debited to such account:
 - (v) the estimated cost of insurance required by Rule 6.10 to be debited thereto;
 - (vi) any Deficiency to be allocated to such account pursuant to Rule 6.11; and
 - (vii) such other amounts as the Trustee may consider it equitable and desirable to debit thereto from time to time.
- (c) There shall be credited to the Company Contribution Account in respect of a Division 6 Member:
 - (i) the Initial Credit (if applicable and if any) as at the Merger Date;
 - (ii) Contributions made or deemed to be made by the Employer pursuant to these Rules on or after the Merger Date;
 - (iii) any Surplus to be allocated to such account pursuant to Rule 6.11; and
 - (iv) such other amounts as the Trustee may consider it equitable and desirable to credit thereto from time to time,and there shall be debited to such account:
 - (A) the estimated cost of insurance required by Rule 6.10 to be debited thereto;
 - (B) any Deficiency to be allocated to such account pursuant to Rule 6.11; and
 - (C) such other amounts as the Trustee may consider it equitable and desirable to debit thereto from time to time.
- (d) There shall be credited to the Special Contribution Account in respect of a Division 6 Member:

- (i) the Initial Credit (if applicable and if any) as at the Merger Date;
 - (ii) Contributions made or deemed to be made by the Employer pursuant to these Rules on or after the Merger Date that are determined to be credited to a Division 6 Member's Special Contribution Account;
 - (iii) any Surplus to be allocated to such account pursuant to Rule 6.11; and
 - (iv) such other amounts as the Trustee may consider it equitable and desirable to credit thereto from time to time,
- and there shall be debited to such account:
- (A) the estimated cost of insurance required by Rule 6.10 to be debited thereto;
 - (B) any Deficiency to be allocated to such account pursuant to Rule 6.11; and
 - (C) such other amounts as the Trustee may consider it equitable and desirable to debit thereto from time to time.
- (e) There shall be credited to the Additional Voluntary Contribution Account in respect of a Division 6 Member:
- (i) the Initial Credit (if applicable and if any) as at the Merger Date;
 - (ii) Contributions made or deemed to be made by the Division 6 Member pursuant to these Rules on or after the Merger Date that are determined to be credited to a Division 6 Member's Additional Voluntary Contribution Account;
 - (iii) any Surplus to be allocated to such account pursuant to Rule 6.11; and
 - (iv) such other amounts as the Trustee may consider it equitable and desirable to credit thereto from time to time,
- and there shall be debited to such account:
- (A) any Deficiency to be allocated to such account pursuant to Rule 6.11; and
 - (B) such other amounts as the Trustee may consider it equitable and desirable to debit thereto from time to time.
- (f) Unless otherwise agreed between the Trustee and the Principal Employer, from time to time either generally or in any particular case, any tax or other government impost which is payable in respect of or is attributable to any amount which would otherwise be credited to a Member's Account shall be deducted from that amount before it is so credited. The amount of any tax or impost so deducted shall be credited to the Reserve Account.

6.9.2 Reserve Account

The Trustee shall establish and maintain a Reserve Account.

There shall be credited to the Reserve Account:

- (i) the Reserve Account Initial Credit;

- (ii) amounts to be credited under Rule 6.9.1(f);
- (iii) any Surplus to be allocated to such account pursuant to Rule 6.11; and
- (iv) such other amounts as the Trustee may consider it equitable or desirable to credit thereto from time to time,

and these shall be debited to the Reserve Account:

- (i) any amount of tax to be paid in respect of a Deficiency made under Rule 6.9.1(f);
- (ii) any Deficiency to be allocated to the Reserve Account pursuant to Rule 6.11; and
- (iii) such other amounts as the Trustee may consider it equitable or desirable to debit thereto from time to time.

6.10 Insurance

- (a) For the avoidance of doubt, Rule 1.15.6 shall apply to this Division.
- (b) Any Optional Insurance Charge shall be debited to the Member's Special Contribution Account. Any other charge in respect of the cost of death and Total and Permanent Disablement cover shall be debited to accounts maintained in respect of the Member or on such other basis as the Trustee shall determine.

6.11 Allocation Of Earnings To Accounts

- (a) At each Balance Date and at any other date at which the Trustee consider it appropriate to do so the Trustee shall make a valuation of all the assets of the Fund (including without prejudice to the generality of the foregoing the value to the Fund of policies insofar as the same do not represent insurance against contingencies) at that date and shall determine the Surplus or Deficiency which in the opinion of the Trustee it is equitable to allocate among the Accounts for each of the Division 6 Members and the Reserve Account and such Surplus or Deficiency shall be allocated among such accounts in the manner and in such proportions as the Trustee may consider to be equitable.
- (b) When a Benefit requires to be determined for or in respect of a Division 6 Member and at such other times as the Trustee considers appropriate the Trustee may determine or estimate the Surplus or Deficiency since the date as at which the last valuation was made and shall allocate the same to the Accounts for the Division 6 Member in such proportions as the Trustee may consider to be equitable. Any estimate for this purpose may if the Trustee thinks fit be made on the basis of a rate of interest determined by the Trustee as at the preceding Balance Date.
- (c) For the purposes of this Rule 6.11 a Surplus or Deficiency shall be determined having regard to income received, expenses incurred, interest credited under any policy effected or acquired by the Trustee pursuant to the Rules, profits and losses on the realisation of assets and appreciation or depreciation in the value of assets of the Fund.

- (d) In this Rule, *Fund* means so much of the assets of the Fund which in the opinion of the Trustee are attributable to Benefits under this Division 6.

6.12 Retirement Benefits

If a Division 6 Member ceases (otherwise than by reason of the Member's death or Total and Permanent Disablement) to be in the Service:

- (a) at any time on or after the attainment of the age of 60 years; or
- (b) at any time with the prior consent of the Company on or after the attainment of the age of 55 years and before the attainment of the age of 60 years,

there shall be paid to the Member from the Fund a lump sum Benefit equal to the sum of the amounts standing to the credit of the Member's Member Contribution Account and the Member's Company Contribution Account and the Member's Special Contribution Account and the Member's Additional Voluntary Contribution Account at the date of the Member's retirement.

6.13 Death Benefit Before Normal Retirement Age

Upon the death of a Division 6 Member while in the Service before the Member's Normal Retirement Age there shall be paid from the Fund in accordance with Rule 1.17.1 a lump sum Benefit of an amount equal to the sum of:

- (a) the amount standing to the credit of the Member's Member Contribution Account at the date of the Member's death; and
- (b) the amount standing to the credit of the Member's Company Contribution Account at the date of the Member's death; and
- (c) the amount standing to the credit of the Member's Special Contribution Account at the date of the Member's death; and
- (d) subject to the Rules the amount standing to the credit of the Member's Additional Voluntary Contribution Account at the date of the Member's death; and
- (e) subject to the proviso, in respect of a Division 6 Member who has at any time during the Member's Membership elected to contribute to the Fund or the predecessor Fund or is a Category A Member, the Member's Basic Insurance Cover and Optional Insurance Cover (if any);

provided that in respect of a Member who transferred to the Fund from the CUB Employees Retirement Fund the percentage used to work out the Member's Basic Insurance Cover will be 7.5% unless the Trustee and the Member have, on such terms and conditions as the Trustee may determine, agreed to increase the percentage to 10%; or

- (f) in respect of any other Division 6 Member not potentially entitled to a benefit under Rule 6.13(e), the amount calculated from the table below according to the Member's age at the date of his death:

Foster's Group Superannuation Amending Deed

Allens Arthur Robinson 

| Age | Amount |
|----------------------------------|--------|
| | \$ |
| Up to age 40 years | 30,000 |
| Over 40 years and up to 45 years | 25,000 |
| Over 45 years and up to 50 years | 20,000 |
| Over 50 years and up to 55 years | 10,000 |
| Over 55 years and up to 60-years | 5,000 |

6.14 Death Benefit After Normal Retirement Age

Upon the death of a Division 6 Member whilst in the Service on or after the Member's Normal Retirement Age there shall be paid from the Fund in accordance with Rule 1.17.1 the lump sum Benefit which would have been payable pursuant to Rule 6.12 if the Division 6 Member had retired from the service of the Company on the date of the Member's death.

6.15 Disablement Benefits

If a Division 6 Member ceases to be in the Service before the Member's Normal Retirement Age as a result of the Member's Total and Permanent Disablement there shall be paid to the Member from the Fund a lump sum Benefit of an amount determined in the manner set out in Rule 6.13 as if the Member had died on the date on which the Member was last at work.

6.16 Benefits on Leaving Service prior to Retirement

If a Division 6 Member ceases to be in the Service before the Member's Normal Retirement Age otherwise than as provided in Rules 6.12, 6.13 and 6.15, subject to Superannuation Law, there shall be paid to the Member from the Fund a lump sum Benefit equal to the sum of:

- (a) the amounts standing to the credit of the Member's Member Contribution Account, the Member's Company Contribution Account and the Member's Additional Voluntary Contribution Account as at the date the Member ceased to be in the Service; and
- (b) the amount standing to the credit of the Member's Special Contribution Account as at the Deferred Date.

For the purposes of this Rule, *Deferred Date* means the earliest of the following:

- (i) the death of the Division 6 Member;
- (ii) the date as at which the Division 6 Member is declared to be Totally and Permanently Disabled;

- (iii) the attainment by the Division 6 Member of an age not less than 55 years and production of evidence satisfactory to the Trustee that the Division 6 Member has ceased engagement in any employment, occupation, vocation, profession, trade or business for remuneration or other reward; and
- (iv) subject to the receipt of an appropriate request for payment by or in respect of the Division 6 Member, the occurrence of another event or the existence of other circumstances:
 - (A) approved by the Principal Employer and the Trustee (either generally or in any particular case) for the purpose of payment of a Benefit from the Fund pursuant to this paragraph (iv); and
 - (B) upon which in the opinion of the Trustee a Benefit may be paid from the Fund to or in respect of the Division 6 Member without prejudice to the concessions granted or available to or in respect of the Fund under the Act and without causing the Fund to be in breach of what the Trustee believes to be Superannuation Law or governmental requirement regarding the provision of benefits under superannuation funds.

6.17 Reduction of Benefits

- (a) In any of the following events:
 - (i) Contributions by a Division 6 Member not being paid as required by these Rules, or
 - (ii) the Trustee being of the opinion that for any reason the Fund is unlikely to be sufficient or to be sufficiently realisable to pay in full all Benefits as they accrue,

the Trustee may, subject to Superannuation Law, declare that the Benefits payable to or in respect of the Division 6 Members (other than Benefits already paid out of the Fund) shall be reduced by such percentage or in such other manner or otherwise howsoever modified as the Trustee may consider appropriate and equitable and such entitlement to Benefits shall be reduced or modified accordingly.
- (b) Without limiting the powers of the Trustee under this Rule, where the Trustee considers that the Benefits being provided under the Rules for or in respect of a Division 6 Member need to be reduced the Trustee may:
 - (i) cause money or assets to be transferred to a separate fund in respect of the Division 6 Member; and
 - (ii) reduce or terminate the Contributions payable by or in respect of the Division 6 Member.

DIVISION 7

FORMERLY CARLTON & UNITED BREWERIES LIMITED STAFF SUPERANNUATION FUND

7.1 Definitions

In this Division unless inconsistent with the subject or the context:

Accumulation Section Division 7 Member means a Division 7 Member who joins the Fund in accordance with the Schedule.

Additional Voluntary Contributions means Contributions made by the Division 7 Member Pursuant to Rule 7.7.

Additional Voluntary Contribution Account means the account established and maintained in the name of the Member pursuant to Rule 7.7.

Beneficiary means a person (including any Division 7 Member) who is beneficially entitled to receive a Benefit from the Fund in accordance with the Rules.

Beneficiary's Benefit Account means the account established and maintained in the name of a Beneficiary pursuant to Rule 7.4.

Company means Carlton and United Breweries Limited and each of the parties of the second to eighth parts of the Predecessor Fund deed or any other Company which has adopted the Predecessor Fund deed pursuant to Clause 81 of the Predecessor Fund deed and includes any Company formed in reconstruction of or in succession to any such Company but does not include any company which ceased to be bound by the Predecessor Fund deed pursuant to Clause 82 of the Predecessor Fund deed and **Companies** has a corresponding meaning.

DB Division 7 Member means a Division 7 Member who receives Benefits in accordance with Rules 7.10, 7.11, 7.12, 7.13, 7.14 and 7.15.

Division 7 Member means an Employee who was a Predecessor Fund Member on the day immediately prior to the Merger Date and any person who has been admitted to membership of this Division 7 of the Fund as provided for in the Rules provided that a person shall cease to be a Division 7 Member in the event of that person's death or when all Benefits to which that person could become entitled under the Rules have been paid from the Fund or have otherwise ceased or been terminated as provided in the Rules, whichever first occurs.

Employee means a permanent clerk or foreman and such other person in the Service of any of the Companies as the Principal Employer may generically or individually declare to be an Employee for the purposes of the Rules.



Final Average Salary in relation to a DB Division 7 Member means:

- (a) in the case of a DB Division 7 Member who has completed at least ten years of Service 52 times the average Salary of the DB Division 7 Member during whichever period of three consecutive years within the period of ten years preceding the date of the Member's retirement gives the highest such average; or
- (b) in the case of a DB Division 7 Member who has completed at least three years of Service but has not completed at least ten years of Service 52 times the average Salary of the DB Division 7 Member during whichever period of three consecutive years within the period of the Member's Service gives the highest such average; or
- (c) in the case of a DB Division 7 Member who has not completed at least three years of Service and unless otherwise determined by the Principal Employer 52 times the average Salary of the DB Division 7 Member during the period of the Member's Service.

Initial Credit in relation to a Division 7 Member who was a Predecessor Fund Member on the day immediately prior to the Merger Date, means:

- (a) in the case of the Division 7 Member's Additional Voluntary Contribution Account (if any): the amount (if any) equal to the balance of the Division 7 Member's Additional Voluntary Contribution Account under the Predecessor Fund as at the Merger Date subject to the adjustments (if any) necessary to take account of the period between the Merger Date and the date on which the Trustee receives from the trustee of the Predecessor Fund the assets of the Predecessor Fund under Rule 1.13 of Division 1, and
- (b) in the case of the Division 7 Member's Special Contribution Account: the amount (if any) equal to the balance of the Division 7 Member's Special Contribution Account under the Predecessor Fund as at the Merger Date subject to the adjustments (if any) necessary to take account of the period between the Merger Date and the date on which the Trustee receives from the trustee of the Predecessor Fund the assets of the Predecessor Fund under Rule 1.13 of Division 1.

Membership means in relation to a Division 7 Member the most recent uninterrupted period during which the Division 7 Member has been a Division 7 Member in the Service and the period during which the Member was a Predecessor Fund Member in the Service and has contributed to the Predecessor Fund pursuant to the governing rules of the Predecessor Fund or such further period as the Principal Employer may declare to be Membership for the purposes of the whole or any particular provision of the Rules.

Merger Date with respect to a Division 7 Member means 1 May 1999.

Predecessor Fund means the Carlton and United Breweries Limited Staff Superannuation Fund.

Predecessor Fund Member means a person who was considered to be a member of the Predecessor Fund under the rules of the Predecessor Fund as they existed at any time before the Merger Date.

Salary means in relation to a Division 7 Member the ordinary weekly salary at which the Division 7 Member is employed by the Employer but except to the extent approved from time to time by the Principal Employer does not include overtime bonuses commissions or allowances or other emoluments of a like nature **provided that** in any particular case Salary for the purposes of the Rules shall be such other amount or determined in such other manner as shall be agreed to by the Principal Employer and the Division 7 Member.

Special Contribution Account means the Account established and maintained in the name of the Member pursuant to Rule 7.8.

Special Division 7 Member means a Division 7 Member admitted to the Fund under Rule 7.3 other than a DB Division 7 Member or a Member admitted pursuant to the Schedule to Division 7.

7.2 Predecessor Fund Beneficiaries

- (a) In this Rule:

Predecessor Fund Beneficiary means:

- (i) any person entitled to receive a Benefit under all or any of Clauses 53A, 67 or 6.5 of the Schedule of the governing rules of the Predecessor Fund on the day immediately prior to the Merger Date; and
- (ii) any other person who is a Member within the meaning of Clause 53AA of the governing rules of the Predecessor Fund immediately prior to the Merger Date and who is not an Employee as at that date; and

Division 7 Beneficiary means any person referred to in Rule 7.2(b).

- (b) Each Predecessor Fund Beneficiary shall become a Division 7 Beneficiary on the Merger Date.
- (c) The Benefits, rights and obligations of a Division 7 Beneficiary shall be determined in accordance with the provisions of the governing rules of the Predecessor Fund as amended and in force on the Merger Date, and for this purpose those provisions are incorporated in and form part of this Division 7.
- (d) The Trustee will pay Benefits to, or in respect of, each Division 7 Beneficiary in accordance with Rule 7.2(c).
- (e) Where this Rule applies to, or in respect of a person the other provisions of Division 7 (excluding Rule 7.1) shall not apply to, or in respect of, that person.

Membership

7.3 Members

- (a) Any Predecessor Fund Member who was a Predecessor Fund Member before the Merger Date shall become a Division 7 Member on the Merger Date.

- (b) Any Employee who is not a Division 7 Member may make application to become a Division 7 Member in such form and within such time as the Trustee may from time to time require.

7.4 Beneficiary's Benefit Account

- (a) The Trustee shall establish a Division 7 Beneficiary's Benefit Account in respect of either any Division 7 Beneficiary who requests the Trustee to leave part or all of the Member's Benefits in the Fund and not have them paid to the Member or to an Approved Benefit Arrangement or in the case of any Division 7 Beneficiary who, after a period of time determined by the Trustee, has not given instructions to the Trustee as to the payment of the Member's Benefit and the Trustee has not paid or transferred the Benefit under the provisions of the Rules.
- (b) There shall be credited to a Division 7 Beneficiary's Benefit Account:
- (i) the Division 7 Beneficiary's Benefit not paid or transferred out of the Fund.
 - (ii) any earnings, as determined by the Trustee to be allocated to such account, and
 - (iii) such other amounts as the Trustee may consider it equitable to credit thereto from time to time,
- and there shall be debited to such account:
- (iv) any Benefit payments made out of the account,
 - (v) any losses on investments to be allocated to such account, and
 - (vi) such other amounts as the Trustee may consider it equitable to debit thereto from time to time.

7.5 Transfers between Classes of Membership

- (a) A DB Division 7 Member may with the approval of the Principal Employer (whether such approval relates to such DB Division 7 Members generally or a particular category or class of such DB Division 7 Members) transfer to the Schedule on such terms and conditions (if any) as the Principal Employer determines with the approval of the Trustee.
- (b) A Special Division 7 Member may with the approval of the Principal Employer (whether such approval relates to such Special Division 7 Members generally or a particular category or class of such Special Division 7 Members) become a DB Division 7 Member on such terms and conditions (if any) as the Principal Employer determines with the approval of the Trustee.

7.6 Member Contributions

- (a) Subject to this Rule, each DB Division 7 Member shall contribute to the Fund at the rate of 5% of the Member's Salary.

- (b) A DB Division 7 Member whose contribution rate immediately prior to the 1 March 1981 was 4% of the Member's Salary may elect at that date to continue to contribute at the rate of 4% of the Member's Salary.
- (c) The Principal Employer may in its absolute discretion permit a DB Division 7 Member who is contributing at the rate of 4% to subsequently elect to contribute to the Fund at the rate of 5% of the Member's Salary in lieu of 4%.
- (d) The Principal Employer may in its absolute discretion and for such period as it thinks fit reduce or waive the Contribution which would otherwise be payable by a DB Division 7 Member pursuant to the provisions of this Rule and may likewise determine that any Contributions which would have been paid by a DB Division 7 Member but for the exercise of discretion hereunder shall be deemed to have been paid by the DB Division 7 Member for the purpose of calculating any Benefit payable pursuant to the Rules the amount of which depends on the amount of the Contributions paid by that DB Division 7 Member.
- (e) DB Division 7 Members' contributions calculated as aforesaid shall be adjusted to the nearest multiple of 10 cents each pay period and five cents shall be adjusted to 10 cents.

7.7 Additional Voluntary Contribution Account

- (a) In addition to the Contributions provided for in Rule 7.6, with the prior approval of the Trustee, a Division 7 Member may contribute further amounts to the Fund to be called Additional Voluntary Contributions **provided that** the Additional Voluntary Contributions made by a Division 7 Member during a period of 12 months shall not exceed any amount fixed by the Trustee at the relevant time.
- (b) The Trustee shall establish and maintain in the name of each Division 7 Member who makes Additional Voluntary Contributions, an Additional Voluntary Contribution Account.
- (c) There shall be credited to the Additional Voluntary Contribution Account in respect of a Division 7 Member:
 - (i) the Initial Credit (if applicable and if any) as at the Merger Date; and
 - (ii) Contributions made by the Division 7 Member pursuant to Rule 7.7(a);
 - (iii) any earnings, as determined by the Trustee to be allocated to such account, and
 - (iv) such other amounts as the Trustee may consider it equitable to credit thereto from time to time,and there shall be debited to such account --
 - (v) any losses on investments to be allocated to such account, and
 - (vi) such other amounts as the Trustee may consider it equitable to debit thereto from time to time.

- (d) In respect of DB Division 7 Members the amount standing to the credit of the Division 7 Member's Additional Voluntary Contribution Account is payable in addition to any entitlements under Rules 7.10, 7.11, 7.12, 7.13, 7.14 and 7.15.

7.8 Special Contribution Account

- (a) The Trustee shall establish and maintain in the name of each Division 7 Member a Special Contribution Account.
- (b) There shall be credited to the Special Contribution Account in respect of a Division 7 Member:
- (i) the Initial Credit (if applicable and if any) as at the Merger Date, and
 - (ii) Contributions made or deemed to be made by the Employer pursuant to the Rules that are determined to be credited to a Division 7 Member's Special Contribution Account,
 - (iii) any earnings, as determined by the Trustee to be allocated to such account, and
 - (iv) such other amounts as the Trustee may consider it equitable and desirable to credit thereto from time to time,
- and there shall be debited to such account:
- (v) the estimated cost of insurance required to be debited thereto,
 - (vi) any losses on investments to be allocated to such account, and
 - (vii) such other amounts as the Trustee may consider it equitable and desirable to debit thereto from time to time.
- (c) The Principal Employer may admit an Employee as a Division 7 Member who does not make Contributions to the Fund pursuant to Rule 7.6, such Division 7 Member shall be herein referred to as a **Special Division 7 Member**. A Special Division 7 Member shall not be entitled to Benefits pursuant to Rules 7.10 or 7.11.
- (d) The Benefit payable to a Division 7 Member who is not a Special Division 7 Member pursuant to Rule 7.10 and Rule 7.15 shall be the amount set out in the relevant Rule plus the amount standing to the credit of the Member's Special Contribution Account.

7.9 Employers' Contributions

The Employers in such proportions as they may agree or in default of agreement as the Actuary may determine shall pay to the Fund Contributions of such amounts or at such rates and at such times as the Actuary advises are appropriate to ensure the stability of the Fund and to secure the rights of the Division 7 Members.

7.10 Retirement Benefits

- (a) If a DB Division 7 Member on the Member's Normal Retirement Age (ceases otherwise than by reason of the Member's death) to be in the Service there shall be paid to the Member from the Fund a lump sum retirement Benefit equal to the sum of:

- (i) an amount being the sum of:

- (A) 1/12 of 15% of the Member's Final Average Salary for each complete month in the period of the Member's Membership up to 20 February 1989 during which the Member's contribution rate was 5% of the Member's Salary;
- (B) 1/12 of 12% of the Member's Final Average Salary for each complete month in the period of the Member's Membership up to 20 February 1989 during which the Member's contribution rate was 4% of the Member's Salary;

provided that the total amount payable pursuant to (A) and (B) hereof shall not in any event exceed six times the Division 7 Member's Final Average Salary reduced in the proportion that the Member's period of Membership completed up to 20 February 1989 bears to the total period of Membership at the Normal Retirement Age; and

- (C) if the Division 7 Member was a Predecessor Fund Member on 20 February 1989 and the Member's Service prior to becoming a Predecessor Fund Member exceeds two years an amount being the higher of 1% of the Division 7 Member's Final Average Salary for each complete year of Service prior to becoming a Predecessor Fund Member and 5% of the Division 7 Member's Final Average Salary,

and

- (ii) an amount being 1/12 of 13% of the Member's Final Average Salary for each complete month of the Member's Membership after 20 February 1989 or, in the case of a Division 7 Member contributing 4% of the Member's Salary, 1/12 of 12% of the Member's Final Average Salary for each complete month of the Member's Membership after 20 February 1989, and

provided that the total Benefit payable pursuant to this sub-Rule (a) shall not in any event exceed six times the Division 7 Member's Final Average Salary.

- (b) If a Division 7 Member is retained in the Service after the Member's Normal Retirement Age then the Benefit to which that Member would have been entitled to had the Member ceased to be in the Service on attaining the Normal Retirement Age shall be transferred to the Schedule and that Member's entitlement to Benefits shall thereafter be determined in accordance with the Schedule.

7.11 Early Retirement Benefits

If a DB Division 7 Member ceases (otherwise than by reason of the Member's death or Total and Permanent Disablement) to be in the Service at any time on or after the attainment of the age of 55 years and prior to the Member's Normal Retirement Age there shall be paid to the Member from the Fund a lump sum retirement Benefit.

The lump sum retirement Benefit shall be equal to the sum of:

- (a) The amount calculated under Rule 7.10(a)(i) with Final Average Salary calculated as at the date the DB Division 7 Member ceases to be in Service; and
- (b) The product of (i) and (ii) hereof, where:
 - (i) is the amount that would be payable under Rule 7.10(a)(ii), assuming the DB Division 7 Member continues in the Service to the Member's Normal Retirement Age and adjusted as determined by the Trustee for the proviso to the said sub-Rule and calculating Final Average Salary as at the date the DB Division 7 Member ceases to be in the Service; and
 - (ii) is the proportion that the DB Division 7 Member's actual Membership after 20 February 1989 bears to the Membership after 20 February 1989 that the DB Division 7 Member would have completed if the DB Division 7 Member had continued in the Service to the Member's Normal Retirement Age.

7.12 Death Benefit Before Normal Retirement Age

- (a) If a DB Division 7 Member dies before the Member's Normal Retirement Age while in the Service there shall be payable from the Fund in accordance with Rule 1.17.1 a lump sum Benefit of amount equal to the lump sum Benefit which would have been payable at the Member's Normal Retirement Age if the Member had remained in the Service until the Member's Normal Retirement Age and the Member's Salary had remained unaltered. In relation to a DB Division 7 Member who last became a DB Division 7 Member on or before 20 February 1989 the Benefit provided pursuant to this Rule 7.12 shall not be less than the Benefit that would have been payable pursuant to the provisions of the governing rules of the Predecessor Fund in force prior to 20 February 1989.
- (b) In the case of a Special Division 7 Member, the lump sum Benefit shall be equal to the amount standing to the credit of the Member's Division 7 Special Contribution Account at the date of the Member's death and, if the Special Division 7 Member has completed at least 12 months' continuous Service, the amount calculated from the table below according to the Member's age at the date of death, or such other amounts as might be determined from time to time by the Trustee with the approval of the Principal Employer:

| Age | Amount |
|----------------------------------|--------|
| | \$ |
| Up to age 40 years | 30,000 |
| Over 40 years and up to 45 years | 25,000 |
| Over 45 years and up to 50 years | 20,000 |
| Over 50 years and up to 55 years | 10,000 |
| Over 55 years and up to 60 years | 5,000; |

Plus the Member's Optional Insurance Cover (if any).

7.13 Death Benefit After Normal Retirement Age

If a DB Division 7 Member dies on or after the Member's Normal Retirement Age while in the Service there shall be payable from the Fund in accordance with Rule 1.17.1 the lump sum Benefit which would have been payable under Rule 7.10 if the Member had ceased to be in the Service on the date of death.

7.14 Total and Permanent Disablement Benefit

- (a) If a DB Division 7 Member before the Member's Normal Retirement Age ceases to be in the Service as a result of the Member's Total and Permanent Disablement there shall be payable from the Fund to or in respect of the DB Division 7 Member a lump sum Benefit of amount equal to the lump sum Benefit which would have been payable at the Member's Normal Retirement Age if the Member had remained in the Service until the Member's Normal Retirement Age and the Member's Salary had remained unaltered. In relation to a DB Division 7 Member who last became a Division 7 Member on or before 20 February 1989 the Benefit provided pursuant to this Rule 7.14 shall not be less than the Benefit that would have been payable pursuant to the provisions of the governing rules of the Predecessor Fund in force immediately prior to 20 February 1989 plus the Member's Optional Insurance Cover (if any).
- (b) If a Special Division 7 Member before the Member's Normal Retirement Age ceases to be in the Service as a result of the Member's Total and Permanent Disablement there shall be payable from the Fund to or in respect of the Special Division 7 Member a lump sum benefit of an amount equal to the lump sum benefit which would have been payable to the Member in accordance with Rule 7.12 had the Member died.

7.15 Other Benefits

- (a) For the purposes of this Rule 7.15, *Deferred Date* means the earliest of the following:
- (i) the death of a Division 7 Member;



- (ii) the date as at which the Division 7 Member is declared to be Disabled;
- (iii) the attainment by the Division 7 Member of an age of not less than 55 years and production of evidence satisfactory to the Trustee that the Division 7 Member has ceased engagement in any employment, occupation, vocation, profession, trade or business for remuneration or other reward; and
- (iv) subject to the receipt of an appropriate request for payment by or in respect of the Division 7 Member, the occurrence of another event or the existence of other circumstances:
 - (A) approved by the Principal Employer and the Trustee (either generally or in any particular case) for the purpose of payment of a Benefit from the Fund pursuant to Rule 7.15(a)(iv); and
 - (B) upon which in the opinion of the Trustee a Benefit may be paid from the Fund to or in respect of the Division 7 Member without prejudice to the concessions granted or available to or in respect of the Fund under the Act and without causing the Fund to be in breach of what the Trustee believes to be a Superannuation Law or governmental requirement regarding the provision of benefits under superannuation funds.

(b) If a Division 7 Member who is not a Special Division 7 Member ceases to be in the Service before the Member's Normal Retirement Age otherwise than as provided in Rules 7.12 and 7.14 and if such a Division 7 Member is not entitled to a proportionate retirement Benefit pursuant to Rule 7.11 there shall be paid to the Member from the Fund a lump sum Benefit equal to the sum of:

- (i) The total of the Contributions paid by the Division 7 Member to the Fund and (if applicable) the Predecessor Fund with interest compounded yearly at:
 - (A) for any part of the period prior to the Merger Date: the rate applicable from time to time during that period under Clause 66(2)(a) of the governing rules of the Predecessor Fund as in force from time to time during that period; and
 - (B) for any part of the period on or after the Merger Date: a rate determined by the Trustee from time to time and approved by the Principal Employer; and
- (ii) A percentage of the amount specified in Paragraph (i) of this Rule the said percentage being determined from the following Table having regard to the number of years in the period of the Member's Membership completed up to the date on which the Member ceases to be in the Service;

Table

| Completed Years of Membership | Percentage |
|-------------------------------|------------|
| Less than 2 years | Nil |

| | | | |
|----------|------------------------|----------|------|
| At least | 2 years but less than | 3 years | 5% |
| At least | 3 years but less than | 4 years | 10% |
| At least | 4 years but less than | 5 years | 15% |
| At least | 5 years but less than | 6 years | 20% |
| At least | 6 years but less than | 7 years | 28% |
| At least | 7 years but less than | 8 years | 36% |
| At least | 8 years but less than | 9 years | 44% |
| At least | 9 years but less than | 10 years | 52% |
| At least | 10 years but less than | 11 years | 60% |
| At least | 11 years but less than | 12 years | 68% |
| At least | 12 years but less than | 13 years | 76% |
| At least | 13 years but less than | 14 years | 84% |
| At least | 14 years but less than | 15 years | 92% |
| | 15 or more years | | 100% |

and

- (iii) an amount equal to the amount standing to the credit of the Member's Special Contribution Account as at the Deferred Date.

provided that in the event of retrenchment or in exceptional circumstances the Principal Employer may in its absolute discretion direct the Trustee to increase the Benefit payable to a DB Division 7 Member under this Rule up to an amount not exceeding the reserve held in the Fund in respect of the DB Division 7 Member as advised by the Actuary.

provided further that in the event of the DB Division 7 Member's cessation occurring on or after 1 September 1993 and on or before 31 May 2002 in accordance with either retrenchment or an approved early retirement scheme within the meaning of Section 27E of the Income Tax Assessment Act adopted by the Employer, the Benefit shall be the greater of:

- (iv) the sum of:
- (A) twice the amount specified in paragraph (i) of this Rule, and
 - (B) the amount specified in paragraph (iii) of this Rule; or
- (v) the sum, as advised by the Actuary, of:
- (A) the reserve held in the Fund in respect of the DB Division 7 Member, and
 - (B) the reserve that would have been held in the Fund in respect of the DB Division 7 Member if:
 - (1) instead of the actual period of the Division 7 Member's Membership, Membership were deemed to be a period calculated on the basis of 1 year for each 9 years or part thereof of the Division 7 Member's Membership, and
 - (2) the multiple of Final Average Salary (before discounting for the Division 7 Member's age) to be applied for the purposes of this paragraph (B) did not, when added to the multiple applied to

calculate the component of the reserve excluding the amount standing to the credit of the Member's Special Contribution Account or the Member's Additional Voluntary Contribution Account as provided in paragraph (A), exceed the multiple that would be applied to calculate the Division 7 Member's Benefit if the Division 7 Member had retired on the Normal Retirement Age.

- (c) If a Special Division 7 Member ceases to be in the Service and the Member is not entitled to any other Benefit pursuant to the Rules there shall be paid to the Member from the Fund a lump sum Benefit equal to the amount standing to the credit of the Member's Special Contribution Account as at the Deferred Date.

7.16 Optional Insurance Cover

Where a Division 7 Member has effected Optional Insurance Cover under Rule 1.19.6, the Optional Insurance Charge shall be met by the Member arranging for additional contributions (on an after tax basis) necessary to cover the Optional Insurance Charge incurred from time to time to be contributed to the Fund or where the Member does not arrange for such contributions to be made or such contribution does not meet the Optional Insurance Charge in full, the Optional Insurance Charge or the amount not met by contributions arranged by the Member under this Rule shall be treated as if it were a contribution surcharge tax in respect of the Member within the meaning of Rule 1.18.1 and the benefit payable to or in respect of the Member under this Division shall be reduced in the manner set out in Rule 1.18.1(c) accordingly.

SCHEDULE TO DIVISION 7 ACCUMULATION SECTION

S7.1 Application

This Schedule shall apply to and in respect of:

- (a) each Predecessor Fund Accumulation Section Member; and
- (b) each Employee who is invited to be a Member of this Accumulation section of the Fund and participate in the Benefits set out in this Schedule; and
- (c) each Division 7 Member who elects to transfer their Benefits under the Fund to this Schedule in accordance with Rule 7.5(a)); and
- (d) each Division 7 Member who is transferred to this Schedule in accordance with Rule 7.10(b).

S7.2 Definitions

For the purposes of this Schedule, the following expressions shall have the following meaning:

Accumulation Account means in relation to a Division 7 Member the Accumulation Account established and maintained by the Trustee in respect of the Accumulation Section Division 7 Member under Rule S7.4.

Accumulation Account Balance means in relation to an Accumulation Section Division 7 Member at any date the amount standing to the credit of the Division 7 Member's Accumulation Account at that date.

Accumulation Section Division 7 Member means a Division 7 Member who is admitted to the Fund in accordance with Rule S7.1.

Annual First Switch Charge means at any time the amount (if any) applicable at that time where an Accumulation Section Division 7 Member elects to change investment strategies on the first occasion in a twelve month period commencing from 1 July each year.

Basic Insurance Cover in relation to an Accumulation Section Division 7 Member who is not a DB Division 7 Member means the amount determined in accordance with the formula set out in the definition of Basic Insurance Cover in Rule 1.1.1.

Effective Date means the date the Member transferred to the Schedule of the Predecessor Fund or this Schedule.

Employer Amount means in respect of an Accumulation Section Division 7 Member in respect of any particular period means the amount applicable under Rule S7.3 in respect of that period.

Foster's Group Superannuation Amending Deed

Allens Arthur Robinson

Former DB Division 7 Member means an Accumulation Section Division 7 Member under the Predecessor Fund who transferred their Benefits in accordance with provisions corresponding with Rule S7.1(c).

General Administration Charge means at any time such amount (if any) determined by the Trustee with the approval of the Principal Employer (and applicable at that time) as representing the Accumulation Section Division 7 Member's share of the costs and expenses of administering the Fund which are referable to Accumulation Section Division 7 Members, other than the Insurance Charge, the Investment Choice Charges or the Annual First Switch Charge.

Guarantee Act means the *Superannuation Guarantee Charge Act 1992*.

Insurance Charge means the amount (if any) determined by the Trustee applicable at any time in respect of an Accumulation Section Division 7 Member (other than a Former DB Division 7 Member), for the costs and expenses of providing Death and Total Permanent Disablement Benefits (including in respect of all Division 7 Members, the Optional Insurance Cover) in accordance with this Schedule.

Investment Choice Charges in relation to an Accumulation Section Division 7 Member who under the Rules gives or is required to give directions to the Trustee in relation to investment strategies, means at any time such amount or amounts (if any) applicable at that time in respect of the Accumulation Section Division 7 Member in relation to the costs and expenses referable to the investment choice facility in accordance with the provisions prescribed by the Trustee pursuant to the Rules but not including the Annual First Switch Charge.

Predecessor Fund Accumulation Section Member means a Division 7 Member:

- (i) who was a Predecessor Fund Member on the day immediately prior to the Merger Date; and
- (ii) who was admitted on or after 18 May 1998 to the accumulation section of the Predecessor Fund which corresponds to this Schedule.

Schedule Initial Credit in relation to a Predecessor Fund Accumulation Section Member, means the amount (if any) equal to the balance of the Predecessor Fund Accumulation Section Member's Accumulation Account under the Schedule of the governing rules of the Predecessor Fund as at the Merger Date subject to the adjustments (if any) necessary to take account of the period between the Merger Date and the date on which the Trustee receives from the trustee of the Predecessor Fund the assets of the Predecessor Fund under Rule 1.13.

Taxation Amount means such amount (if any) as is determined by the Trustee from time to time having regard to any tax, duty, levy or surcharge (however described) and any advance instalment and associated amounts which in the opinion of the Trustee have or may be assessed against the Fund in respect of the Accumulation Section Division 7 Member, or in connection with a Contribution made or deemed to be made to the Fund in respect of the Accumulation Section Division 7 Member, from time to time on account of or attributable to the Member's Accumulation Account, and in respect of which no adjustment has been made under other provisions of the Rules to the Benefits accruing under or

payable from the Fund in respect of the Accumulation Section Division 7 Member under this Schedule.

Transfer Amount means:

- (a) in respect of a Former DB Division 7 Member the amount the Former DB Division 7 Member would have been entitled to receive pursuant to the provision corresponding with Rule 7.15(b) under the Predecessor Fund had the DB Division 7 Member ceased to be in Service as at the Effective Date in the event that the Member had been retrenched but not including any increased Benefit pursuant to the further proviso to the provision corresponding with Rule 7.15(b) under the Predecessor Fund but including the credit in the Member's Additional Voluntary Contribution Account and the Member's Special Contribution Account under the Predecessor Fund as at the Effective Date; and
- (b) in respect of an Accumulation Section Division 7 Member not being a Former DB Division 7 Member, an amount equal to the amount standing to the credit of the Member's Special Contribution Account under the Predecessor Fund as at the Effective Date.

S7.3 Contributions

S7.3.1 Member's Contributions

An Accumulation Section Division 7 Member may contribute to the Fund such amounts, or at such rate, as the Trustee and the Accumulation Section Division 7 Member may agree.

S7.3.2 Employer Amount

The Employer Amount in relation to an Accumulation Section Division 7 Member in respect of any particular period is:

- (a) such amount (if any) as, in the opinion of the Employer, the Employer is required in respect of that period to contribute or otherwise satisfy in respect of the Accumulation Section Division 7 Member (in addition to any Contributions which are from time to time paid, whether actually or notionally, by or on behalf of the Employer to other complying superannuation funds (within the meaning of Superannuation Law) in order to ensure that the Employer does not become liable to pay the superannuation guarantee charge under the Guarantee Act in relation to the Accumulation Section Division 7 Member; and
- (b) such additional amounts the Employer may determine from time to time (whether in relation to any one or more particular Accumulation Section Division 7 Members or category or class of Accumulation Section Division 7 Members).

S7.3.3 Additional Employer Contributions

- (a) Subject to Superannuation Law, the Employer and the Trustee may agree that, in addition to the Employer Amount, specified amounts shall be credited to a Member's Accumulation Account as an Employer Contribution; and

- (b) where an amount is, or is to be, credited pursuant to Rule S7.3.3(a), the Employer agrees to contribute such amount (if any) as the Trustee (after having obtained the advice of the Actuary) determines is necessary to enable the credit to the Member's Accumulation Account without causing (in the opinion of the Trustee) a deficiency in the Fund.

S7.4 Member's Accumulation Account

S7.4.1 Member's Accumulation Account

Upon admission of an Employee to the Fund as an Accumulation Section Division 7 Member in accordance with Rule S7.1 the Trustee will:

- (a) establish and maintain an Accumulation Account in the Accumulation Section Division 7 Member's name in the books of the Fund; and
- (b) maintain a record of the amount standing to the credit of the Division 7 Member's Accumulation Account.

S7.4.2 Credit to Member's Accumulation Account

On and from the Merger Date the Trustee will credit to the Division 7 Member's Accumulation Account:

- (a) the Schedule Initial Credit (if applicable and if any);
- (b) with respect to transfers on and after the Merger Date, the Transfer Amount;
- (c) any Contribution made to the Fund by, or in respect of, the Division 7 Member under Rule S7.3.1; and
- (d) the Employer Amount; and
- (e) any additional Employer Contributions under Rule S7.3.3; and
- (f) any amount of interest required to be credited to the Division 7 Member's Accumulation Account under Rule S7.4.4; and
- (g) transfers from another fund in accordance with the Rules; and
- (h) the amount of any adjustment, credit or refund of any Taxation Amount which in the opinion of the Trustee has been made in favour of or received in respect of the Division 7 Member's Accumulation Account being an adjustment, credit or refund in respect of a Taxation Amount previously debited from the Division 7 Member's Accumulation Account pursuant to Rule S7.4.3(b); and
- (i) any amount required to be transferred to this Schedule pursuant to the Rules; and
- (j) such other amounts which:
 - (i) are expressly or (in the opinion of the Trustee) impliedly required to be credited to the Division 7 Member's Accumulation Account under the provisions of the Rules; or

- (ii) the Trustee considers it appropriate or equitable to credit to the Division 7 Member's Accumulation Account.

S7.4.3 Debits to Division 7 Member's Accumulation Account

On and from the Merger Date and subject to Superannuation Law and Rule S7.4.7 the Trustee will debit from a Division 7 Member's Accumulation Account:

- (a) in the case of a Division 7 Member who gives or is required to give directions to the Trustee in relation to investment strategies, the Investment Choice Charges;
- (b) the Taxation Amount;
- (c) the Insurance Charge;
- (d) the Annual First Switch Charge;
- (e) any amount of interest required to be debited from the Division 7 Member's Accumulation Account under Rule S7.4.4;
- (f) any Benefit paid from the Division 7 Member's Accumulation Account under the Rules;
- (g) any amounts which the Trustee determines to debit to the Division 7 Member's Accumulation Account as a consequence of a transfer out of the Fund under the Rules;
- (h) the General Administration Charge;
- (i) any taxation on Benefits; and
- (j) such other amounts which:
 - (i) are expressly or (in the opinion of the Trustee) impliedly required to be debited to the Division 7 Member's Accumulation Account under the Rules; or
 - (ii) the Trustee considers is appropriate or equitable to debit to the Division 7 Member's Accumulation Account.

S7.4.4 Interest

Interest will be credited or debited (as the case may be) to each Division 7 Member's Accumulation Account at the rates determined in accordance with Rule 1.10.

S7.4.5 Operation of Division 7 Member's Accumulation Account

The Trustee will have power to credit or debit a Division 7 Member's Accumulation Account at such time or times as the Trustee thinks fit: **provided that:**

- (a) the credits (if any) required to be made under Rule S7.4.2 must (where applicable) be made as at the Merger Date, and in a manner, which complies with Superannuation Law;
- (b) the credits required to be made under Rule S7.4.2 must be made at such times, and in a manner, which will ensure that no Employer is liable to pay the superannuation guarantee charge within the meaning of the Guarantee Act;

- (c) such other credits (if any) and debits (if any) required to be made shall, subject to Superannuation Law, be made at least once in each year of income of the Fund; and
- (d) all credits and debits as are required to be made will be made up to each date a Division 7 Member's Accumulation Account Balance is required to be determined, and where a Division 7 Member's Accumulation Account Balance is determined on a date other than the Review Date credits and debits will be made on a pro-rata basis in a manner determined by the Trustee.

S7.4.6 Other Accounts

- (a) The Trustee shall have power to establish:
 - (i) such accounts in the books of the Fund which are additional to those required to be established under Rule S7.4.1 as the Trustee considers necessary or desirable for the efficient operation of the Fund; and
 - (ii) sub-accounts within any account (including, without limitation, any Division 7 Member's Accumulation Account) in the manner and for the purposes the Trustee thinks fit from time to time.
- (b) The Trustee may make rules and adopt procedures in relation to the operation of Division 7 Members' Accumulation Accounts, and any other accounts established under Rule S7.4.6 including (without limitation) procedures in relation to the calculation and rounding-off of amounts to be credited and debited to such accounts.

S7.4.7 Special Arrangements Regarding Costs

All or part of one or more of any General Administration Charge, the Annual First Switch Charge and the Basic Insurance Charge applicable in respect of an Accumulation Section Division 7 Member in respect of a period will not be debited from the relevant Division 7 Member's Accumulation Account as provided in Rule S7.4.3 if the Employer (or another Employer) meet the cost or costs (as the case may be) to which that charge or amount, or those charges or amounts, relate in accordance with arrangements suitable to the Trustee, being arrangements which comply with Superannuation Law or the Principal Employer and the Trustee agree having regard to the advice of the Actuary that a deficiency in the Fund would not arise and the requirements of the Superannuation Law are satisfied.

S7.5 Insurance cover

- (a) Subject to the provisions of the Rules, Basic Insurance Cover will be provided from the Fund in respect of each Accumulation Section Division 7 Member who is not a Former DB Division 7 Member.
- (b) In respect of each Former DB Division 7 Member, insurance cover will be provided from the Fund for a sum which, with other amounts payable, will provide the Benefit payable under Rule S7.6.3(b).

- (c) Without limiting the generality of the Trustee's powers under the Rules, the Trustee may effect insurance under the Rules to cover the liabilities of the Fund under Rule S7.5.1(a) and Rule S7.5.1(b).

For the avoidance of any doubt, it is expressly declared that Rule 1.15.6 applies in relation to any insurance cover provided to, or in respect of, any Accumulation Section Division 7 Member under this Schedule.

S7.6 Benefits

S7.6.1 General Provisions relating to Benefits

Subject to the provisions of the Rules and Superannuation Law:

- (a) all Benefits payable under this Schedule will be paid in the form of lump sums; and
- (b) Benefits will be payable from the Fund to, or in respect of, an Accumulation Section Division 7 Member in the circumstances provided in this Rule S7.6.

S7.6.2 Cessation of Service Benefit

If an Accumulation Section Division 7 Member ceases to be in the Service for any reason (other than death or Total and Permanent Disablement) the Trustee will pay, or cause to be paid, from the Fund to the Accumulation Section Division 7 Member a lump sum Benefit of an amount equal to the Member's Accumulation Account Balance.

S7.6.3 Death in Service Benefit

If an Accumulation Section Division 7 Member dies while in Service and a Benefit is not payable under Rule S7.6.2, the Trustee will pay, or cause to be paid, from the Fund in accordance with Rule 1.17.1 a lump sum Benefit as follows:

- (a) in the case of an Accumulation Section Division 7 Member who is not a Former DB Division 7 Member, an amount equal to the aggregate of:
 - (i) the Accumulation Section Division 7 Member's Accumulation Account Balance; and
 - (ii) if the Accumulation Section Division 7 Member's death occurs prior to the Normal Retirement Age, the Member's Basic Insurance Cover (if any) and the Member's Optional Insurance Cover (if any),
- (b) in the case of a Former DB Division 7 Member an amount equal to the greater of:
 - (i) the Member's Accumulation Account Balance; or
 - (ii) the aggregate of:
 - (A) the Benefit that would have been payable in respect of the Member under Rule 7.12 if the Member had remained a DB Division 7 Member up to the date of death;
 - (B) the amount outstanding to the credit of the Member's Special Contribution Account under the Predecessor Fund as at the

- Effective Date, together with interest (which may be positive or negative) for the period from the Effective Date to the date of death at rates determined as set out in paragraph (D) of this sub-Rule; and
- (C) the Member's Additional Voluntary Contribution Account Balance under the Predecessor Fund as at the Effective Date, together with interest (which may be positive or negative) for the period from the Effective Date to the date of death at rates determined as set out in paragraph (D) of this sub-Rule;
- (D) for the purposes of paragraphs (B) and (C) of this sub-Rule interest for the period from the Effective Date to the Merger Date shall be the interest rate applicable under the Predecessor Fund and for the period from the Merger Date to the date of death shall be determined in accordance with Rule S7.4.4.

S7.6.4 Total and Permanent Disablement Benefit

If an Accumulation Section Division 7 Member ceases to be in the Service by reason of Total and Permanent Disablement and a Benefit is not payable under Rule S7.6.2, the Trustee will pay, or cause to be paid, from the Fund to the Accumulation Section Division 7 Member a lump sum Benefit of an amount equal to the Benefit calculated in accordance with Rule S7.6.3 as if the Member had died on the date the Member ceases to be in the Service.

DIVISION 8
FORMER MILDARA BLASS MEMBERS

8.1 Division 5 Provisions to Apply

The provisions contained in Division 5 shall apply to Division 8 Members as if they were repeated at length in this Division except to the extent they are inconsistent with the specific provisions contained in Division 8. To the extent of any inconsistency between the provisions appearing below and the provisions of Division 5 incorporated by reference, the provisions appearing below shall apply. The Trustee shall have the power to determine whether or not there is any inconsistency and the decision made by the Trustee shall (to the extent permitted under Superannuation Law) be conclusive.

8.2 Definitions

In applying the provisions of this Division and of Division 5 incorporated by reference into Division 8, the defined terms set out in this Rule shall apply where relevant in lieu of the definitions of those terms otherwise applying to Division 5:

Annual Salary means the annual rate of Salary of the Member relating to the relevant Review Date as advised to the Trustee by the Employer for the purposes of the Fund (which advice shall be conclusive evidence of the amount of Annual Salary).

Category A Division 8 Member means an Employee named by the Employer as being classified for the time being as a Category A Division 8 Member.

Category A1 Division 8 Member means a director of the Employer named by the Employer as being classified for the time being as a Category A1 Division 8 Member.

Category B Division 8 Member means an Employee named by the Employer as being classified for the time being as a Category B Division 8 Member.

Category C Division 8 Member means an Employee named by the Employer as being classified for the time being as a Category C Division 8 Member.

Category D Division 8 Member means an Employee named by the Employer as being classified for the time being as a Category D Division 8 Member.

Date of Disablement means in the case where a Policy insuring against the risk of disablement is in force in respect of the Division 8 Member the date which is deemed by the relevant insurer to be the date of the Division 8 Member's disablement or, if at any time there is no such Policy in force in respect of a Division 8 Member, the date deemed by the Trustee to be the date of the Division 8 Member's disablement.

Division 8 Member means an Employee who was a Member of the Mildara Blass Fund on the day immediately prior to the Merger Date (as it applies to that Employee) and any other Employee admitted as a Member pursuant to Rule 8.3.

Former Mildara Blass Member means a person who was a member of the Mildara Blass Fund as at the Merger Date within the meaning of Rule 1 of the Mildara Blass Deed as in force on the Merger Date and who has not ceased to be a member before the date of transfer of Members and assets to the Fund in accordance with Rule 1.13.1 and the Merger and Indemnity Deed between the Trustee, Mildara Nominees Pty Limited (ACN 006 207 147), the Principal Employer, Mildara Blass Limited (ACN 004 094 599) and the directors of Mildara Nominees Pty Limited.

Fund Credit at any date means the aggregate of the amount of the relevant Division 8 Member's Fund Credit under the Mildara Blass Fund as at the Merger Date as it applied to that Member plus the applicable contributions and earnings made to the Fund on and after the Merger Date.

Initial Credit means, in the case of a Former Mildara Blass Member, the amount (if any) equal to the aggregate of the person's Fund Credit and Voluntary Contribution Account (each of those terms having the meaning given to them respectively under Rule 1 of the Mildara Blass Fund as in force on the Merger Date) as at the Merger Date subject to the adjustments (if any) necessary to take account of the period between the Merger Date and the date on which the Trustee receives from the Trustee of the Mildara Blass Fund the assets of the Mildara Blass Fund under Rule 1.13.1.

Insured Benefit in respect of a Division 8 Member means the amount (if any) payable in addition to the Member's Fund Credit and Voluntary Contribution Account (if any) on the Member's death or Total and Permanent Disablement, the amount of which is determined from Schedule A appended hereto according to the Member's classification at the date of the Member's death.

Merger Date in respect to a Division 8 Member means:

- (a) in the case of a Member of the Mildara Blass Fund last admitted to the Mildara Blass Fund on or before 1 July 1999, the Merger Date is 1 July 1999; or
- (b) in the case of a Member of the Mildara Blass Fund last admitted to the Mildara Blass Fund after 1 July 1999 and before 1 November 1999 or such other date as may be agreed between the Mildara Blass Trustee and the FBG Trustee, the Merger date is the date of the Member's admission to the Mildara Blass Fund as determined by the Mildara Blass Trust Deed.

Mildara Blass Deed means the trust deed dated 5 July 1989 establishing the Mildara Blass Fund as amended.

Mildara Blass Fund means the fund known as the Mildara Blass Limited Superannuation Fund, being the fund established under the Mildara Blass Deed.

Review Date means:

- (a) 1 July in each year or such other date as is determined by the Trustee with the approval of the Employer (to be applicable generally or in the case of any particular Division 8 Member) as the date in relation to which adjustments to Contributions and Benefits are to be determined; and

- (b) in relation to a new Member -- the date of the Member's becoming a Division 8 Member of the Fund.

Salary means:

- (a) in relation to a Division 8 Member other than a Category A1 Division 8 Member, a Category C Division 8 Member or Category D Division 8 Member, the remuneration for services rendered by the Member to the Employer or at which the Member is employed by the Employer but excludes overtime, special grants and bonuses, shift allowances and allowances of any other kind whatsoever; or
- (b) in the case of a Category A1 Division 8 Member, the amount of the directors fees received by that Member; or
- (c) in the case of a Category C or a Category D Division 8 Member, the wages received for work performed in ordinary hours and shall include work related allowances and over award payments but shall not include overtime, expense related reimbursements or irregular bonuses; or
- (d) in any special case, such amount as is for the purposes of the Fund agreed upon between the Member and the Employer.

Voluntary Contribution Account at any date in relation to a Division 8 Member means the aggregate of the accrued amount in the Voluntary Contribution Account in the Mildara Blass Fund as at the relevant Member's Merger Date plus Member contributions to and earnings in the Fund after that date.

8.3 Membership

Admission of Members to Division 8.

- (a) Any Former Mildara Blass Member who was a Member of the Mildara Blass Fund immediately before the Merger Date shall become a Division 8 Member on the Merger Date with the same membership classification as they had under the Mildara Blass Fund.
- (b) Any other Employee shall be eligible to become a Division 8 Member from the date on which the Member becomes an Employee and who makes application in such form and within such time as the Trustee may from time to time require to become a Division 8 Member from the date on which the Member first becomes eligible as aforesaid or from such later date as is approved by the Principal Employer in any particular case. Upon acceptance of the aforesaid application by the Trustee the Employee shall become a Division 8 Member from that date with the membership classification approved by the Principal Employer.

8.4 Defalcation, Misappropriation, etc

8.4.1 Making Good

If a Division 8 Member:

- (a) has been party to defalcation of money or to any misappropriation of other property belonging to the Fund or the Employer; or
- (b) is dismissed because of serious misconduct or gross negligence or resigns to avoid dismissal on either of those grounds,

then insofar as the Superannuation Law allows:

- (i) The Member's benefit under the Fund shall be applied in or towards making good the defalcation or misappropriation and to meet any costs or losses (including the costs of any prosecution or civil proceedings) incurred by the Employer or the Trustee as a result of or incidental to or arising out of the defalcation, misappropriation, misconduct or negligence.
- (ii) The amount so applied shall be paid by the Trustee to the Employer or retained in the Fund (as the case may require).
- (iii) The balance of the benefit shall be dealt with in accordance with the Rules.

8.4.2 Pending Litigation

The Trustee shall make no deduction under Rule 8.4.1 and shall not make any payment of benefits while that adjudication or dismissal is being challenged in any competent Court or Tribunal.

8.5 National or Social Insurance or Pensions

8.5.1 Application

This Rule 8.5 will apply if the Government of either Australia or of any State or Territory of Australia introduces or changes any scheme (referred to as the *National Scheme*) of national or social insurance or superannuation or social service benefits or other scheme for the granting of pensions or other benefits similar to superannuation benefits for which Division 8 Members or a class of Division 8 Members (called *eligible Members*) or their Dependants become eligible. For the purposes of Rule 8.5.2 and 8.5.3 the benefits receivable from the National Scheme will be referred to as *National Benefit*.

8.5.2 Adjustment of Benefits

Where this Rule 8.5 applies then, subject to Rule 8.5.4, the Trustee may, with the consent of the Principal Employer, vary the benefits payable under the Fund to or in respect of the eligible Members or their Dependants in such manner and to such extent as the Trustee may determine and (without limitation to the generality of the foregoing) may:

- (a) take into account the amount of the National Benefit;
- (b) take into account such amount as in the opinion of the Trustee is equal to the value of the relevant date of the National Benefit;
- (c) integrate the benefits or contributions under the Fund with the National Scheme.

8.5.3 Adjustment to Contributions

The contributions subsequently payable to the Fund by and in respect of the eligible Members whose benefits are adjusted by the Trustee under Rule 8.5.2 shall be adjusted to take into account:

- (a) the adjustment in benefits otherwise receivable from the Fund;
- (b) any contributions which the National Scheme requires to be paid;
- (c) any adjustments which may be made by the appropriate Government to the National Scheme.

8.5.4 Adjustment to Benefits

The adjustment to benefits of any eligible Member under Rule 8.5.2 shall not reduce those benefits to amounts which are less than those which in the opinion of the Trustee (after considering the advice of the Actuary) are attributable to the aggregate of the contributions to the Fund which have been made by the eligible Member and those contributions deemed by the Trustee to have been made in respect of the eligible Member by the Employer.

8.6 Employer Amount

Subject to Rule 8.7 and Superannuation Law the Employer Amount for the purposes of Rules 5.3.2 and 5.3.3 in respect of each Division 8 Member shall be at the rate set out below according to the Member's classification:

- (a) in the case of a Category A Division 8 Member, at the rate of 15% of the Member's Annual Salary;
- (b) in the case of a Category A1 Division 8 Member, at the rate of 14% of the Member's Annual Salary;
- (c) in the case of a Category B Division 8 Member, at the rate of 12.50% of the Member's Annual Salary;
- (d) in the case of a Category C Division 8 Member, at the rate of 9% of the Member's Annual Salary;
- (e) in the case of a Category D Division 8 Member at the rate of 6% of the Member's Annual Salary; and the cost of providing the Insured Benefit payable in the event of the Member's death.

or in the case of a Member or group of Division 8 Members such amount or at such higher rate percent of Annual Salary being an amount or a rate determined by the Employer and advised to the Trustee for the purposes of the Guarantee Act in amounts equal to but which do not exceed the minimum amounts required by that Act so that a superannuation guarantee charge is not payable by the Employer making the contributions and (in the case of Category D Member) to meet the cost of providing the Insured Benefit payable in the event of the Member's death provided that the Employer may elect to contribute further in respect of a Member such amounts, in such manner and during such period as agreed

between the Employer and the Member and approved by the Trustee either generally or in any particular case.

8.7 Member's Accumulation Account

8.7.1 Interest

Interest will be credited or debited (as the case may be) to each Division 8 Member's Accumulation Account as follows:

- (a) in the case where the Trustee has exercised its powers under Rule 1.10.1 in respect of the relevant Member: at the rates determined in accordance with Rule 1.10.2; or
- (b) in the case of any other Division 8 Member: at such rate or rates as shall be determined from time to time by the Trustee having regard to the net earning rate of the Fund under Rule 1.10.3 after allowing for assets (if any) where the Trustee has exercised its powers under Rule 1.10.2.

8.7.2 Initial Credit

With respect to the application of Rule 5.5.2(h) (which Rule shall apply to each Division 8 Member) the Initial Credit shall be credited to a Division 8 Member's Accumulation Account as at the Merger Date for that Member.

8.8 Death Benefits

8.8.1 Death in Service

If a Division 8 Member dies while the Member is in the Service of the Employer prior to the Normal Retirement Age the benefit payable shall, subject to Rule 1.12.1 be equal to the aggregate of the Member's:

- (a) Fund Credit;
- (b) Voluntary Contribution Account (if any);
- (c) Insured Benefit (refer Schedule A); and
- (d) the Member's Optional Insurance Cover (if any),

at the date of the Member's death provided that if the Member participated in the Mildara Blass Fund immediately prior to 1 July 1987 the amount calculated under this Rule 8.8.1 shall not be less than the benefit which would have been payable in respect of the Member under the Mildara Blass Fund had the Member died immediately prior to that date.

8.8.2 Death in Service After Normal Retirement Age

If a Division 8 Member dies while the Member is in the Service of the Employer on or after the Normal Retirement Age the benefit payable shall be an amount equal to the sum of the Member's:

- (a) Fund Credit; and
- (b) Voluntary Contribution Account (if any), at the date of the Member's death.

8.8.3 Benefit Payable under Rule 1.17.1

A benefit payable under Rule 8.8.1 or Rule 8.8.2 shall be paid in accordance with Rule 1.17.1

8.9 Total and Permanent Disablement Benefits

- (a) If a Division 8 Member (other than a Category D Division 8 Member) becomes Totally and Permanently Disabled prior to attaining the age of 65 years or earlier Normal Retirement Age the benefit payable shall, subject to Rule 8.7, be equal to the amount determined under Rule 8.8 as if the Member had died on the Member's Date of Disablement.
- (b) If a Category D Division 8 Member becomes Totally and Permanently Disabled prior to attaining the age of 65 years or earlier Normal Retirement Age the benefit payable shall, subject to Rule 1.15.6, be equal to the aggregate of Member's:
 - (i) Fund Credit;
 - (ii) Voluntary Contribution Account (if any); and
 - (iii) The Member's Optional Insurance Cover (if any),at the Member's Date of Disablement.

8.10 Total but Temporary Disablement Benefits

8.10.1 How Calculated

- (a) While a Division 8 Member (other than a Category D Division 8 Member) is Totally but Temporarily Disabled the Trustee shall pay to the Member a monthly income benefit (in this Rule 8.10.1 called the *income benefit*) the amount of which (subject to Rule 1.12.1 and Rule 8.10.1(b) and except as reduced by Rule 8.10.1(c) is equal to 1/12 of 12.5% of the Member's Insured Benefit determined under Rule 8.9 (as if the Member had become Totally and Permanently Disabled on the Member's Date of Disablement) or such increased amount as the Trustee may with the consent of the Principal Employer determine up to an amount equal to 1/12 of 12.5% of the amount of the benefit determined under Rule 8.9 (as if the Member had been Totally and Permanently Disabled on the Member's Date of Disablement) **provided that** if the Member participated in the Mildara Blass Fund immediately prior to 1 July 1992 the amount calculated under this Rule 8.10.1 shall not be less than the benefit which would have been payable in respect of the Member under the Mildara Blass Fund had the Member become disabled immediately prior to that date.

- (b) The amount of the income benefit payable to the Member (before a reduction under Rule 8.10.1(c)) shall not in any case exceed 1/12 of 75% of the annual rate of Salary of the Member immediately prior to the Member's Date of Disablement.
- (c) The amount of the income benefit payable to the Member will be the amount remaining after reducing the amount determined under Rules 8.10.1(a) and 8.10.1(b) by the aggregate of:
 - (i) the monthly equivalent of any sum paid or payable to the Member under any provision (statutory or otherwise) for workers' compensation, workcare and sick leave; and
 - (ii) the amount (if any) calculated in terms of Rule 8.10.10.
- (d) For the purpose of Rule 8.10.1(c) (i):
 - (i) any such sum paid or payable which is not a periodical payment shall be deemed to have been paid in such monthly amounts and at such times during the period of the Member's disablement as the relevant insurer or (if the benefit is not covered by a Policy in force for the time being) the Trustee shall from time to time determine; and
 - (ii) any such sum paid or payable which is paid at other than monthly intervals shall be for the purposes of this Rule 8.10 be calculated and expressed as a rate of payment per month.

8.10.2 When Payable

The income benefit shall be payable on the first day of each calendar month. The first payment shall be payable on the first day of the calendar month following the month in which the Member becomes Totally but Temporarily Disabled. The last payment shall be payable on the first day of the calendar month in which the Member ceases to be Totally but Temporarily Disabled under Rule 8.10.3 or at the expiration of two years from the date of the first payment whichever first occurs.

8.10.3 Ceasing to be Totally but Temporarily Disabled

A Division 8 Member shall cease to be Totally but Temporarily Disabled:

- (a) when the Member no longer satisfies the definition of Total but Temporary Disablement in Rule 1.1;
- (b) when the Member engages in or performs in any occupational work for reward (except as provided for in Rule 8.10.10);
- (c) when the Member becomes Totally and Permanently Disabled under Rule 8.9;
- (d) when the Member attains the age of 65 years or earlier Normal Retirement Age; or
- (e) upon the Member's death.

8.10.4 Consequences

If a Division 8 Member ceased to be Totally but Temporarily Disabled in the circumstances set out in Rules 8.10.3(a) or 8.10.3(b) and:

(a) Member Continuing in Service

if the Member continues in the Service of the Employer then the contributions by and in respect of the Member shall be payable as specified in the other provisions of the Rules. If the Member subsequently ceases for any reason to be in the Service of the Employer or becomes disabled or dies then the provisions of the Rules relating to the benefit payable in those circumstances shall apply; or

(b) Member Not Continuing in Service

if the Member does not continue in the Service of the Employer then a benefit of an amount equal to the benefit payable under Rule 5.7.2 calculated on the basis that the Member has ceased to be in the Service of the Employer on the date on which the Member has ceased to be Totally but Temporarily Disabled shall become payable.

8.10.5 Becoming Totally and Permanently Disabled

If a Division 8 Member ceases to be Totally but Temporarily Disabled as set out in Rule 8.10.3(c) by becoming Totally and Permanently Disabled the benefit referred to in Rule 8.9 shall then become payable.

8.10.6 Attaining Age 65 or Earlier Normal Retirement Age

If a Division 8 Member ceases to be Totally but Temporarily Disabled as set out in Rule 8.10.3(d) by attaining the age of 65 years or earlier Normal Retirement Age the Member shall be deemed to have retired and the benefit referred to in Rule 5.7.2 shall then become payable.

8.10.7 Death

If a Division 8 Member ceases to be Totally but Temporarily Disabled as set out in Rule 8.10.3(e) by the Member's death the benefit referred to in Rule 8.8 shall become payable in accordance with Rule 1.17.1.

8.10.8 Determining Benefits

For the purposes of determining the benefits under Rules 8.10.5, 8.10.6 and 8.10.7: the Member's Annual Salary and classification coincident with the Member's Date of Disablement shall be deemed to apply up to the Normal Retirement Age.

8.10.9 Payment

If a Division 8 Member becomes Totally but Temporarily Disabled prior to attaining the age of 65 years or earlier Normal Retirement Age:

- (a)** an income benefit shall be payable to the Member under Rules 8.10.1 and 8.10.2; and
- (b)** no benefit shall become payable to or in respect of the Member under any provisions of the Rules other than as specified in this Rule 8.10.

8.10.10 Rehabilitation

- (a) Upon the prior written request of the Trustee while a Division 8 Member is receiving income benefits under this Rule, the relevant insurer (if any) or if there is no insurer, the Trustee may agree that the Member can engage in gainful occupation but that for the purposes of this Rule the Member shall for a period not exceeding two years be deemed not to have been so engaged or able to be so engaged. If the relevant insurer or Trustee (as the case may be) shall so agree the amount of income benefit payable under this Rule shall be reduced by 75% of the monthly amount earned by the Member from such gainful occupation.
- (b) For the purposes of this Division 8 a period for which the benefit is payable under this sub-Rule is deemed to be a period of Total but Temporary Disablement.

8.10.11 Termination of Contributions

With respect to the application of Rules 1.21.1(a)(iii) and 1.15.3(d), the Employer agrees that it will not exercise its powers to terminate its contributions unless and until it has given the Trustee not less than one month's notice in writing of the termination, the actual period of notice being as agreed between the Employer and the Trustee but not to exceed one year.

Schedule A

Insured Benefit

1. Category A, B or C Division 8 Members

The Insured Benefit payable in respect of a Division 8 Member (other than a Category D Division 8 Member) as referred to in Rules 8.8 and 8.9 respectively shall subject to the Rules be an amount equal to a percentage (as set out below according to the Member's classification at the date of the Member's death or disablement) of the Member's Annual Salary relating to the Review Date coincident with or next preceding the date of the Member's death or disablement multiplied by the number of years (measured in years and fractions of a year being complete months) from that Review Date up to the Normal Retirement Age:

| Classification at Date of Death or Disablement | Percentage % |
|---|--------------|
| Category A Division 8 Member | 20.00 |
| Category A1 Division 8 Member | 20.00 |
| Category B Division 8 Member | 15.00 |
| Category C Division 8 Member | 10.00 |

2. Category D Division 8 Members (Death Only)

The Insured Benefit payable in respect of a Category D Division 8 Member in the event of the Member's death (as referred to in Rule 8.8) shall subject to the Rules be an amount as set out below according to the Member's attained age at the Review Date coincident with or next preceding the date of the Member's death:

| Age Attained (Years) | Insured Benefit (\$) | Age Attained (Years) | Insured Benefit (\$) |
|-------------------------|-------------------------|-------------------------|-------------------------|
| 35 and under | 35,000 | 50 | 17,500 |
| 36 | 34,000 | 51 | 15,500 |
| 37 | 33,000 | 52 | 13,500 |
| 38 | 32,000 | 53 | 11,500 |
| 39 | 31,000 | 54 | 9,500 |
| 40 | 30,000 | 55 | 7,500 |
| 41 | 29,000 | 56 | 6,500 |
| 42 | 28,000 | 57 | 5,500 |
| 43 | 27,000 | 58 | 4,500 |
| 44 | 26,000 | 59 | 3,500 |
| 45 | 25,000 | 60 | 2,500 |

Foster's Group Superannuation Amending Deed

Allens Arthur Robinson

| | | | |
|----|--------|----|-------|
| 46 | 23,500 | 61 | 2,000 |
| 47 | 22,000 | 62 | 1,500 |
| 48 | 20,500 | 63 | 1,000 |
| 49 | 19,000 | 64 | 500 |
| | | 65 | 0 |

Any Insured Benefit payable under this Schedule shall be paid in accordance with Rule 1.17.1.



DIVISION 9

FORMER CELLARMASTER FUND MEMBERS

9.1 Division 5 Provisions to Apply

The provisions contained in Division 5 shall apply to Division 9 Members as if they were repeated at length in this Division except to the extent they are inconsistent with the specific provisions contained in Division 9. To the extent of any inconsistency between the provisions appearing below and the provisions of Division 5 incorporated by reference, the provisions appearing below shall apply. The Trustee shall have the power to determine whether or not there is any inconsistency and the decision made by the Trustee shall (to the extent permitted under Superannuation Law) be conclusive.

9.2 Definitions

In applying the provisions of this Division and of Division 5 incorporated by reference into Division 9, the defined terms set out in this Rule shall apply where relevant in lieu of the definitions of those terms otherwise applying to Division 5:

Cellarmaster Deed means the trust deed 13 July 1989 establishing the Cellarmaster Fund as amended.

Cellarmaster Fund means the fund known as the Cellarmaster Superannuation Fund, being the fund established under the Cellarmaster Deed.

Division 9 Member means an Employee who was a Member of the Cellarmaster Fund on the day immediately prior to the Merger Date (as it applies to that Employee) and any other Employee admitted as a Member pursuant to Rule 9.3.

Former Cellarmaster Member means a person who was a member of the Cellarmaster Fund as at the Merger Date within the meaning of clause 3(2) of the Cellarmaster Deed as in force on the Merger Date and who has not ceased to be a member before the date of transfer of Members and assets to the Fund in accordance with Rule 1.13.1 and the Merger and Indemnity Deed between the Trustee, Cellarmaster (Nominees) Pty Ltd ACN 000 331 959, the Principal Employer, Cellarmaster Wines Pty Limited ACN 000 976 634 and the directors of Cellarmaster (Nominees) Pty Ltd.

Initial Credit means, in the case of a Former Cellarmaster Member, the amount (if any) equal to the aggregate of the person's Employer Account and Member Account (each of those terms having the meaning given to them respectively under Rule 1 of the Cellarmaster Deed as in force on the Merger Date) subject to the adjustments (if any) necessary to take account of the period between the Merger Date and the date on which the Trustee receives from the Trustee of the Cellarmaster Fund the assets of the Cellarmaster Fund under Rule 1.13.1.

Merger Date in respect to a Division 9 Member means:

- (a) in the case of a Member of the Cellarmaster Fund last admitted to the Cellarmaster Fund on or before 1 July 1999, the Merger date is 1 July 1999; or
- (b) in the case of a Member of the Cellarmaster Fund last admitted to the Cellarmaster Fund after 1 July 1999 and before 1 November 1999 or such other date as may be agreed between the Cellarmaster Trustee and the Trustee, the Merger date is the date of the Member's admission to the Cellarmaster Fund as determined by the Cellarmaster Trust Deed.

Salary in relation to a Division 9 Member means either:

- (a) his basic wage or salary expressed as an annual rate payable from time to time calculated as an annual wage or salary) and does not include directors fees, commissions, bonuses, overtime payments, allowances or other such emoluments except to the extent that the Employer shall decide and notify the Trustee; or
- (b) in any special case, such amount as for the purposes of the Fund the Employer shall decide and notify to the Trustee.

Transferred Amount in relation to a Member means the amount which would have been in the Member's Accumulation Account as determined by the Trustee but for the exercise of portability rights by the Member.

9.3 Membership

- (a) Any Former Cellarmaster Member who was a Member of the Cellarmaster Fund immediately before the Merger Date shall become a Division 9 Member on the Merger Date.
- (b) Any other Employee who is not a Division 9 Member shall be eligible to become a Division 9 Member from the date on which the Member becomes an Employee and who makes application in such form and within such time as the Trustee may from time to time require to become a Division 9 Member from the date on which the Member first becomes eligible as aforesaid or from such later date as is approved by the Principal Employer in any particular case. Upon acceptance of the aforesaid application by the Trustee the Employee shall become a Division 9 Member from that date.

9.4 Interest

Interest will be credited or debited (as the case may be) to each Division 9 Member's Accumulation Account as follows:

- (a) in the case where the Trustee has exercised its powers under Rule 1.10.1 in respect of the relevant Member: at the rates determined in accordance with Rule 1.10.2 and (where applicable) Rule 1.10.3; or

- (b) in the case of any other Division 9 Member: at such rate or rates as shall be determined from time to time by the Trustee having regard to the net earning rate of the Fund under Rule 1.10.3 after allowing for assets (if any) where the Trustee has exercised its powers under Rule 1.10.2.

9.5 Operation of Member's Accumulation Account

With respect to the application of Rule 5.5.2(h) (which Rule shall apply to each Division 9 Member) the Initial Credit shall be credited to a Division 9 Member's Accumulation Account as at the Merger Date for that Member.

9.6 Death in Service Benefit

If a Division 9 Member dies while in the Service prior to the Member's Normal Retirement Age the Benefit payable in accordance with Rule 1.17.1 shall be a lump sum benefit calculated at the date of the Member's death equal to the greater of:

- (a) Member's Accumulation Account; or
- (b) five times the Member's Salary reduced by the Transferred Amount (if any) plus:
 - (i) the balance of the Member Account as at each Member's Merger Date determined in accordance with the Cellarmaster Trust Deed;
 - (ii) any Member Contributions made to the Fund subsequent to that Member's Merger Date;
 - (iii) any amount of interest required to be credited or debited to the Member's Accumulation Account under Rule 9.4 referable to that part of the Member's Accumulation Account credit as is covered by this Rule; and
 - (iv) such other amounts which the Trustee considers is appropriate or equitable to take into account.

Plus the Member's Optional Insurance (if any).

9.7 Total and Permanent Disablement Benefit

If a Division 9 Member ceases to be in the Service by reason of being Totally and Permanently Disabled and a Benefit is not payable under Rule 5.7.2(a) the Trustee will pay a lump sum benefit calculated in accordance with the provisions of Rule 9.6 as if the Member had died on the day of the Member's Total and Permanent Disablement.

9.8 Termination of Contributions

With respect to the application of Rule 1.21.1(a)(iii) and Rule 1.21.1(d), the Employer agrees that it will not exercise its powers to terminate its contributions unless and until it has given the Trustee not less than 30 days notice in writing of the termination, the actual period of notice being as agreed with the Trustee.

DIVISION 10

FORMER NATIONAL MUTUAL TAILORED SUPERANNUATION FUND MEMBERS

10.1 Division 5 Provisions to Apply

The provisions contained in Division 5 will apply to Division 10 Members as if they were repeated at length in this Division 10 and as if all references to Division 5 Members were replaced with references to Division 10 Members, except to the extent that any aspect of Division 5 is inconsistent with the specific provisions contained in this Division 10. In the extent of any inconsistency between the provisions appearing below and the provisions of Division 5 incorporated by reference, the provisions of this Division will prevail. The Trustee will have the power to determine whether or not there is any inconsistency and the decision made by the Trustee will (to the extent permitted under Superannuation Law) be conclusive.

10.2 Definitions

In applying the provisions of this Division and of Division 5 incorporated by reference into this Division, the defined terms set out in this Rule will apply where relevant in lieu of the definitions of those terms otherwise applying to Division 5:

ALH Group means ALH Group Pty Ltd (ABC 37 067 391 511).

Division 10 Member means:

- (a) an Employee who is a Former National Mutual Member; and
- (b) any other Employee admitted as a Member pursuant to Rule 10.3,

provided that such an Employee will cease to be a Division 10 Member in the event of their death or when all benefits to which they could become entitled under the Rules have been paid.

Former National Mutual Member means a person who:

- (a) was a member of the National Mutual Tailored Superannuation Fund and who was employed by ALH Group as at the Merger Date within the meaning of the provisions of the National Mutual Deed as in force on the Merger Date; and
- (b) who has not ceased to be a member of the National Mutual Tailored Superannuation Fund before the date of transfer of Members and assets to the Fund in accordance with Rule 1.13.1 and the Merger and Indemnity Deed between the Trustee and the National Mutual Trustee.

Initial Credit means, in the case of a Former National Mutual Member, the amount (if any) equal to the aggregate of the person's Member's Accumulation and Employer's Accumulation (each of those terms having the meaning given to them respectively under Rule 3 of the National Mutual Deed as in force on the Merger Date) subject to the

adjustments (if any) necessary to take account of the period between the Merger Date and the date on which the Trustee receives from the National Mutual Trustee the assets of the National Mutual Tailored Superannuation Fund under Rule 1.13.1.

Merger Date means, in respect of a Division 10 Member, 1 July 2001 or such other date as the Trustee determines.

National Mutual Deed means the trust deed dated 29 September 1986 establishing the National Mutual Tailored Superannuation Fund as amended.

National Mutual Tailored Superannuation Fund means the fund known as the National Mutual Tailored Superannuation Fund, being the fund established under the National Mutual Deed.

National Mutual Trustee means the trustee for the time being of the National Mutual Tailored Superannuation Fund.

Service means gainful employment with the Member's Employer in respect of which the Member receives remuneration or other earnings from the Employer and includes, if the Trustee agrees, absences which their Employer considers should be included.

Total but Temporary Disablement means the disablement of a Division 10 Member in circumstances where:

- (a) the Member has been absent from Service for at least three consecutive months due to illness or injury; and
- (b) the Trustee determines, having regard to medical evidence, that the Member is unable for the time being to re-commence the Member's former employment in the Service,

but does not include disablement which is deemed by the Trustee to be:

- (c) wholly or partially attributable to, or as a consequence of, intentional self-injury; or
- (d) wholly attributable to normal and uncomplicated pregnancy, childbirth or miscarriage,

and **Totally but Temporarily Disabled** will have a corresponding meaning.

TTD Benefit means the amount to which a Division 10 Member is entitled in the event of Total but Temporary Disablement, such amount to be payable monthly and equal to the lesser of the following:

- (a) 1/12 of 30% of the sum of the amounts referred to in Rules 5.7.4(a)(ii) and (iii);
- (b) 1/12 of 75% of the Member's annual salary, less the amount of any income benefit otherwise received by the Member as a result of the Member's Total but Temporary Disablement; or
- (c) 1/12 of the aggregate of:
 - (i) 75% of the first \$101,000 of the Member's annual salary (or such other threshold amount as may be determined by the Trustee on 1 March each year); and

- (ii) 50% of the next \$50,000 of the Member's annual salary (or such other threshold amount as may be determined by the Trustee on 1 March each year).

10.3 Membership: Admission of Members

- (a) Each Former National Mutual Member will become a Division 10 Member on the Merger Date provided that all assets in respect of the benefits of such Former National Mutual Members under the National Mutual Tailored Superannuation Fund are transferred to the Fund.
- (b) Any other Employee will become a Division 10 Member from the date on which the Trustee accepts the Employee's application to become a Division 10 Member, such application to be made in a form prescribed by the Trustee. Acceptance of any such application will be at the absolute discretion of the Trustee.

10.4 Member's Accumulation Account: Initial Credit

The Initial Credit will be credited to the Accumulation Account of each Division 10 Member as at the Merger Date.

10.5 Member's Accumulation Account: Interest

Interest will be credited or debited, as the case may be, to each Division 10 Member's Accumulation Account as follows:

- (a) where the Trustee has exercised its powers under Rule 1.10.1 in respect of the relevant Member, at the rates determined in accordance with Rule 1.10.2; or
- (b) in the case of any other Division 10 Member, at such rate or rates as will be determined from time to time by the Trustee having regard to the net earning rate of the Fund under Rule 1.10.3 after allowing for assets (if any) where the Trustee has exercised its powers under Rule 1.10.2.

10.6 Benefit on Total but Temporary Disablement

10.6.1 Entitlement to TTD Benefit

Subject to Rule 10.6.2, if a Division 10 Member becomes Totally but Temporarily Disabled, the Member will be entitled to receive the TTD Benefit applicable to that Member until any of the following occurs:

- (a) the end of the two year period commencing on the date on which the Member first received a TTD Benefit in respect of the relevant Total but Temporary Disablement;
- (b) the Member ceases to be in the Service of ALH Group;
- (c) the Member resumes active employment with any Employer;

- (d) the Member ceases in the opinion of the Trustee to be Totally but Temporarily Disabled;
- (e) the death of the Member;
- (f) the Member receives a benefit pursuant to Rule 5.7.4 as it applies to Division 10 Members;
- (g) the Member receives any other benefit under the Fund; or
- (h) the Member reaches the Retirement Age as determined under Superannuation Law.

10.6.2 Miscellaneous provisions relating to TTD Benefits

- (a) The Trustee may require any Division 10 Member who is receiving TTD Benefits to provide such further medical evidence as the Trustee deems necessary. A Member who fails to provide the required medical evidence will cease to be entitled to TTD Benefits.
- (b) If a Division 10 Member rejoins the Service following a period of Total but Temporary Disablement and, within six months of rejoining the Service, the Trustee considers that the Member is again Totally but Temporarily Disabled as a result of the same injury or illness which gave rise to the previous Total but Temporary Disablement (or a related injury or illness):
 - (i) the two year period referred to in Rule 10.6.1(a) is calculated from the date on which the Member first received a TTD Benefit in respect of the previous Total but Temporary Disablement; and
 - (ii) the two year period referred to in Rule 10.6.1(a) will be extended by a period equal to the length of time between:
 - (A) the date on which the Member rejoined the Service following the previous Total but Temporary Disablement; and
 - (B) the date on which the Member again became Totally but Temporarily Disabled.
- (c) For the avoidance of doubt, the two year period referred to in Rule 10.6.1(a) will be calculated in accordance with that paragraph irrespective of any prior Total but Temporary Disablement if a Member has been employed in gainful employment for twelve consecutive months following that prior Total but Temporary Disablement.
- (d) A Division 10 Member will not be charged any amounts in respect of Basic Insurance Cover or Optional Insurance Cover during any period while the Member is entitled to receive TTD Benefits.

10.7 Minimum level of benefits

The amount of any benefit payable pursuant to Rule 5.7.3 or Rule 5.7.4 to or in respect of a Division 10 Member who is a Former National Mutual Member will not be less than the amount of the equivalent benefit which the Member would have been entitled to receive from the National Mutual Tailored Superannuation Fund had they qualified therefor

immediately prior to the Merger Date. However, the foregoing will not apply if the Member has failed to maintain Optional Insurance Cover which, in combination with Basic Insurance Cover, offers the same or greater coverage as that previously maintained under the National Mutual Tailored Superannuation Fund immediately prior to the Merger Date.

10.8 Compulsory Payment of Benefit in Certain Circumstances

Notwithstanding anything contained in these Rules, the Trustee will cause to be paid to or for the benefit of any Member who:

- (a) has not died nor become Totally and Permanently Disabled; and
- (b) who has attained such age as may be prescribed by Superannuation Law as being the age upon which benefits must be paid,

an amount equal to the Member's Accumulation Account.

DIVISION 11

FORMER ACCUMULATION BENEFIT MEMBERS OF THE CONTINENTAL SPIRITS AUSTRALIA SUPERANNUATION FUND

11.1 Division 5 Provisions to Apply

The provisions contained in Division 5 will apply to Division 11 Members as if they were repeated at length in this Division 11 and as if all references to Division 5 Members were replaced with references to Division 11 Members, except to the extent that any aspect of Division 5 is inconsistent with the specific provisions contained in this Division 11. In the event of any inconsistency between the provisions appearing below and the provisions of Division 5 incorporated by reference, the provisions of this Division will prevail. The Trustee will have the power to determine whether or not there is any inconsistency and the decision made by the Trustee will (to the extent permitted under Superannuation Law) be conclusive.

11.2 Definitions

In applying the provisions of this Division and of Division 5 incorporated by reference into this Division, the defined terms set out in this Rule will apply where relevant in lieu of the definitions of those terms otherwise applying to Division 5:

Continental Deed means the trust deed dated 6 May 1980 establishing the superannuation fund which is presently known as the Continental Spirits Australia Superannuation Fund, as amended from time to time.

Continental Superannuation Fund means the superannuation fund presently known as the Continental Spirits Australia Superannuation Fund, being the fund established under the Continental Deed.

Continental Trustee means the trustee for the time being of the Continental Superannuation Fund.

Division 11 Member means:

- (a) an Employee who is a Former Continental Accumulation Member; and
- (b) any other Employee admitted as a Member pursuant to Rule 11.3.

Executive Member means a Division 11 Member who is designated as such by their Employer to the Trustee and **Executive Membership** has a corresponding meaning.

Former Continental Accumulation Member means a person who:

- (a) was an "Accumulation Section Member" of the Continental Superannuation Fund as at the Merger Date within the meaning of the provisions of the Continental Deed as in force on the Merger Date; and
- (b) who has not ceased to be a member of the Continental Superannuation Fund before the date of transfer of Members and assets to the Fund in accordance with

Rule 1.13.1 and the Merger and Indemnity Deed between the Trustee and the Continental Trustee.

Future Fund Membership means the number of years and parts of a year (where each complete month will count as 1/12 of a year) in the period commencing from the date of the Member's death or total and permanent disablement and ending on the date on which the Member reaches the Normal Retirement Age.

Initial Credit means, in the case of a Former Continental Accumulation Member, the amount (if any) equal to the aggregate of the person's:

- (a) Member Account;
- (b) Company Accounts;
- (c) Supplementary Account; and
- (d) Surcharge Account,

(each of the above terms having the meaning given to them respectively under the Continental Deed as in force on the Merger Date), subject to the adjustments (if any) necessary to take account of the period between the Merger Date and the date on which the Trustee receives from the Continental Trustee the assets of the Continental Superannuation Fund under Rule 1.13.1.

Merger Date means, in respect of a Division 11 Member, 1 July 2001 or such other date as the Trustee determines.

Salary means the remuneration which the Employer may from time to time determine and notify to the Trustee provided that:

- (a) if a Member has been granted leave of absence without pay, the Salary of the Member will be deemed to continue unaltered until the cessation of such leave of absence;
- (b) while a Member is eligible to receive a Total but Temporary Disablement Benefit pursuant to Rule 11.8, the Salary of that Member will be that which is in effect immediately prior to the disablement; and
- (c) if the Salary of a Member is reduced for any reason, the Salary of the Member will be deemed to be either unaltered or reduced but only to such extent as may be agreed by the Member and the Trustee.

Service means continuous employment with the Member's Employer in respect of which the Member receives remuneration or other earnings from the Employer and includes, if the Trustee agrees, absences which their Employer considers should be included. A Division 11 Member will be deemed to have left the Service when regular working hours for one or more of the Employers are reduced to less than half the normal working hours per week.

Staff Member means a Division 11 Member who is designated as such by their Employer to the Trustee and **Staff Membership** has a corresponding meaning.

Total but Temporary Disablement means the disablement of a Division 11 Member in circumstances where:

- (a) the Member has been absent from Service for at least three consecutive months due to illness, accident or injury such period of absence not ending later than the date on which the Member reaches the Normal Retirement Age; and
- (b) the Trustee determines, having regard to medical evidence, that the Member is unable for the time being to re-commence the Member's former employment in the Service,
- (c) and ***Totally but Temporarily Disabled*** will have a corresponding meaning. The Total but Temporary Disablement will be deemed to have commenced on the first day of the above absence of the Member.

TTD Benefit means the amount to which a Division 11 Member is entitled in the event of Total but Temporary Disablement pursuant to Rule 11.8, such amount to be payable in equal monthly instalments from an annual amount calculated as follows:

- (a) 75% of the Member's annual Salary as at the date on which the Total but Temporary Disablement commenced; LESS
- (b) the amount of any benefits otherwise received by the Member under any workers' compensation or social security scheme and any monetary benefits provided either directly or indirectly by the Employer for the Member during the period of the Total but Temporary Disablement.

11.3 Membership: Admission of Members

- (a) Each Former Continental Accumulation Member will become a Division 11 Member on the Merger Date provided that all assets in respect of the benefits of such Former Continental Accumulation Members under the Continental Superannuation Fund are transferred to the Fund.
- (b) Any other Employee will become a Division 11 Member from the date on which the Trustee accepts the Employee's application to become a Division 11 Member, such application to be made in a form prescribed by the Trustee. Acceptance of any such application will be at the absolute discretion of the Trustee.

11.4 Member's Accumulation Account: Initial Credit

The Initial Credit will be credited to the Accumulation Account of each Division 11 Member as at the Merger Date.

11.5 Member's Accumulation Account: Interest

Interest will be credited or debited, as the case may be, to each Division 11 Member's Accumulation Account as follows:

- (a) where the Trustee has exercised its powers under Rule 1.10.1 in respect of the relevant Member, at the rates determined in accordance with Rule 1.10.2; or

- (b) in the case of any other Division 11 Member, at such rate or rates as will be determined from time to time by the Trustee having regard to the net earning rate of the Fund under Rule 1.10.3 after allowing for assets (if any) where the Trustee has exercised its powers under Rule 1.10.2.

11.6 Benefit on Death

11.6.1 Executive Members

If a Division 11 Member who is an Executive Member dies prior to the Normal Retirement Age while in Service, the Trustee will pay out of the Fund an amount equal to:

- (a) the balance of the Member's Accumulation Account; and
(b) an amount calculated in accordance with the following formula:

$$20\% \times \text{Salary} \times \text{Future Fund Membership}$$

11.6.2 Staff Member

If a Division 11 Member who is a Staff Member dies prior to the Normal Retirement Age while in Service, the Trustee will pay out of the Fund an amount equal to:

- (a) the balance of the Member's Accumulation Account; and
(b) an amount calculated in accordance with the following formula:

$$18\% \times \text{Salary} \times \text{Future Fund Membership}$$

11.6.3 Members who continue in Service beyond the Normal Retirement Age

Upon the death of a Member who:

- (a) continues in Service beyond the Normal Retirement Age; and
(b) dies while in Service,

the Trustee will pay a benefit equal to Member's Accumulation Account Balance in accordance with Rule 11.8.3.

11.7 Benefit on Total and Permanent Disablement

If a Division 11 Member ceases to be in the Service by reason of becoming Totally and Permanently Disabled prior to reaching the Normal Retirement Age, the Member will become entitled to receive a benefit out of the Fund equal to the amount to which that Member would have become entitled under Rule 11.6 if the Member had died on the day on which they became Totally and Permanently Disabled.



11.8 Benefit on Total but Temporary Disablement

11.8.1 Entitlement to TTD Benefit

Subject to Rule 11.8.2, if a Division 11 Member becomes Totally but Temporarily Disabled while in Service prior to the Normal Retirement Age, the Member will be entitled to receive the TTD Benefit applicable to that Member until any of the following occurs:

- (a) the end of the two year period commencing on the date on which the Member first received a TTD Benefit in respect of the relevant Total but Temporary Disablement;
- (b) the Member ceases in the opinion of the Trustee to be Totally but Temporarily Disabled and is capable of resuming the Member's former occupation;
- (c) the Member becomes entitled to receive a benefit pursuant to Rule 5.7.2 as it applies to Division 11 Members;
- (d) the death of the Member, in which case the Member will be entitled to receive benefits pursuant to Rule 11.6, such benefits to be calculated on the basis of the Member's Salary as at the date on which the Total but Temporary Disablement commenced;
- (e) the Total and Permanent Disablement of the Member, in which case the Member will be entitled to receive benefits pursuant to Rule 11.7, such benefits to be calculated on the basis of the Member's Salary as at the date on which the Total but Temporary Disablement commenced;
- (f) the Member reaches the Normal Retirement Age.

11.8.2 Miscellaneous provisions relating to TTD Benefits

- (a) If a Division 11 Member rejoins the Service following a period of Total but Temporary Disablement and, within six months of rejoining the Service, the Trustee considers that the Member is again Totally but Temporarily Disabled due to the same cause which gave rise to the previous Total but Temporary Disablement (or a related cause), then the monthly instalments paid in those two periods shall be aggregated for the purposes of determining the number of instalments payable in accordance with Rule 11.8.1.
- (b) The TTD Benefits applicable to a Division 11 Member may be reduced by such extent as the Trustee determines in its absolute discretion if the Member commences any occupation whilst in the receipt of TTD Benefits.

11.8.3 Payment of Death Benefits

The benefits payable upon the death of a Division 11 Member will be paid in accordance with Rule 1.17.1.

11.9 No duplication of benefits

For the avoidance of doubt, Division 11 Members will not be entitled to receive benefits under the following Rules in the specified circumstances (if any):

- (a) Rule 5.7.2 if the Member is entitled to benefits under Rules 11.6 and 11.7;
- (b) any other Rule during if the Member is entitled to benefits under Rule 11.8;
- (c) Rules 5.7.3 and 5.7.4.

11.10 Compulsory Payment of Benefit in Certain Circumstances

Notwithstanding anything contained in these Rules, the Trustee will cause to be paid to or for the benefit of any Member who:

- (a) has not died nor become Totally and Permanently Disabled; and
- (b) who has attained such age as may be prescribed by Superannuation Law as being the age upon which benefits must be paid,

an amount equal to the Member's Accumulation Account.

DIVISION 12

FORMER DEFINED BENEFIT MEMBERS OF THE CONTINENTAL SPIRITS AUSTRALIA SUPERANNUATION FUND

12.1 Application of Division 12

This Division 12 will apply in respect of each Division 12 Member and, unless otherwise specified, all references to a Member in this Division 12 will be to a Division 12 Member.

12.2 Definitions

In applying the provisions of this Division, the defined terms set out in this Rule will apply where relevant in lieu of the definitions of those terms otherwise applying:

Annual Salary means in relation to a Member at any particular date the annual rate of the Member's Salary as at that date.

Continental Deed means the trust deed dated 6 May 1980 establishing the superannuation fund which is presently known as the Continental Spirits Australia Superannuation Fund, as amended from time to time.

Continental Superannuation Fund means the superannuation fund presently known as the Continental Spirits Australia Superannuation Fund, being the fund established under the Continental Deed.

Continental Trustee means the trustee for the time being of the Continental Superannuation Fund.

Division 12 Member means:

- (a) an Employee who is a Former Continental Defined Benefit Member; and
- (b) any other Employee admitted as a Member pursuant to Rule 12.3,
provided that such an Employee will cease to be a Division 12 Member if:
 - (i) they cease to be an Employee; or
 - (ii) they become, with the consent of the Principal Employer and the Trustee, a Division 11 Member.

Executive Member means a Division 12 Member who is designated as such by their Employer to the Trustee and **Executive Membership** has a corresponding meaning.

Final Average Salary means the average of the Annual Salaries of a Division 12 Member during the last three consecutive years of the Member's Service.

Former Continental Defined Benefit Member means a person who:

- (a) was a "Defined Benefit Section Member" of the Continental Superannuation Fund as at the Merger Date within the meaning of the provisions of the Continental Deed as in force on the Merger Date; and

- (b) who has not ceased to be a member of the Continental Superannuation Fund before the date of transfer of Members and assets to the Fund in accordance with Rule 1.13.1 and the Merger and Indemnity Deed between the Trustee and the Continental Trustee.

Fund Membership means in respect of a Member the number of years and parts of a year (where each complete month counts as 1/12 part of a year) in the period during which the Member was a Member of the Fund, the Continental Superannuation Fund or the Previous Fund) or such greater period as the Trustee in its absolute discretion determines.

Future Fund Membership means the number of years and parts of a year (where each complete month will count as 1/12 of a year) in the period commencing from the date of the Member's death or total and permanent disablement and ending on the date on which the Member reaches the Normal Retirement Age.

Merger Date means, in respect of a Division 11 Member, 1 July 2001 or such other date as the Trustee determines.

Old Plan means any of the following superannuation funds:

- (a) "The Continental Distillers Retirement Fund" established by a declaration of trust dated 25 February 1982;
- (b) "The Continental Distillers (1981) Superannuation Fund" established by a declaration of trust dated 14 October 1981); or
- (c) "The Continental Distillers (Queensland) Staff Superannuation Fund" established by a declaration of trust dated 18 April 1984,

and **Old Plan Membership** will have a corresponding meaning.

Old Plan Pension Factor means the factor derived from Old Plan Membership as advised to the Trustee by the actuary of the Old Plan and shown in Schedule A annexed to this Division 12.

Preserved Benefit means any benefit (or part thereof) which is required by Superannuation Law to be preserved for the Member in the Fund or in an Approved Benefit Arrangement under Superannuation Law.

Previous Fund means the Seagram (Australia) Pty Ltd Staff Superannuation Fund and **Previous Fund Membership** will have a corresponding meaning.

Previous Fund Pension Factor means the factor derived from Previous Fund Membership as advised to the Trustee by the actuary of the Previous Fund and shown in Schedule B annexed to this Division 12.

Retrenchment means, in relation to a Member, termination of employment with the Employer in respect of which the Member's Employer certifies to the Trustee in a form acceptable to the Trustee that:

- (a) such termination was for one or more of the following reasons:
 - (i) the position occupied by the Member has ceased to exist;

- (ii) the work for which the Member was engaged or which was subsequently allotted to the Member is finished or is about to finish;
- (iii) the quantity of work which the Member is qualified or competent to perform has diminished; or
- (iv) the work or affairs or staff of the Employer have been reorganised or rearranged for business policy reasons,

or such other reasons as that Employer considers constitute Retrenchment and not being a result of the Member's incompetence or misconduct or failure to achieve standards of performance or conduct satisfactory to the Employer in relation to the tasks allotted to the Member or otherwise; and

- (b) the Member was not offered an alternative position with an Employer or with any other person which the Member's Employer considers to be reasonably comparable (though not necessarily equivalent) to the position which the Member last held before ceasing employment,

and *Retrenched* will have a corresponding meaning.

Review Date means the 1 January in each year or such other date as the Trustee determines from time to time.

Salary means the remuneration which the Employer may from time to time determine and notify to the Trustee provided that:

- (a) if a Member has been granted leave of absence without pay, the Salary of the Member will be deemed to continue unaltered until the cessation of such leave of absence;
- (b) while a Member is eligible to receive a TTD Benefit pursuant to Rule 12.13, the Salary of that Member will be that which is in effect immediately prior to the disablement; and
- (c) if the Salary of a Member is reduced for any reason, the Salary of the Member will be deemed to be either unaltered or reduced but only to such extent as may be agreed by the Member and the Trustee.

Service means continuous employment with the Member's Employer in respect of which the Member receives remuneration or other earnings from the Employer and includes, if the Trustee agrees, absences which their Employer considers should be included. A Division 12 Member will be deemed to have left the Service when regular working hours for one or more of the Employers are reduced to less than half the normal working hours per week.

Special Accumulation Account means the account to which contributions made by a Division 12 Member or by an Employer pursuant to Division 12 including any Special Mandated Contributions are credited and the balance of which accumulates with compound interest at the Determined Rate until the date of cessation of Service of the Member.

Special Mandated Contribution means the contributions made by an Employer in respect of a Division 12 Member who is in Service after the Normal Retirement Age in order to comply with the requirements of Rule 12.18.2 which accumulate with compound interest at the Determined Rate until the date of cessation of Service of the Member.

Spouse means the wife of a male member or the husband of a female member and includes both de jure and de facto marital relationships provided that the Trustee is satisfied as to the genuineness of the circumstances surrounding any de facto relationship.

Total but Temporary Disablement means the disablement of a Division 12 Member in circumstances where:

- (a) the Member has been absent from Service for at least three consecutive months due to illness, accident or injury such period of absence not ending later than the date on which the Member reaches the Normal Retirement Age; and
- (b) the Trustee determines, having regard to medical evidence, that the Member is unable for the time being to re-commence the Member's former employment in the Service,

and **Totally but Temporarily Disabled** will have a corresponding meaning. The Total but Temporary Disablement will be deemed to have commenced on the first day of the above absence of the Member.

TTD Benefit means the amount to which a Division 12 Member is entitled in the event of Total but Temporary Disablement pursuant to Rule 12.13, such amount to be payable in equal monthly instalments from an annual amount calculated as follows:

- (a) 75% of the Member's annual Salary as at the date on which the Total but Temporary Disablement commenced; LESS
- (b) the amount of any benefits otherwise received by the Member under any workers' compensation or social security scheme and any monetary benefits provided either directly or indirectly by the Employer for the Member during the period of the Total but Temporary Disablement.

12.3 Membership: Admission of Members

- (a) Each Former Continental Defined Benefit Member will become a Division 12 Member on the Merger Date provided that all assets in respect of the benefits of such Former Continental Defined Benefit Members under the Continental Superannuation Fund are transferred to the Fund.
- (b) Any other Employee will become a Division 12 Member from the date on which the Trustee accepts the Employee's application to become a Division 12 Member, such application to be made in a form prescribed by the Trustee. Acceptance of any such application will be at the absolute discretion of the Trustee.

12.4 Contributions

- (a) Subject to paragraph (b), each Division 12 Member is required to contribute to the Fund.
- (b) Each Division 12 Member is to contribute 5% of Salary unless:
 - (i) the Member has reached the Normal Retirement Age;
 - (ii) the Member is entitled to receive TTD Benefits;
 - (iii) the Employer makes the contribution on behalf of the Member (in which case those contributions will be deemed to be contributions made by the Member); or
 - (iv) a Member ceases to contribute with the Principal Employer's consent pursuant to Rule 12.5.
- (c) Notwithstanding Rule 12.4(b) a Division 12 Member may, with the consent of the Principal Employer make a contribution in addition to the amount prescribed in Rule 12.4(b). Any such additional Member contribution will be paid into the Special Accumulation Account of the Member with an annual election by the member prior to each Review Date of the level of such additional contributions.
- (d) The Trustee must be notified of any election to vary the rate of contribution by a Member pursuant to Rule 12.4(c) at least one month prior to any subsequent Review Date.
- (e) Each Employer, unless otherwise agreed between itself and the Trustee, is to contribute to the Fund in respect of its Employees who are Members the amounts or rates of contributions recommended by the Actuary in accordance with Rule 1.14.3. An Employer may make additional contributions to the Fund in respect of a Member in which case such contributions will be deemed to have been made by the Member and will be paid into the Special Accumulation Account of the Member.
- (f) Each Employer will also contribute such amount of contributions to any Special Mandated Contribution Account of a Division 12 Member as is necessary to comply with the requirements of Rule 12.17.2.
- (g) Subject to Superannuation Law, the Trustee may accept contributions other than in cash including, without limitation, contributions by way of voucher arising as a result of a superannuation guarantee shortfall.

12.5 Cessation of Member Contributions

- (a) A Division 12 Member (having first obtained the Principal Employer's consent in writing) may apply to the Trustee to cease contributing to the Fund and the Trustee may in its sole and unfettered discretion allow such cessation of contributions having regard to any extenuating circumstances applicable in each individual case.

- (b) In the event that a Member is permitted to cease contributing to the Fund pursuant to Rule 12.5(a), the Member's benefit will be determined as at the date of cessation of contributions subject to either Rule 12.7 or Rule 12.14 and paid to the Member on subsequent termination of Service (for any reason whatsoever including death) together with compound interest thereon at the DB Earning Rate applicable at each Review Date.
- (c) In the event that a Member who has ceased to contribute to the Fund pursuant to Rule 12.5(b) applies in writing to the Trustee to recommence contributions (having first obtained the Principal Employer's consent in writing) the Trustee may in its sole and unfettered discretion having regard to any extenuating circumstances applicable in each individual case allow the Member to recommence contributions and in this event the Member's benefits will be adjusted in such a manner as the Trustee, acting upon advice from the Actuary, deems equitable.

12.6 Normal Retirement

Upon the retirement of a Division 12 Member from the Service on reaching the Normal Retirement Age, the Trustee is to pay the Member from the Fund the following benefit payable in accordance with Rule 12.9:

- (a) In respect of an Executive Member, an annual pension equal to:
 - (i) 2% of the Member's Final Average Salary for each year of Executive Membership
PLUS
 - (ii) where the Member was a Member of the Continental Superannuation Fund or the Previous Fund prior to 6 May 1980, the product of the Member's Previous Fund Pension Factor and the Member's Final Average Salary,
PLUS
 - (iii) a lump sum benefit equal to the balance of the Member's Special Accumulation Account.
- (b) In respect of a Staff Member who was a member of the Continental Superannuation Fund prior to 1 January 1986:
 - (i) an annual pension equal to:
 - (A) 1.67% of the Member's Final Average Salary for each year of Staff Membership from 1 January 1986
PLUS
 - (aa) where the Member was in the salaried staff category of the Continental Superannuation Fund prior to 1 January 1986, 1.67% of the Member's Final Average Salary for each year of Fund Membership prior to that date;

OR

- (bb) where the Member was in the wages category of the Continental Superannuation Fund prior to 1 January 1986, 1.25% of the Member's Final Average Salary for each year of Fund Membership prior to that date;
- PLUS
- (B) Where the Member was a Member of the Continental Superannuation Fund or the Previous Fund prior to 6 May 1980, the product of the Member's Previous Fund Pension Factor and the Member's Final Average Salary;
- PLUS
- (ii) a lump sum benefit equal to the balance of the Member's Special Accumulation Account.
- (c) In respect of a Staff Member who becomes a Member of the Fund or the Continental Superannuation Fund on or after 1 January 1986:
 - (i) an annual pension equal to:
 - (A) 1.67% of the Member's Final Average Salary for each year of Staff Membership;
 - PLUS
 - (B) where the Member was a Member of an Old Plan the product of the Member's Old Plan Pension Factor and the Member's Final Average Salary;
- PLUS
- (ii) a lump sum benefit equal to the balance of the Member's Special Accumulation Account.

12.7 Early Retirement

Upon the retirement of a Division 12 Member from the Service of the Employer before the Normal Retirement Age, the Trustee is to pay to the Member from the Fund the following benefit payable in accordance with Rule 12.9:

- (a) where the Member has attained the age of 55 but not 60 years and has received the consent of the Employer:
 - (i) a pension benefit in accordance with Rule 12.6 based on membership until the date of the Member's actual retirement reduced by 3% per annum for each year or part thereof by which the date of the Member's actual retirement precedes the 60th birthday of the Member
- PLUS
- (ii) a lump sum equal to the balance of the Member's Special Accumulation Account.

- (c) where the Member has attained the age of 60 years:
 - (i) a pension benefit in accordance with Rule 12.6 based on membership until the date of the Member's actual retirement;
PLUS
 - (ii) a lump sum benefit equal to the balance of the Member's Special Accumulation Account.

12.8 Late Retirement

If a Division 12 Member retires from the Service after reaching the Normal Retirement Age, the Trustee is to pay to the Member from the Fund the following benefit:

- (a) a lump sum benefit equal to the commuted value as at the date on which the member reaches the Normal Retirement Age (determined in accordance with Rule 12.9(b)) of the benefit the Member would have received in accordance with Rule 12.6 had the Member retired on that date, increased with interest at the Determined Rate for the period from that date until the date of payment;
PLUS
- (b) a lump sum benefit equal to the balance of the Member's Special Mandated Contribution Account;
PLUS
- (c) a lump sum benefit equal to the balance of the Member's Special Accumulation Account.

12.9 Payment of Retirement Benefits

- (a) The Trustee will pay the retirement benefit of a Member in monthly instalments of 1/12 of the annual pension determined in accordance with Rule 12.6 or 12.7, the first of these instalments being payable on the first day of the month following the month in which the Member retires and the last instalment being payable on the first day of the month in which the Member dies.
- (b) A Member entitled to a pension under Rules 12.6 or 12.7 may by notice in writing to the Trustee elect to commute part or all of the pension otherwise payable for the payment of a lump sum subject to the following provisions:
 - (i) Where the lump sum arising from the commutation of part or all of a Member's pension exceeds 25% of the total capital value of the Member's entitlement, the aggregate value of the benefit payable to the Member (including the capital value as determined by the Trustee on the advice of the Actuary of any benefit payable in the form of a pension) must not exceed the maximum lump sum benefit permitted under Superannuation Law from time to time and to the extent that the capital value of the Member's entitlement would otherwise exceed such maximum, subject to Superannuation Law, the excess will be forfeited to the Fund.

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- (ii) Where part of a pension is commuted all the pension payments will be reduced in equal proportions.
- (iii) The Trustee may in its absolute discretion commute for a lump sum any pension which it considers to be of a trivial amount.
- (iv) The lump sum payment in lieu of a commuted pension will be determined from the following table, interpolating between the amount shown for whole years of age for additional complete months of age.

**Table for Commutation of
Retirement Pension**

| Exact age at Date of Commutation | Lump sum payable in lieu of each \$1 per annum of Pension |
|-------------------------------------|--|
| Years | \$ |
| 55 | 11.76 |
| 56 | 11.36 |
| 57 | 11.00 |
| 58 | 10.64 |
| 59 | 10.31 |
| 60 | 10.00 |
| 61 | 10.00 |
| 62 | 10.00 |
| 63 | 10.00 |
| 64 | 10.00 |
| 65 | 10.00 |

- (c) Upon the death of a retired Member in receipt of a pension pursuant to Rule 12.6 or 12.7 which has not been wholly commuted to a lump sum pursuant to Rule 12.9(b), the Trustee will pay a pension to the Member's Spouse the amount of which will be equal to 1/2 of the pension that was payable to the retired Member immediately prior to the Member's death. However, if the retired Member dies prior to five years after the commencement of the pension (the *Anniversary Date*) the amount of the pension payable to the Member's Spouse until the Anniversary Date will be equal to the pension payable to the retired Member immediately prior to the Member's death.

12.10 Death

- (a) Upon the death of a Division 12 Member while in the Service before reaching the Normal Retirement Age, the Trustee is to pay from the Fund in accordance with Rule 12.11 a benefit equal to the following:

- (i) an amount equal to 10 times the annual pension benefit that would have been payable to the Member pursuant to Rule 12.6 had the Member survived to and retired upon reaching the Normal Retirement Age and had the Annual Salary of the Member at the date of death remained unchanged, subject to a minimum benefit equal to five times the Member's Annual Salary becoming payable;
PLUS
 - (ii) an amount equal to the balance of the Member's Special Accumulation Account;
PLUS
 - (iii) the Member's Optional Insurance Cover (if any).
- (b) Upon the death of a Member who continues in the Service beyond the Normal Retirement Age and dies whilst still in the Service, the Trustee is to pay from the Fund in accordance with Rule 12.11 a benefit determined by the Trustee to be equal to the retirement benefit which would have been payable pursuant to Rule 12.8 if that Member had retired on the date of the Member's death.

12.11 Payment of Benefits on Death

The benefits payable upon the death of a Division 12 Member will be paid or applied by the Trustee in accordance with Rule 1.17.1

12.12 Total and Permanent Disablement

- (a) Where in the opinion of the Trustee, a Member becomes Totally and Permanently Disabled while in the Service prior to reaching the Normal Retirement Age, a benefit of the amount specified in Rule 12.12(b) will be payable in accordance with Rule 12.12(c).
- (b) The amount of the benefit payable pursuant to Rule 12.12(a) to or in respect of a Member will, subject to Rule 12.14 be equal to the benefit which would have been payable had the Member died on the day which is deemed by the Trustee to have been the day on which the Member became Totally and Permanently Disabled.
- (c) The Trustee will pay or apply the benefit payable pursuant to Rule 12.12(a) to or for the benefit of the Member or any one or more of the Dependants of the Member in such shares and proportions and in such manner as the Trustee in its absolute discretion determines provided that:
 - (i) if the Member dies before the whole of the benefit has been paid or applied in accordance with this Rule 12.12, the benefit or any balance thereof will be payable in accordance with Rule 12.11; and
 - (ii) while the Member is still in the employment of the Employer no payment will be made except for the maintenance or support of the Member or the Dependants of the Member and for the purpose of relieving hardship.

- (d) No benefit under any other Rule of the Fund will be payable to or in respect of any Member who becomes entitled to a benefit in accordance with this Rule 12.12.

12.13 Benefit on Total but Temporary Disablement

12.13.1 Entitlement to TTD Benefit

Subject to Rule 12.13.2, if a Division 12 Member becomes Totally but Temporarily Disabled while in Service prior to the Normal Retirement Age, the Member will be entitled to receive the TTD Benefit applicable to that Member until any of the following occurs:

- (a) the end of the two year period commencing on the date on which the Member first received a TTD Benefit in respect of the relevant Total but Temporary Disablement;
- (b) the Member ceases in the opinion of the Trustee to be Totally but Temporarily Disabled and is capable of resuming their former employment;
- (c) the death of the Member, in which case the Member will be entitled to receive benefits pursuant to Rule 12.10, such benefits to be calculated on the basis of the Member's Salary as at the date on which the Total but Temporary Disablement commenced;
- (d) the Total and Permanent Disablement of the Member, in which case the Member will be entitled to receive benefits pursuant to Rule 12.12, such benefits to be calculated on the basis of the Member's Salary as at the date on which the Total but Temporary Disablement commenced;
- (e) the Member reaches the Normal Retirement Age.

12.13.2 Miscellaneous provisions relating to TTD Benefits

- (a) If a Division 12 Member rejoins the Service following a period of Total but Temporary Disablement and, within six months of rejoining the Service, the Trustee considers that the Member is again Totally but Temporarily Disabled due to the same cause which gave rise to the previous Total but Temporary Disablement (or a related cause), then the monthly instalments paid in those two periods shall be aggregated for the purposes of determining the number of instalments payable in accordance with Rule 12.13.1.
- (b) The TTD Benefits applicable to a Division 12 Member may be reduced by such extent as the Trustee determines in its absolute discretion if the Member commences any occupation whilst in the receipt of TTD Benefits.
- (c) For the purposes of benefits which may become payable pursuant to Rules 12.6, 12.7, 12.8 and 12.10, the Member will be deemed to have contributed to the Fund and to have remained in the Service during the period the Member received benefits pursuant to Rule 12.13.1.

12.14 Termination of Service

- (a) A Division 12 Member who leaves the Service of the Employer in circumstances which do not entitle them or their Dependants to receive a benefit under the provisions of any other Rule in this Division 12 will be paid a lump sum benefit as follows:

- (i) in respect of a Member who was a Member of the Continental Superannuation Fund prior to 1 January 1986, the greater of:

- (A) the benefit determined in accordance with the following formula:

$$PF \times FAS \times 10 \times (1 - DF)$$

where:

PF means (1.67% for Staff Members and 2% for Executive Members multiplied by the period of their Fund Membership up to the date of termination of Service plus their Previous Fund Pension Factor.

FAS means Final Average Salary.

DF means a reduction factor equal to 2% for each year with completed months counting proportionally by which the age of the Member upon termination of Service precedes the Member's 60 birthday. However, this reduction factor will be deemed to be 0% in the case of a Member who leaves Service on account of Retrenchment;

PLUS

the balance of the Member's Special Accumulation Account; and

- (B) the benefit determined as follows:

- (1) where a Member terminates their Service with the Employer prior to the completion of five years of Total Service the Member's Termination of Service Benefit will be:

- (aa) their contribution to this Fund or the Continental Superannuation Fund since 6 May 1980 together with interest at the rate of 5% per annum for the period from that date until 31 December 1983; from 31 December 1983 to 31 August 1987 at a rate of 10% per annum and thereafter until the date when they cease to be a Member, at the Determined Rate,

PLUS

- (bb) the balance of the Member's Special Accumulation Account.

(2) where a Member terminates the Member's Service with the Employer after having completed five years of Total Service, their Termination of Service Benefit will be:

(aa) the benefit as determined in accordance with paragraph (B) above increased by 10% for each complete year by which Total Service exceeds five years subject to the total increase not exceeding 100% after 15 years of completed Total Service. However, a Member who has completed at least five years of Fund Membership and who ceases to be in Service for reasons other than just cause will not receive a benefit under this Rule 12.14 which is less than ten times the pension benefit calculated in accordance with Rule 12.6 based on Fund Membership until their date of termination reduced by 6% for each year by which their termination of Service precedes their 55 birthday

PLUS

(bb) the balance of the Member's Special Accumulation Account.

(ii) In respect of a Member who became a Member of the Fund or the Continental Superannuation Fund on or after 1 January 1986, the benefit determined in accordance with the following formula:

$$PF \times FAS \times 10 \times (1 - DF)$$

where:

PF means 1.67% for Staff Members and 2% for Executive Members multiplied by the period of their Fund Membership up to the date of termination of Service plus their Old Plan Pension Factor.

FAS means Final Average Salary.

DF means a reduction factor equal to 2% per annum for each year with completed months counting proportionally by which the age of the Member upon termination of Service precedes the Member's 60 birthday. However, this reduction factor will be deemed to be 0% in the case of a Member who leaves Service on account of Retrenchment

PLUS

the balance of the Member's Special Accumulation Account.

Notwithstanding the above, the benefit determined in accordance with this Rule 12.14(a)(ii) must not be less than the Member's contribution to this Fund and the Continental Superannuation Fund together with interest at a rate of 10% per annum for the period of their Fund Membership until 31 August 1987 and thereafter until they cease to be a Member at the Determined Rate.

- (b) For the purposes of this Rule, **Total Service** means the period during which the Member was employed by an Employer and includes any period during which the Member was employed prior to 6 May 1980 by an Employer or any other company which the Principal Employer deems to be an Employer for the purposes of this Rule.

12.15 Postponement or Preservation or Other Restrictions on Benefit Payment

- (a) For the purpose of facilitating the administration of the Fund it is declared that, notwithstanding anything contained in these Rules, subject to Superannuation Law, the Trustee may postpone the commencement of the payment of any benefit for any period not exceeding six months after the happening of the event upon which the benefit becomes payable and may either make such payment or cause or arrange for the payment to be made on behalf of the Trustee.
- (b) Notwithstanding anything in the Rules the Trustee may only pay any benefit or other payment in accordance with Superannuation Law.

12.16 Old Plan Benefits

Notwithstanding anything contained in any of the preceding Rules, the benefit payable to a member who was a member of the Old Plan immediately prior to becoming a Member of the Continental Spirits Fund will not be less than the benefit which the Member would have received if the Member had remained a member of the Old Plan. For the purposes of this Rule 12.16, any determination of the amount of the benefit which would have been payable from the Old Plan will be at the absolute discretion of the Trustee after receiving the advice of the Actuary.

12.17 Statutory Minimum Benefit

12.17.1 Minimum Benefit

Subject always to Rule 1.2.1 but notwithstanding the other provisions of the Rules, when a Division 12 Member leaves the employ of an Employer for any reason a minimum benefit will be payable to or in respect of that Member as provided for by this Division 12.

12.17.2 Legislative Requirement

The benefit payable to or in respect of a Division 12 Member, when taken into account with any other benefit receivable by the Member from any other Approved Benefit Arrangement to which the Employer contributes on behalf of the Member, will not be less than the minimum benefit which must be paid to that Member to reflect the level of contributions the Employer is required to make for that Member to comply with the *Superannuation Guarantee (Administration) Act 1992* or any other Commonwealth legislation in order to avoid or minimise the imposition of any penalty, charge, tax or other impost by that

legislation, by the *Superannuation Guarantee Charge Act 1992*, or by such other Commonwealth legislation.

12.17.3 Contributions

An Employer will be obliged to contribute to the Fund such amounts as are advised by the Actuary as being required to fund the minimum benefits to be provided to Members pursuant to this Rule notwithstanding Rule 1.21.1.

12.18 Optional Insurance Cover




Where a Division 12 Member has effected Optional Insurance Cover under Rule 1.19.6, the Optional Insurance Charge shall be met by the Member arranging for additional contributions (on an after tax basis) necessary to cover the Optional Insurance Charge incurred from time to time to be contributed to the Fund or where the Member does not arrange for such contributions to be made or such contribution does not meet the Optional Insurance Charge in full, the Optional Insurance Charge or the amount not met by contributions arranged by the Member under this Rule shall be treated as if it were a contribution surcharge tax in respect of the Member within the meaning of Rule 1.18.1 and the benefit payable to or in respect of the Member under this Division shall be reduced in the manner set out in Rule 1.18.1(c) accordingly.

**Foster's Group Superannuation
Amending Deed**

Allens Arthur Robinson

Schedule A

**Table of Old Plan Pension Factors for Members of Old Plans prior to
1 January 1986**

| Name | Date of Birth | Old Plan Pension Factor |
|---|---|--|
|  |  |  |

Foster's Group Superannuation
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Schedule B

**Table of Previous Fund Pension Factors for Members of this Fund or the
Previous Fund immediately prior to the Commencement Date**

| Name | Date of Birth | Previous Fund Pension Factor |
|------------|---------------|---------------------------------|
| [REDACTED] | [REDACTED] | [REDACTED] |

DIVISION 13 SPOUSE MEMBERS

13.1 Definitions

- (a) In this Division:

Dependant in relation to a Spouse means a person who is a dependant of a spouse for the purposes of subdivision AACA of Division 17 of Part III of the *Income Tax Assessment Act 1936*.

Spouse Account in relation to a Spouse means the account established and maintained by the Trustee under Rule 13.3.

Spouse Account Regulations means regulations, if any, made by the Trustee under Rule 13.8.

- (b) The Rules of Division 1 shall apply to the operation of this Division to the extent to which in the opinion of the Trustee those Rules are appropriate for the effective operation of this Division.

The Trustee shall have power by resolution to determine that specific provisions of Division 1 shall not apply to this Division in whole or in part.

13.2 Contributions

- (a) A Member may elect, with the approval of the Trustee and subject to the Spouse Account Rules, to make contributions in respect of the Member's Spouse.
- (b) A Member may elect under Rule 1.14.8 to split contributions with the Member's Spouse and contributions split in favour of the Spouse shall be treated as contributions in respect of the Spouse under this Division.

13.3 Spouse Account

13.3.1 Establishment of Spouse Account

Upon receipt of a contribution including an amount relating to a contribution spent in respect of a Spouse, the Trustee shall establish and maintain a Spouse Account for that Spouse.

13.3.2 Operation of Spouse Account

The Trustee shall credit the Spouse Account with:

- (a) the contributions received in respect of the Spouse;
- (b) any amounts received in respect of the Spouse under Rule 1.14.7;
- (c) amounts rolled into the Fund in respect of the Spouse; and

- (d) interest to be credited to the Spouse Account under Rule 13.7.

The Trustee shall debit the Spouse Account with:

- (a) any fees and charges determined in accordance with the Spouse Account Regulations; and
(b) interest to be debited to the Spouse Account under Rule 13.7.

13.4 Spouse Account Balance

Where the Trustee is required to determine the balance of the Spouse Account on a date other than a Review Date, the Trustee may make such adjustments to the Spouse Account as are fair and equitable in relation to the period since the last Review Date.

13.5 Benefits to Spouse

Subject to Superannuation Law and the Spouse Account Regulations, the Trustee shall pay the balance of the Spouse Account to or at the direction of the Spouse.

13.6 Death of Spouse

If a Spouse dies, the balance of the Spouse Account shall be dealt with under Rule 1.17.1 as if the Spouse were a Member for the purposes of that Rule.

13.7 Interest

Interest will be credited or debited (as the case may be) to each Spouse Account as follows:

- (a) in the case where the Trustee has exercised its powers under Rule 1.10.1 in respect of this Division at the rates determined in accordance with Rule 1.10.2 and (where applicable) Rule 1.10.3; or
(b) at such rate or rates as shall be determined from time to time by the Trustee having regard to the net earning rate of the Fund under Rule 1.10.3 after allowing for assets (if any) where the Trustee has exercised its powers under Rule 1.10.2.

13.8 Spouse Account Regulations

The Trustee shall have power to make the Regulations determining the basis and terms on which Spouse Accounts may be established and operated.

DIVISION 14

RETAINED BENEFITS DIVISION

14.1 Definitions

- (a) In this Division:

Administration Fee means the fee for maintaining the Retained Benefit Account determined by the Trustee from time to time.

Retained Benefit Member means a Member of the Fund who has ceased to be in the Service and who has not received or rolled over to another Approved Arrangement the Member's Benefit payable under any other Division of the Fund.

Retained Benefit Account is the account maintained under Rule 14.3.

Retained Benefit Account Balance is the balance standing to the credit of a Retained Benefit Account after it has been made up by the Trustee in accordance with Rule 14.4.

- (b) The Rules of Division 1 shall apply to the operation of this Division to the extent to which in the opinion of the Trustee those Rules are appropriate for the effective operation of this Division.

The Trustee shall have power by resolution to determine that specific provisions of Division 1 shall not apply to this Division in whole or in part.

14.2 Contributions

Subject to Superannuation Law, the Trustee shall have power to receive into the Fund and credit to a Retained Benefit Member's retained Benefit Account:

- (a) contributions made by the Retained Benefit Member;
- (b) contributions or other amounts split in favour of the Retained Benefit Member;
- (c) co-contributions or other amounts payable in respect of the Retained Benefit Member; or
- (d) amounts rolled over to the Retained Benefit Account from any source.

14.3 Contributions

14.3.1 Establishment of Retained Benefit Account

The Trustee shall establish and maintain a Retained Benefit Account for each Retained Benefit Member.

14.3.2 Operation of Retained Benefit Account

The Trustee shall credit the Retained Benefit Account with the Benefit payable to the Retained Benefit Member under any of the other Divisions of the Fund in accordance with Regulations made by the Trustee under Rule 14.8.

14.4 Retained Benefit Account Balance

Where the Trustee is required to determine the balance of the Retained Benefit Account on a date other than a Review Date, the Trustee may make such adjustments to the Retained Benefit Account as are fair and equitable to the period since the last Review Date.

14.5 Benefits to Retained Benefit Members

Subject to Superannuation Law, the Trustee shall pay on the request of the Retained Benefit Member all or part of the balance of the Retained Benefit Member's Account to or at the direction of the Retained Benefit Member.

14.6 Death of Retained Benefit Members

If a Retained Benefit Member dies, the balance of the Retained Benefit Member's Account shall be dealt with under Rule 1.17.1.

14.7 Interest

Interest will be credited or debited (as the case may be) to each Retained Benefit Member's Account as follows:

- (a) in the case where the Trustee has exercised its powers under Rule 1.10.1 in respect of this Division at the rates determined in accordance with Rule 1.10.2 and (where applicable) Rule 1.10.3; or
- (b) at such rate or rates as shall be determined from time to time by the Trustee having regard to the net earning rate of the Fund under Rule 1.10.3 after allowing for assets (if any) where the Trustee has exercised its powers under Rule 1.10.2.

14.8 Retained Benefit Member's Account Regulations

The Trustee shall have power to make Regulations determining the basis and terms on which Retained Benefit Accounts may be established and operated.

[REDACTED]

30 March 2006

Foster's Group Superannuation Limited
Trustee of the Foster's
Group Superannuation Fund
77 Southbank Boulevard
SOUTHBANK VIC 3006

Dear Sirs

RESOLUTION - FOSTER'S GROUP SUPERANNUATION FUND

Rule 1.13.1 of the Rules of the Foster's Group Superannuation Fund provides (inter alia):

"... the Trustee may by resolution or by deed, with the consent of the Principal Employer, at any time alter modify or add to the Rules (including this Rule) with effect from a date before on or after the date of the amendment **provided that** no such alteration modification or addition shall be made unless the Actuary certifies that in his opinion any such alteration modification or addition will not substantially prejudice the value of the rights secured for or in respect of any Member by the Contributions paid to the Fund prior to the date of such alteration modification or addition ..."

Pursuant to the said provision to Rule 1.13.1, I hereby certify that the Deed of Amendment to which this certificate is attached does not substantially prejudice the value of the rights secured for or in respect of any Member by the Contributions paid to the Fund prior to the date of such alteration modification or addition.

Yours faithfully

[REDACTED]

[REDACTED]

**Fellow of The Institute
of Actuaries of Australia**



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