

Dated: .....19/12...../2012

**DEED (TRUSTEE DETERMINATION)**

**REDUNDANCY PAYMENT CENTRAL FUND NO. 2**

**REDUNDANCY PAYMENT CENTRAL FUND LTD.**

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Ref: MBC:DJC:1201833

Amended  
9/02/2010

## DEED OF TRUST

REDUNDANCY PAYMENT CENTRAL FUND NO. 2

[CONSOLIDATED TRUST DEED  
INCORPORATING AMENDMENTS MADE

21 DECEMBER 1995

19 FEBRUARY 1997

17 FEBRUARY 1999

23 JUNE 2000

17 DECEMBER 2003

15 DECEMBER 2004

13 OCTOBER 2005

12 APRIL 2006

18 DECEMBER 2009]

Dated 20 October 1995

### PARTIES

CONSTRUCTION FORESTRY MINING ENERGY UNION (FEDERATED ENGINE  
DRIVERS AND FIREMAN'S ASSOCIATION VICTORIAN DIVISION BRANCH)  
("FEDFA")

AUSTRALIAN MANUFACTURING WORKERS' UNION  
("AMWU")

REDUNDANCY PAYMENT CENTRAL FUND LIMITED  
ACN 007 133 833  
("Trustee")

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THIS DEED OF TRUST is made on 20 October 1995

**PARTIES:** CONSTRUCTION FORESTRY MINING ENERGY UNION (FEDERATED ENGINE DRIVERS AND FIREMAN'S ASSOCIATION VICTORIAN DIVISION BRANCH) of 34-40 Barry Street, Carlton in the State of Victoria ("FEDFA")

**AND:** AUSTRALIAN MANUFACTURING WORKERS' UNION of Level 4, 440 Elizabeth Street, Melbourne in the State of Victoria ("AMWU")

**AND:** REDUNDANCY PAYMENT CENTRAL FUND LTD ACN 007 133 838 of 80 Drummond Street, Carlton (the "Trustee")

## INTRODUCTION

- A. FEDFA and AMWU have agreed to establish a joint fund (the "Redundancy Payment Central Fund No. 2" or the "Fund") to provide benefits to workers who become entitled to redundancy payments in accordance with the terms of their respective Contracts of Employment with their employer.
- B. As a consequence of the agreement referred to in 1 above FEDFA and AMWU have further agreed to take all necessary action to:
  - (i) on the execution of this Deed of Trust transfer the Settled Sum to the Trustee to hold on the trusts and with and subject to the powers and provisions following;
  - (ii) actively promote and seek membership of the Fund from employers eligible to participate in the Fund.
- C. The Trustee has consented to become the Trustee hereof on the trusts and with and subject to the powers and provisions following.

## WITNESSES:

### 1. Definitions

- 1.1 Unless the subject matter or context requires otherwise, in this Deed including the Introduction, Schedules and Appendices (if any) the following words and expressions whether commencing with capital letters or not shall have the meanings respectively assigned to them below:

- (1) "Application Form and Deed of Adherence" means the form, a copy of which is **Schedule B** or such other form as may be prescribed from time to time by the Trustee;

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- (2) **"Appointor"** means the persons named or described in **Schedule C** and where there is more than one such person means those persons jointly;
- (3) **"Apprentice"** means an employee of an employer (other than a trainee) who is registered as an apprentice with the Victorian Learning and Employment Skills Commission and undertaking a course of training approved by that Commission;
- (4) **"Apprentice and Former Apprentice Payments Account"** means the account established under **clause 8.1**;
- (5) **"apprentice levy"** means the term referred to in **sub-clause 4.1(1)**;
- (6) **"Contract of Employment"** includes any agreement arrangement or understanding (and whether documented or not) under or pursuant to which a worker is employed by an employer and is or may become entitled to redundancy payments in accordance with its terms;
- (7) **"corporation"** means any body corporate, whether formed or incorporated within or outside the State of Victoria and includes any company;
- (8) **"this Deed of Trust"** means this Deed of Trust as amended, modified, varied by any amendments, modifications, alterations or variations lawfully made hereto;
- Y (9) **"employed in the Industry"** means, in relation to a worker, a person who is employed by an employer whose business or activities, in the opinion of the Trustee, relate to the Industry;
- (10) **"Former Apprentice"** means a person who has completed service under the terms of an indenture or has completed an approved course of training under a training agreement other than in engineering, construction projects or in cottage/housing industries;
- (11) **"Funded Apprentice"** means an apprentice in respect to whom a member has given notice to the Trustee under **clause 6A.1**.
- (12) **"Funded Apprentice Account"** means the account established by the Trustee in its books of account in respect to each Funded Apprentice, to be credited in accordance with **clause 6A.8**.
- (13) **"Fund No. 1"** means the Redundancy Payment Central Fund established by a Deed of Trust made 10 April 1989 (as subsequently amended) of which fund the Trustee is trustee;
- (14) **"Fund No. 1 Trust Deed"** means the Deed referred to in **paragraph (13)**;
- (15) **"Industry"** means:
- (a) the metal construction industry;
- (b) the metal contracting industry;
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- (c) the engineering construction industry;
  - (d) the engineering contracting industry; and
  - (e) any other industry nominated by the Trustee as an Industry for the purposes of this Deed of Trust;
- (16) **"member"** means a member of the Fund;
  - (17) **"participating Employers"** means those employers who have agreed to participate in the redundancy pay scheme;
  - (18) **"Reciprocating Fund"** means any other trust fund deemed by the Trustee to be a fund comparable to the Redundancy Payment Central Fund No. 2 which is authorised by its trust deed to transfer funds to the Redundancy Payment Central Fund No. 2 from time to time and to accept transfers of funds from the Redundancy Payment Central Fund No. 2 from time to time;
  - (19) **"redundancy payments"** means payments to be made to workers and apprentices pursuant to **clauses 6 and 7** of this Deed of Trust;
  - (20) **"Redundancy Pay Agreement"** means in respect to a worker or workers that worker's or those workers' Contract of Employment;
  - (21) **"redundancy pay contributions"** means the contributions to be made to the Fund by members;
  - (22) **"redundancy pay scheme"** means the redundancy pay scheme established under **clauses 2 to 7** of this Deed of Trust;
  - (23) **"Redundancy Payment Central Fund No. 2"** and **"Fund"** means the fund established by this Deed of Trust;
  - (24) **"securities"** means shares stock debentures debenture stock bonds notes funds option units and securities of any kind;
  - (25) **"Trainee"** means a worker (other than an apprentice) who is undertaking any course of training;
  - (26) **"Training Agreement"**, in relation to an apprentice, means the contract of training (as that expression is used in the Vocational Education and Training Act 1990) under which the apprentice's employer undertakes to train the apprentice;
  - (27) **"Settled Sum"** means the amount set out in **Schedule A**;
  - (28) **"Trust Fund"** means:
    - (a) the Settled Sum;
    - (b) redundancy pay contributions as may hereinafter be paid or transferred to and accepted by the Trustee as additions to the Trust Fund; and

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- (c) the investments and other property from time to time representing the said sums of money investments real and personal property or any part or parts thereof respectively;
  - (29) **"Trustee"** means Redundancy Payment Central Fund Ltd. or other trustee or trustees for the time being of this Deed of Trust whether additional or substituted;
  - (30) **"Union member"** means a member of one or more of the Unions
  - (31) **"Unions"** means FEDFA and AMWU;
  - (32) **"worker"** means an employee whom the employee's employer has agreed be treated as a worker for the purposes of this Deed of Trust by notifying the Trustee in such manner and form as is prescribed by the Trustee and includes a trainee, but does not include an apprentice;
  - (33) **"Worker's Account"** means the account established by the Trustee in its books of account in respect of each worker to be credited in accordance with **clause 4.1(2)**.
  - (34) **"year of income"** means the period from the date hereof to the next ensuing 30th June and thereafter each twelve (12) months ending on 30th June.

## **2. Membership of the Fund**

### **2.1 An employer shall be a member of the Fund Upon:**

- (1) completing the Application Form and Deed of Adherence or a form as near thereto as circumstances admit;
- (2) lodging the completed Application Form and Deed of Adherence with the Trustee; and
- (3) providing to the Trustee all of the information (if any) requested by the Trustee in any document which accompanies the Application Form and Deed of Adherence.

### **2.2 Upon completion of the matters referred to in clause 2.1 to the satisfaction of the Trustee, the employer shall become a member of the Fund and a participating employer and shall be bound by the terms and conditions of this Deed of Trust.**

### **2.3 Notwithstanding clauses 2.1 and 2.2:**

- (1) An employer shall be deemed to have completed an Application Form and Deed of Adherence and lodged such form with the Trustee if:
  - (a) at least twenty-one (21) days have elapsed since an Application Form and Deed of Adherence was forwarded to that employer; and



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- (b) that employer has not informed the Trustee in writing that that employer does not wish to become a member of the Fund.
- (2) Where an employer has not completed an Application Form and Deed of Adherence and lodged such form with the Trustee but has nevertheless made redundancy pay contributions to the Trustee in accordance with this Deed of Trust then the employer shall be deemed to be a member for the period or periods to which the payment of contributions relates or relate.
- 2.4 A member shall provide all information requested by the Trustee for the proper and efficient administration of the Fund within the time (if any) specified by the Trustee in making the request.
- 2.5 Despite anything else in this **clause 2**, the Trustee may in its discretion:
- (1) approve or reject any application from an employer to become a member of the Fund and a participating Employer; and
- (2) refuse to accept contributions from an employer, which, in its opinion, should not be admitted as a member of the Fund and as a Participating Employer and any contributions made by such an employer prior to being advised of the rejection of its application may, if so resolved by the Trustee, be refunded to that employer.
- 2A. Cessation of Membership**
- 2A.1 A participating Employer shall cease to be a member of the Fund and a participating Employer if the participating Employer is expelled from the Fund.
- 2A.2 If an allegation is made to the Trustee (and whether by a participating Employer, a worker or any other person) that a member of the Fund has:
- (1) persistently refused or neglected to comply with the provisions of this Trust Deed or any resolution or decision of the Trustee made under it; or
- (2) has persistently or wilfully acted in a manner prejudicial to the interests of any one or more of the industry, the Fund, any worker of the member, other participating Employers or workers ("**Relevant Conduct**");
- the Trustee must:
- (a) give notice of the Relevant Conduct to the member;
- (b) give the member at least 14 days after the service of the notice within which to make submissions (which may be written or oral or both) to the Trustee in connection with the Relevant Conduct;
- (c) take into consideration any submissions made by the member in connection with the allegation.
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- 2A.3 The Trustee may by resolution expel the member as a member of the Fund and as a participating Employer (or suspend the member from membership of the Fund) if, after considering the Relevant Conduct and any submissions made in connection with the Relevant Conduct, it is satisfied that the Relevant Conduct occurred.
- 2A.4 If the Trustee expels or suspends a member, the Trustee must within 7 days after that action is taken advise the member in writing of the action taken. The Trustee is not obliged to give any reasons for having taken that action.
- 2A.5 The decision of the Trustee is final and the member has no right of appeal or review.

### **3. Contributions to the Fund**

- 3.1 (1) A member shall make redundancy pay contributions to the Trustee in respect of each Worker of:
- (a) the amount agreed in or payable or contributable under and otherwise in compliance with any terms and conditions laid down from time to time by the Redundancy Pay Agreement; plus
  - (b) commencing 1 April 2005 the sum of 15 cents per week.
- (2) Where the Redundancy Pay Agreement does not deal with, or, in the opinion of the Trustee, adequately deal with a particular matter, the Trustee may at any time or times lay down and determine further or other terms and conditions in compliance with which one or some or all members (being the members to which the determination relates) shall make redundancy pay contributions.
- (3) In making a determination under **clause 3.1(1)(a)**, the Trustee is at liberty to have regard to such matters as it considers to be in the best interest of workers and members.
- (4) If the Trustee makes a determination under this clause the Trustee shall give each member as soon as practicable thereafter notice of the determination and the date on which it was made.
- (5) If there is any inconsistency between a determination made by the Trustee under this clause and the Redundancy Pay Agreement, the determination prevails.
- (6) A determination by the Trustee under this clause is binding on members to which it relates from the date on which it was made.
- 3.2 All contributions made by a member to the Fund become part of the Trust Fund.

### **4. Application of contributions**

- 4.1 The contributions to the Fund shall be applied as follows:

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- (1) 65 cents of each contribution shall be used as an industrial levy to provide benefits to apprentices and shall be credited to the Apprentice and Former Apprentice Payments Account; and
  - (2) subject to **clause 4.1(1)**, the balance of each contribution shall be credited to each worker's respective Worker's Account.

## **5. Payments of contributions**

- 5.1 Each member shall within 14 days after the end of each month pay contributions to the Trustee in accordance with **clause 3.1** for the contribution period covering the calendar month immediately preceding the due date for payment of the contributions.
- 5.2 Where a member does not pay contributions when required to do so under **clause 5.1**, the member shall be liable to pay to the Trustee all costs necessarily incurred by the Trustee in seeking to obtain, and obtaining, any unpaid contributions owing to the Trustee.
- 5.3 If a member fails to pay any amount to the Trustee on the due date for payment, that member must pay to the Trustee interest at the Default Rate on that amount, calculated and payable daily, computed from the due date until the amount is paid in full.
- 5.4 The Default Rate is (X+5% per annum) where X is the interest rate quoted by commonwealth Bank of Australia ("**Bank**") as its Overdraft Index Rate ("**Published Rate**") or, should there cease to be a Published Rate, the rate which the Bank designates as being an appropriate substitute for the Published Rate ("**Substitute Rate**"). A certificate signed by a manager or other officer of the Bank stating the Published Rate or the Substitute Rate at a particular date is conclusive evidence of the rate at the particular date.

## **6. Benefits payable to workers other than apprentices**

- 6.1 Where the employment of a worker is terminated for any reason then, upon the Trustee receiving a written request from the worker at or after the time of termination of employment in a form prescribed by the Trustee and the worker is still out of work at the time the worker submits the written request to the Trustee, the Trustee must pay to the worker such redundancy benefit as the Trustee determines to be appropriate having considered the relativity of the amount of the maximum contribution payable by a member of Fund No. 1 under and pursuant to the terms of the Fund No. 1 Trust Deed and the amount of the contributions to the Fund contributed in respect to that worker, provided always that:
  - (1) subject to clause 6.1(2), the redundancy benefit will not be less than one-half of the maximum initial payment benefit payable to a worker in like circumstances under Fund No. 1; and
  - (2) the redundancy benefit is no more than the amount standing to the credit of that worker in his or her Worker's Account as at the date the request is made.

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- 6.2 If a worker has remained out of work for four (4) consecutive weeks commencing the date after termination of his or her employment the worker shall be entitled to withdraw the balance (if any) of his or her Worker's Account after providing the Trustee with evidence that the worker is registered with the Commonwealth Employment Service.
- 6.3 Where a worker ceases to be employed in the Industry and the employment of that worker has terminated for any reason, the worker may withdraw the balance (if any) of his or her Worker's Account in a lump sum, thirty nine (39) weeks after the last contribution was paid on behalf of that worker.
- 6.4 Where a worker retires from the workforce and the employment of the worker has terminated for any reason the worker may withdraw the balance (if any) of his or her Worker's Account in a lump sum provided he or she is over fifty-five years of age.
- 6.5 For the purposes of this part the employment of a worker is not terminated if the worker is to be regarded as having been employed by one employer, within the meaning of **clause 6.6** or as having been continuously employed within the meaning of **clause 6.7**. The question whether the employment of a worker is or is not terminated must be determined by the Trustee. The Trustee must, in making a determination that the employment of a worker is not terminated:
- (1) give notice of the proposed determination to the worker;
  - (2) give the worker at least 7 days after the service of that notice to make submissions (which may be written or oral or both) to the Trustee;
  - (3) take into account any submissions made.

If the Trustee makes a final determination that the employment of a worker is not terminated, it must advise the worker of that determination.

Any determination by the Trustee under this clause is final and the worker has no right of appeal or review.

- 6.6 (1) This clause sets out several situations in which a worker is to be regarded, for the purposes of this part, as having been employed by the one employer, even though the worker may have worked over the relevant period of time for more than one employer in a strict legal sense.
- (2) If a worker is employed by a corporation, he or she is to be regarded as having been employed by that corporation during any period that:
- (a) he or she was employed by a related corporation of that corporation (within the meaning of the Corporations Law); or
  - (b) he or she was employed by another corporation and -
    - (i) the directors of that other corporation and the worker's present employer were substantially the same; or

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- (ii) that other corporation and the worker's present employer were under substantially the same management.
- (3) If the ownership of a business employing someone changes but the employment of the worker continues, the worker is to be regarded as having been employed by one employer from the date on which the worker started his or her employment with that business.
- (4) If for any reason the employment of a worker by the owner of a business terminates, but the ownership of the business changes and the Trustee believes that the new owner intends to employ the worker within 14 days after the termination, the worker is to be regarded as having been employed by the one employer from the date on which the worker first started employment at that business (unless the new owner does not so employ the worker).
- (5) If a worker performs duties in connection with any assets used in the carrying on of a business of his or her employer and those assets are transferred to another employer who continues the employment of the worker, the worker is to be regarded as having been employed by one employer from the date on which the worker started his or her employment at that business.
- (6) If a worker performs duties in connection with any assets used in the carrying on of a business of an employer and -
- (a) the employment of a worker by that employer terminates for any reason; and
  - (b) those assets are transferred to another employer; and
  - (c) the Trustee believes that the other employer intends to employ the worker within 14 days after the date of the termination to perform duties in relation to those assets, or other assets of a similar kind;
- the worker is to be regarded as having been employed by one employer from the date on which the worker first started employment at that business (unless the other employer does not so employ the worker).
- (7) In this clause -
- "assets" includes land, plant and equipment;
- "business" includes a trade, process or occupation and any part of a trade, process or occupation and also includes any part of a business;
- "transfer" includes a transmission, conveyance, assignment or succession, whether by agreement or by operation of law.
- 6.7 (1) This clause sets out situations in which a worker is to be regarded as having been continuously employed even though in a strict legal sense it could be said that the worker's employment was interrupted.

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- (2) A worker's employment is to be regarded as being continuous despite any interruption or ending of the employment by the employer or by the worker (or both) if the interruption or ending is not bona fide and is made with the intention (or with an intention which includes the intention) of creating an entitlement in the worker under this clause.
- 6.8 (1) The Trustee may at any time or times lay down and determine further or other terms and conditions consistent or inconsistent with the terms and conditions of this **clause 6** as to the entitlement of particular workers or of particular categories of workers to benefits.
- (2) In making a determination under **clause 6.8(1)** the Trustee is at liberty to have regard to such matters as it considers to be in the best interest of workers and members.
- (3) If there is any inconsistency between a determination made by the Trustee under this clause and this Deed, the determination prevails.
- (4) If the Trustee makes a determination under this clause the Trustee shall give each member as seen as practicable thereafter notice of the determination and the date on which it was made.
- (5) A determination by the Trustee under this clause is binding on members to which it relates from the date on which it was made.

#### **6A. Funded Apprentices**

- 6A.1 A member may give notice to the Trustee that the member will be making contributions to the Fund in respect of one or some apprentices ("Funded Apprentice").
- 6A.2 The notice must include at least:
- (1) the name(s) of the Funded Apprentice(s);
  - (2) their addresses and contact details;
  - (3) amount of contribution per week;
  - (4) date from which contribution payable;
  - (5) the year of the Funded Apprentice's training agreement which the Funded Apprentice is currently in (and its commencement date);
- 6A.3 A member giving notice under **clause 6A.1** must provide to the Trustee all other information requested by the Trustee for the proper and efficient administration of the Fund, within the time (if any) specified by the Trustee making the request.
- 6A.4 A member must only give a notice under **clause 6A.1** if the amount of the contribution per week which the member will make is at least the amount of the relevant percentage set out in **clause 7.5(2)** of the amount of the contribution per worker per

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week which a member is obliged to make under Part 3A of the Fund No. 1 Trust Deed.

- 6A.5 A notice under **clause 6A.1** once given in respect of a Funded Apprentice is irrevocable so long as the Funded Apprentice remains an apprentice, unless the Trustee consents otherwise (which the Trustee may or may not do at its discretion).
- 6A.6 A member giving notice under **clause 6A.1** must make contributions to the Fund per Funded Apprentice per week of the amount stated in the notice, adjusted from time to time as may be necessary to reflect the year of the Funded Apprentice's training agreement in which the Funded Apprentice is at those times.
- 6A.7 The provisions of **clauses 3 and 5** apply, with necessary changes, to the contributions to the Fund which a member is obliged to make under this clause.
- 6A.8 The Trustee must credit contributions made under this clause to each Funded Apprentice's respective Funded Apprentice Account.
- 6A.9 No benefits under **clause 7** accrue to an apprentice at any times during which that apprentice is a Funded Apprentice.
- 6A.10 Where the employment of a Funded Apprentice is terminated (which includes that Funded Apprentice's training agreement being terminated), the provisions of **clauses 6 and 12** apply to that Funded Apprentice, but on the basis that:
- (1) references to "worker" were references to the Funded Apprentice; and
  - (2) references to Worker's Account were references to the Funded Apprentice's Funded Apprentice Account,
- and with other necessary changes.
- 6A.11 Any decision or determination of the Trustee as to the existence or extent of the entitlement of a Funded Apprentice under this clause is binding on the Funded Apprentice to whom it relates.
- 6A.12 If a Funded Apprentice becomes a worker, the Trustee must transfer the balance standing to the credit of that Funded Apprentice's Funded Apprentice Account to his or her Worker's Account.

## **7. Payments to Apprentices**

- 7.1 Subject to **clauses 7.2 and 7.3**, no benefit shall be payable to an apprentice who does not complete his or her training agreement and a further 12 months (or some lesser period as determined by the Trustee in its absolute discretion) within the industry in a career path recognized by the Trustee.
- 7.2 Where a training agreement is cancelled because of "work shortage" which requires an Industrial Training Council of Victoria Supervisor to be involved, the apprentice shall be entitled to be paid a redundancy benefit accumulated and calculated in accordance with the scale set out in **clause 7.5 and clause 7.6**.

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7.2A Where:

- (1) the training agreement of an apprentice is cancelled or terminated; or
- (2) the employment of a worker being a former apprentice is terminated before that worker has completed a further 12 months within the industry,

and the Trustee is satisfied that the cancellation or termination arises out of the bona fide redundancy of that apprentice or worker in accordance with **clause 7.14**, he or she shall be entitled to be paid a redundancy benefit accumulated and calculated in accordance with the scale set out in clauses **7.5** and **7.6**."

7.3 Where a training agreement is terminated for any other reason the Trustee has an absolute discretion as to what benefit, if any, will be paid to the apprentice or former apprentice, if a claim is made by the apprentice or former apprentice because of extenuating circumstances.

7.4 No benefit is payable as a consequence of a transfer of the training agreement of an apprentice from one member to another.

7.5 (1) Any amount payable to an apprentice shall be determined as a percentage of the contributions which a member was obliged to make in relevant a year (less the apprentice levy) under **clause 3.1**, and shall be calculated in accordance with **clause 7.6**.

(2) The percentage rate applicable for determining the amount payable to the apprentice shall be the following percentages of the aggregate of the contributions which a member was obliged to make in a relevant year (less any apprentice levy):

First Year	50%
Second Year	50%
Third year	75%
Fourth Year	95%

7.6 A benefit payable to an apprentice shall be calculated by reference to:

- (1) the relevant year or years of the training agreement;
- (2) the relevant contribution rate or rates (excluding any apprentice levy) applicable in any of those years; and
- (3) the percentage or percentages (applying to the relevant year or years of the training agreement) of the relevant contribution rate or rates (excluding any apprentice levy), referable to the number of days in the relevant year for which the apprentice was credited in the books of the Trustee with any of working on a commercial/industrial building site or paid leave or attending a trade school.



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- 7.7 Subject to **clauses 7.1, 7.2 and 7.3**, a benefit accumulated during a period of apprenticeship will be available to a worker being a former apprentice where the employment of that worker is terminated.
- 7.8 The details of the circumstances giving rise to the cancellation of an apprentice's training agreement or the termination of employment of a worker who was a former apprentice (as the case may be) shall be promptly provided by the member being the immediate past employer of the apprentice or the worker when requested to do so by the Trustee.
- 7.9 The benefit (if any) to which an apprentice is entitled under **clauses 7.2 and 7.3** shall be paid by the Trustee at the time of termination of the training agreement and at the relevant percentage applicable to the year of termination of the training agreement, as set out in **clause 7.5(2)** applied to the amount prescribed in **clause 6.1(1)**, or such lesser amount as is calculated in accordance with **clauses 7.5 and 7.6**.
- 7.10 If an apprentice is still out of work after four (4) consecutive weeks and the amount (if any) paid to the apprentice under either **clause 7.9** or **clause 7.14** was less than the amount calculated in accordance with **clauses 7.5 and 7.6** then the apprentice shall be entitled to be paid by the Trustee an amount equal to the difference between the two (2) amounts provided that the Trustee is provided with evidence that the apprentice is registered with the Commonwealth Employment Service before allowing a withdrawal.
- 7.11 In all cases, credits for an apprentice accrue only for the time spent on sites of members, attendance at school and on paid leave.
- 7.12 The commencement date for accrual of benefits for an apprentice will be from the date the employer of the apprentice joined the Fund, or 12 months from the date of this Deed of Trust whichever is later.
- 7.13 This clause is subject to **clause 6A**.
- 7.14 (1) An application for a payment under **clause 7.2A** shall be in writing on a form prescribed by the Trustee.
- (2) For the purposes of **clause 7.2A**, the cancellation or termination of the training agreement of an apprentice or the termination of a worker will be taken not to arise from the bona fide redundancy of that person (redundant person) unless:
- (a) the cancellation or termination date is before;
    - (i) the date the redundant person attained 65 years of age; and
    - (ii) an earlier date on which the redundant person's employment would necessarily have had to terminate under the terms of his or her training agreement or employment;
  - (b) there is, at the cancellation or termination date, no agreement, arrangement or understanding whether formal or informal, expressed or implied or whether or not enforceable or intended to be, between the

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redundant person and his or her employer, or between that employer and another person, to employ the redundant person after that date;

- (c) the cancellation or termination is not on account of any personal act or default of the redundant person; and
  - (d) the cancellation or termination was initiated and implemented by the employer.
- (3) If the employer of the redundant person provides a certificate to the Trustee in terms or to the effect that the employer HAS OR had a surplus of employees or apprentices to carry out specific types of work or to carry out work at a particular place and the termination arose from that excess capacity, the Trustee is entitled to determine that the cancellation or termination of the training agreement of, or the termination of the employment of, the redundant person has arisen from his or her bona fide redundancy.
- (4) The Trustee may but is not obliged to make a positive determination about the bona fide redundancy of a redundant person in any particular case, or to justify a negative determination.
- (5) The redundancy benefit to which a redundant person is entitled under **clause 7.2A** shall be paid by the Trustee at the time of cancellation or termination and at the relevant percentage applicable to the year of termination of the training Agreement, as set out in **clause 7.5(2)** applied to the amount prescribed in **clause 6.1(1)**, or such lesser amount as is calculated in accordance with **clauses 7.5 and 7.6**.

## **8. Apprentice and Former Apprentice Payments Account**

- 8.1 The Trustee shall establish a separate account in its books of account to be called an "Apprentice and Former Apprentice Payments Account" and this account shall have recorded in it the payments received by the Trustee pursuant to **clause 4.1(1)** and from the Unions pursuant to **clause 8.2** and the payments made to apprentices or a worker who was a former apprentice by the Trustee in accordance with **clauses 7.2, 7.3 or 7.7**.
- 8.2 Both the Unions hereby agree that within five (5) days of a request having been made to each of them by the Trustee for funds necessary to enable the Trustee to pay an apprentice, or a former apprentice (as the case may be) a payment pursuant to **clauses 7.2, 7.3 or 7.7** they shall pay the amount so requested to the Trustee PROVIDED that neither FEDFA or AMWU shall be liable to pay to the Trustee an amount in excess of the aggregate amount or the income of the Fund applied to it under **clause 14**.
- 8.3 (1) If:
- (a) 2 years have elapsed from the date on which a member last lodged a return with the Trustee in respect of an apprentice which disclosed time spent on any of:

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- (i) commercial/industrial sites of the member;
  - (ii) attendance at school; or
  - (iii) paid leave,
- by the apprentice; and

- (b) the Trustee having taken all steps which, in the opinion of the Trustee, are reasonable and necessary to locate that apprentice (including posting to the last known address of that apprentice a notice that the apprentice may be entitled to a payment or may have accrued a contingent entitlement to a payment from the Apprentice and Former Apprentice Payments Account and requesting the apprentice to contact the Trustee) is unable to do so,

then, upon the Trustee resolving that the apprentice cannot be located, the entitlement of the apprentice to any payment to which the apprentice may have otherwise been entitled or contingently entitled ends, and any payment to which the apprentice may have been entitled or contingently entitled remains part of, and to the extent necessary is forfeited to, the Apprentice and Former Apprentice Payments Account PROVIDED HOWEVER that the Trustee and FEDFA and AMWU may agree to deal with the entitlement or the amount of any forfeited entitlement in any other manner.

- (2) **Clause 8.3(1)** applies despite any other provision of this Trust Deed, and whether or not the apprentice thereafter becomes entitled (absolutely or contingently) to any payment from the Fund as an apprentice or as a worker.

## **9. Declaration of Trust**

- 9.1 The Unions HEREBY JOINTLY AND SEVERALLY DECLARE that the Trustee shall and the Trustee HEREBY DECLARES that it will from this day stand possessed of the Trust Fund and the income thereof and the Apprentice Payments Account on the trusts and with the subject to the powers and provisions contained in this Deed.

## **10. Name of Trust**

- 10.1 The Trust created by this Deed is to be known as **Redundancy Payment Central Fund No. 2.**

## **11. Application of the Trust Fund**

- 11.1 Subject to the provisions of this Deed of Trust the Trust Fund shall be maintained exclusively for making redundancy payments to workers and apprentices pursuant to **clauses 6 and 7** respectively, and to Funded Apprentices under **clause 6A.8.**
- 11.2 The Trustee shall establish a Worker's Account in its books of account in respect of each worker to be credited in accordance with **clause 4.**

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- 11.3 Where a worker becomes entitled to a redundancy payment then the Trustee shall deal with such an entitlement in accordance with the provisions of **clause 6**.
- 11.4 The Trustee must establish a Funded Apprentice Account in its books of account in respect of each Funded Apprentice to be credited in accordance with **clause 6A**.
- 11.5 Where a Funded Apprentice becomes entitled to a redundancy payment, the Trustee must deal with such an entitlement in accordance with the provisions of **clause 6A**.
- 11.6 The Trustee's liability to make any one or more redundancy or other payments to a worker or Funded Apprentice shall be limited to the amount standing to the credit of that particular worker's Workers Account or Funded Apprentice's Funded Apprentice Account.

## **12. Forfeited Benefits**

### **12.1 If:**

- (1) 2 years have elapsed from the date on which a member last made a contribution in respect of a worker; and
- (2) the Trustee, having taken all steps which, in the opinion of the Trustee, are reasonable and necessary to locate the worker (including posting to the last known address of the worker a notice that the worker may be entitled to a redundancy payment from the Fund and requesting the worker to contact the Trustee) is unable to do so,

then, upon the Trustee resolving that the worker cannot be located:

- (a) the balance standing to the credit of that worker's Worker's Account is forfeited to the Fund and within 6 months after that one half of the forfeited balance shall be transferred by the Trustee from the Trust Fund to FEDFA absolutely and the other half shall be transferred by the Trustee from the Trust Fund to AMWU absolutely PROVIDED HOWEVER that the Trustee and FEDFA and AMWU may at any time agree to deal with any forfeited balance in any other manner; and
- (b) any entitlement or contingent entitlement of the worker to any payment, accumulated during the worker's apprenticeship, ends and any payment to which the worker may have been entitled or contingently entitled because of his or her apprenticeship remains part of, and to the extent necessary is forfeited to, the Apprentice and Former Apprentice Payments Account provided however that the Trustee and FEDFA and AMWU may agree to deal with the entitlement or the amount of any forfeited entitlement in any other manner.

## **13. Transfers of Funds from and to Reciprocating Funds**

- 13.1 The Trustee on receiving a written request from an employee covered by a Reciprocating Fund together with a written request from the Trustee of the

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Reciprocating Fund may make or carry into effect an arrangement with the Trustee of the Reciprocating Fund whereby the entire sum standing to the credit of that particular employee in the Reciprocating Fund shall be transferred from the Reciprocating Fund and paid into or transferred to the Fund.

- 13.2 The Trustee may on receiving a written request from a worker in the following form or to the effect of the following:

The Trustee  
Redundancy Payment Central Fund No. 2 ("the Fund")

REQUEST TO TRANSFER WORKER'S ACCOUNT BALANCE TO A  
RECIPROCATING FUND

I \_\_\_\_\_ of \_\_\_\_\_ being a worker as defined by the Fund's  
Trust Deed hereby request that the entire balance standing to the credit of my  
Worker's Account in the Fund forthwith be transferred to the  
Fund which is a Reciprocating Fund located at \_\_\_\_\_

SIGNED \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ .

SIGNATURE

transfer the entire amount standing to the credit of that worker's Worker's Account to the Trustee of a Reciprocating Fund provided however that the Trustee of the Reciprocating Fund consents to the transfer of the amount.

- 13.3 The receipt by the Trustee of the Reciprocating Fund of the amount transferred to the Reciprocating Fund pursuant to **clause 13.2** shall be a complete discharge to the Trustee in respect of any liability the worker or persons claiming through the worker may have in relation to the amount transferred.

**14. Application of Income of the Trust Fund**

- 14.1 Subject to the provisions of this Deed of Trust, the income of the Trust Fund for the year of income shall be applied firstly in meeting all outgoings, expenses, losses and damages incurred or suffered in the administration and conduct of the Fund or in any way related thereto by the Trustee and the net income of the Fund then remaining shall be applied as follows:

- (1) one-half to FEDFA; and
- (2) one-half to AMWU.

- 14.2 The net income of the Fund shall be apportioned in accordance with **clause 14.1** and credited to or paid to the parties as soon as practicable after the end of each year of income but in any case no later than three (3) months after the end of each year of income.

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**15. Investment and Other Powers of the Trustee**

- 15.1 The Trustee shall have all of the powers and discretions conferred upon a trustee by law and in particular may invest all monies and other property becoming part of the Trust Fund in the manner authorised by the Trustee Act 1958 of the State of Victoria or similar or equivalent legislation applying in any State or Territory as amended or re-enacted from time to time.
- 15.2 In addition to the investment powers conferred on the Trustee under **clause 15.1** and the powers conferred on trustees by law, the Trustee has the powers relating to:-
- (1) investments; and
  - (2) undertaking activities in the best interests of the Industry in Victoria
- as set out in **Schedule D**.
- 15.3 The Trustee may pay out of the income of the Trust Fund all charges costs and expenses incidental to the establishment and management of the Fund or to the exercise of any power authority or discretion herein contained or carrying out or performing the trusts hereof which the Trustee may at any time incur including costs in any way connected with the preparation and execution of this Deed, all stamp duty settlement duty revenue duty or any other impost or money of whatever nature payable in respect of this Deed or in respect of any money or investment paid or transferred to the Trustee upon the trusts hereof and whether under the laws of the Commonwealth of Australia or any of the States or Territories.
- 15.4 The Trustee may determine whether any real or personal property or any increase or decrease in amount number or value of any property or holding of property or any receipt or payment gain or loss from for or in connection with any real or personal property shall be treated as and credited or debited to the Trust Fund or to income of the Trust Fund and generally to determine all matters as to which any doubt difficulty or question may arise under or in relation to the execution of the trust and powers of this Deed.
- 15.5 The Trustee may receive property by gift inter vivos or by will and under the provisions of any other trusts or otherwise and from any person as an addition to the Trust Fund and shall hold the same upon the trusts herein set forth and shall administer such additions under the provisions hereof.
- 15.6 The Trustee may permit any asset of the Trust Fund to be held or registered in the name of any nominee of the Trustee or of the Trustee and other persons and may deposit securities deeds and other documents belonging to the Fund with any Bank.
- 15.7 A Trustee may become a director of or appoint a person to act as a director on its behalf of a corporation in which money forming part of the Trust fund is from time to time invested and may receive the remuneration attached to that office or permit its representative to receive the remuneration without being liable to account to the trust therefore and that representative may become qualified to act as a director (if the Articles so allow) by the holding in the representative's name of shares forming part of the Trust Fund provided that the representative executes a declaration of trust thereof in favour of the Trustee generally and lodges it and the certificates for the shares with

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the Trustee and accounts to the trust for all dividends and bonuses payable in respect thereof.

- 15.8 The Trustee may exercise or concur in exercising all powers and discretions hereby or by law given notwithstanding that it or a person being a Trustee or a director or member of a Trustee hereof being a corporation has or may have a direct or personal interest in the mode or result of exercising that power or discretion or may benefit either directly or indirectly as a result of the exercise of that power or discretion and notwithstanding that the Trustee for the time being is the sole Trustee.

**16. Trustee May Engage Agents etc.**

- 16.1 The Trustee shall not be bound in any case to act personally but shall be at full liberty to engage a contractor manager solicitor accountant clerk workman employee servant or agent to transact all or any business of whatever nature required to be done in respect of the affairs of the Fund including the receipt and payment of money and the Trustee shall in its discretion determine the remuneration to be allowed and paid and the charges and expenses to be reimbursed to a person so engaged.

**17. Trustee's Discretion Absolute**

- 17.1 Subject to any express provision to the contrary herein contained, every discretion vested in the Trustee shall be absolute and uncontrolled any may be exercised without the Trustee assigning any reason therefore and every power vested in it shall be exercisable in its absolute discretion and the Trustee shall have the like discretion in deciding whether or not to exercise any such power.
- 17.2 No Trustee shall be responsible for any loss or damage occasioned by the exercise of any discretion or power hereby or by law conferred on the Trustee or by failure to exercise any such discretion or power or for any loss or damage occurring as a result of concurring or refusing or failing to concur in any exercise of any power or discretion.

**18. Receipts by Trustee**

- 18.1 The receipt in writing of the Trustee for all money or other real or personal property paid or transferred to the Trustee or the Trust Fund shall effectively discharge the person or authority paying or transferring the same from being concerned to see to the application thereof.

**19. Trustee Not Personally Liable**

- 19.1 The Trustee shall not be personally liable for the consequences of any error or forgetfulness whether of law or of fact on the part of the Trustee or its legal or other adviser or for any breach of duty or trust whatsoever unless it is proved to have been committed made or omitted in personal conscious fraudulent bad faith by the Trustee charged to be so liable and accordingly all persons claiming any interest shall be

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deemed to claim with notice of and subject to the protection hereby conferred on the Trustee.

**19A. Trustee Indemnity**

- 19A.1 The Trustee is entitled to be fully indemnified out of the Trust Fund against liabilities incurred by the Trustee by virtue of being the Trustee of this Deed of Trust or the Fund.
- 19A.2 The Trustee is not entitled to be indemnified by any beneficiary personally in respect of any liabilities incurred by the Trustee in the administration of the Fund.
- 19A.3 The Trustee is entitled to be reimbursed from the Trust Fund for all money expended and debts incurred in or about the administration of the Fund.
- 19A.4 The Trustee may apply to the Trust Fund to satisfy the rights of reimbursement or indemnity to which the Trustee is entitled.

**20. Trustee's Power of Delegation**

- 20.1 Where there are more trustees than one they shall act jointly and may in any case in writing delegate the exercise of all or any of the powers or discretionary authorities hereby conferred on the Trustee to one or more of their number and execute any power of attorney or other instrument necessary to effectuate that delegation.

**21. Sole Trustee**

- 21.1 Despite the provisions of the Trustee Act 1958 a trustee may be discharged from its trust although there will remain or be appointed in its place a sole trustee other than the Public Trustee or a trustee company under the Trustee Companies Act 1958. A sole Trustee hereof is hereby authorised notwithstanding that it is the sole Trustee to receive capital and other monies and to give valid and effectual receipts therefore for all purposes and for the purposes of any statutory enactments including the receipt of money which may or may be deemed to be capital money for the purpose of any statute.

**22. Professional Remuneration**

- 22.1 A Trustee or a director of a Trustee which is a corporation who is a solicitor or accountant or a firm of which the Trustee or director of a Trustee corporation is a member shall be entitled to make all usual and proper charges which that person would have been entitled to make if not a Trustee or director for both that person's professional and other services in the administration of the trusts hereof and for that person's time and trouble.



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**23. Advances by FEDFA or AMWU to the Fund**

- 23.1 FEDFA or AMWU or both shall, with the consent of the other party, advance any sum or sums of money to the Trustee under conditions agreed to by both parties and the same shall be a debt due from the Trustee to the party advancing the same and interest shall be payable on the amount so advanced at such rate (if any) agreed upon between the parties.
- 23.2 The interest (if any) payable on any amount so advanced under the terms of **clause 23** shall be payable quarterly and computed on a daily basis from the date the advance is made during the continuance of the loan.

**24. Fund Accounts**

- 24.1 The Trustee shall open and maintain an account or accounts at such bank or banks as the Trustee may from time to time determine and the Trustee shall pay into such account or accounts all monies which come into its hands. The Trustee shall determine who shall be entitled to operate on such account or accounts.
- 24.2 As soon as practicable after the end of each year of income during the continuance of the Fund and upon the date of determination of the Fund, a general account and valuation shall be taken and made up to the end of the year of income of the assets, credits, property, effects, debts and liabilities of the Fund and of all transactions matters and things usually comprehended in a general account of a like nature. Every such account and valuation shall be balanced agreed to and signed by the Trustee. When such account and valuation are signed by the Trustee a copy of such account and valuation shall be provided to each of the parties and to the members and they shall be binding on the parties and members except that if any manifest error therein be detected and pointed out by a party or member to the Trustee within twelve (12) months of the signing thereof then such error shall be rectified forthwith.
- 24.3 The general account and valuation up to the end of each year of income shall be audited by the firm of A. H. G. Clarke and Co., of 14th Floor, 114 William Street, Melbourne or such other firm of Chartered Accountants as may be appointed by the Trustee from time to time.

**25. Determination and Winding up of the Fund**

- 25.1 Subject to the provisions of this Deed of Trust the fund shall continue indefinitely.
- 25.2 Notwithstanding **clause 25.1** a party (the "**proposer**") may at any time by notice in writing to each of the other parties request that each of the other parties consent to the dissolution or determination of the Fund. Each of the other parties shall have six (6) months from the date of service of the notice in which to consider the request and notify the proposer of their decision. If a party fails to notify the proposer of its decision then it shall be deemed to have agreed to the proposed dissolution or determination of the Fund. If the parties unanimously agree the Fund will be determined or dissolved upon the expiration of six (6) months after the unanimous agreement to dissolve or determine the Fund has been reached.

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- 25.3 Upon the determination or dissolution of the Fund a full and general account in writing shall be taken of all assets, credits, property, effects, debts and liabilities and of all transactions, matters and things usually comprehended in a general account of like nature then belonging to or due to or owing by the Fund and a proper valuation shall be made of all the particulars included in such account which require and are capable of valuation and immediately after such last mentioned account shall have been taken and settled all the debts, assets and effects then belonging to or due to the Fund shall be realised and sold to the best advantage and the monies arising from such sale and all other monies of the Fund shall be applied in the following manner:

Firstly - in payment of the costs and expenses of the winding up of the Fund and realising its assets;

Secondly - in the payment of the debts and liabilities of the Trustee including any debts owing by the Trustee to any of the parties or members;

Thirdly - the surplus of the monies shall be transferred to one or more other redundancy pay schemes operating at the time of the determination or dissolution of the Fund and the Trustee shall, upon the request of a member, take all necessary steps on behalf of that member to transfer that member's membership of the Fund to such one or more other redundancy pay schemes nominated by the member on the same or similar terms or conditions as set out in this Deed.

- 25.4 If at the time of determination or dissolution of the Fund there is no other redundancy pay scheme in existence then the surplus of the monies shall be transferred and distributed as follows:

(1) one-half to FEDFA; and

(2) one-half to AMWU

- 25.5 On termination or dissolution of the Fund each party and each member shall execute such release or releases to the other parties from all claims on account of the Fund as is usual in such cases.

## **26. Retirement of Member**

- 26.1 The participation of a member in the Fund may be terminated upon the member giving twelve (12) month's notice in writing to the Trustee of its intention to cease participation in the Fund provided the member is not in arrears in respect of its contributions.

- 26.2 The Trustee shall only accept such termination if it is satisfied that the member is not terminating its membership for the purpose of joining a similar fund to the Fund.

- 26.3 The participation in the Fund by such a member shall cease as from the expiration of the twelve (12) month notice period.

- 26.4 In the event of the termination of the participation of a member in the Fund:

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- (1) no further workers of that retiring member shall be admitted to the Fund; and
  - (2) no further contributions shall be made by the member except contributions which were due on or before the date of cessation as a member.

26.5 Notwithstanding that an employer shall have previously ceased to be a member that employer shall apply to be readmitted as a member and shall comply with all of the requirements of **clause 2.1**.

## **27. Retirement Removal and Appointment of Trustee**

- 27.1 The power to appoint a new Trustee in the place of an existing Trustee or in addition to and jointly with an existing Trustee and the power to remove a Trustee is, subject to the following provisions of this clause, vested in the Appointor.
- 27.2 The power and authority vested in the Appointor by this clause may at any time be relinquished by written notice given to the Trustee.
- 27.3 If at any time no person has the power to appoint a new Trustee or an additional Trustee, the power will be vested in the Trustee and on and from the death of the Trustee or the death of the last survivor of the Trustees if more than one then in his or her legal personal representative.
- 27.4 Where a Trustee or an additional Trustee is appointed under this clause, the Trust Fund will at that time vest in the person or jointly in the persons who would be the Trustee without the necessity for any vesting, declaration, transfer, conveyance or other assurance.
- 27.5 The appointment or removal of a Trustee must be in writing, and where the Trustee is a corporation must be approved by resolution of its directors. Nothing in this Deed is to be taken as limiting the right to appoint a corporation or a resident of a place outside Victoria or Australia as a Trustee.
- 27.6 On the resignation, retirement or removal of a Trustee, the Trustee will hand to the new Trustee all books, records, documents and other material pertaining to the Trusts.
- 27.7 If at any time there is no Appointor entitled to exercise the power of appointment, a sole surviving Trustee shall not resign except upon appointing a new Trustee in its place.

## **28. Arbitration**

- 28.1 If there is a dispute between the Unions, the Trustee or any members of the Fund concerning the interpretation and operation of **clauses 25.3, 25.4 or 25.5** the disputing parties may give written notice of the dispute to each other (the "**notice**") which shall state that it is a notice under this clause and shall specify the dispute concerned (the "**dispute**").

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- 28.2 If the dispute is not settled by agreement within twenty-one (21) days of service of the notice, the dispute shall thereby be referred to arbitration in Melbourne by a single Arbitrator appointed by agreement by the parties to the dispute, and if they fail to agree by the Chairman of the Victorian Chapter of the Institute of Arbitrators Australia or the person acting in that capacity acting on the request of one or more of the parties to the dispute.
- 28.3 An arbitrator shall not be a present or former shareholder, member, officer employee or agent of either the Unions, the Trustee or a member.
- 28.4 The arbitration shall be conducted in accordance with the Victorian Commercial Arbitration Act 1984 except that:
- (1) the Arbitrator shall observe the rules of natural justice and the rules of evidence;
  - (2) the parties to the dispute may be represented by qualified legal practitioners or other representatives;
  - (3) the Arbitrator shall include in the arbitration award the findings on material questions of law and of fact, including references to the evidence on which the findings of fact were based; and
  - (4) the parties to the dispute consent to an appeal to the Supreme Court of Victoria on any question of law arising in the course of the arbitration or out of the arbitration award.

## **29. Amendments to this Deed**

- 29.1 The parties to the Deed may at any time and from time to time by deed add to, vary or revoke all or any of the terms of this Deed of Trust or the terms of this Deed of Trust as previously added to, varied or revoked from time to time and without limiting the generality of this power may by the same or any deed or deeds declare any new or other powers or discretions for the administration and operation of the Fund PROVIDED HOWEVER that any addition, variation or revocation shall not affect the beneficial entitlements of the Unions and the members.
- 29.2 Where this Deed of Trust is so altered the Trustee shall give to each member as soon as practicable thereafter a statement in writing explaining the nature and purpose of the alteration.

## **30. Notices**

- 30.1 A notice or other communication required or permitted to be given by a party to another shall be in writing and:
- (1) delivered personally; or
  - (2) sent by post, postage prepaid, to that party's address set out in this Deed or as notified to each party from time to time.

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30.2 A notice or other communication is deemed given if:

- (1) personally delivered, upon delivery;
- (2) mailed, on the expiration of two business days after posting.

### **31. Governing Law**

- 31.1 The law of this Agreement is the law of Victoria and the Commonwealth of Australia.
- 31.2 The parties submit themselves to the jurisdiction of the Courts of Victoria and the Commonwealth of Australia for all proceedings arising from this Agreement.

### **32. Costs**

- 32.1 The costs and disbursements of and incidental to the negotiation, preparation, execution, stamping and registration of this Deed, and all other documents and matters referred to in this Deed, are payable by the Trustee.

### **33. Interpretation**

- 33.1 The singular includes the plural and the plural includes the singular.
- 33.2 A reference to a person includes a reference to a firm, corporation or other corporate body.
- 33.3 A reference to writing includes a reference to printing, typing and other methods of producing words in a visible form.
- 33.4 Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have corresponding meanings.
- 33.5 Headings are for ease of reference and do not affect the construction of this Deed.
- 33.6 In the case of the Unions this Deed binds them jointly and each of them severally.
- 33.7 This Deed binds in addition to the parties, their respective legal personal representatives and successors.

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**EXECUTED AS A DEED.**

**THE SEAL of CONSTRUCTION FORESTRY )  
MINING ENERGY UNION (FEDERATED )  
ENGINE DRIVERS AND FIREMAN'S )  
ASSOCIATION VICTORIAN) DIVISION )  
BRANCH) was duly affixed to this document )  
in accordance with its Constituent )  
Documents in the presence of: )**

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President

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Secretary

**THE SEAL of AUSTRALIAN )  
MANUFACTURING WORKERS' UNION )  
was duly affixed to this document in )  
accordance with its Constituent Documents )  
in the presence of - )**

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President

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Secretary

**THE COMMON SEAL of REDUNDANCY )  
PAYMENT CENTRAL FUND LTD )  
ACN 007 133 838 was affixed to this )  
document in accordance with its Articles of )  
Association in the presence of: )**

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Director

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Director/Secretary

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### SCHEDULE A

The Settled Sum is the amount of \$20.00 consisting of the following amounts:

- |    |                      |         |
|----|----------------------|---------|
| 1. | Transferred by FEDFA | \$10.00 |
| 2. | Transferred by AMWU  | \$10.00 |

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**SCHEDULE B**  
**APPLICATION FOR MEMBERSHIP**



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## SCHEDULE C

### Appointor:

1. The Secretary of FEDFA
2. The Secretary of AMWU
3. John Arundel Stewart Glasson of C/- The Trustee, 80 Drummond Street, Carlton.

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**SCHEDULE D**  
**ADDITIONAL POWERS**

**Investment Powers**

- (1) To deposit moneys or other property with:-
- (a) a bank;
  - (b) an authorised dealer;
  - (c) a money market corporation, in Australia, which deposit is secured by a mortgage of securities of a market value at the time of the deposit of not less than the amount of the deposit; and
  - (d) the common fund of a trustee company which is invested solely in trustee securities pursuant to the Trustee Act 1958 of Victoria or equivalent legislation.
- (2) To purchase or subscribe for:
- (a) any securities of, or guaranteed by:-
    - (i) the Commonwealth;
    - (ii) a State or Territory of the Commonwealth; and
    - (iii) a government of an overseas country.
  - (b) any securities of:-
    - (i) a public body constituted by or under a law of the Commonwealth, or of a State or Territory of the Commonwealth; and
    - (ii) a public body established by or under the laws of a recognised country provided that money of the Fund may not be used pursuant to this investment Power 2(b)(ii) to purchase or subscribe for the securities of a public body established by or under the laws of a recognised country unless:
      - (A) the securities are guaranteed by the recognised country by or under whose laws it is established; or
      - (B) the public body issuing the securities has at the time of purchase or subscription of the securities a long term US rating not less than AA if taken from Moody's Investor Service or AA if taken from Standard & Poor's Corporation.
  - (c) any securities of, or any shares or any right or option in respect of shares in:

- 
- (i) a corporation whose shares are listed, or due to be listed, on the Australian Stock Exchange Limited;
    - (ii) a corporation whose shares are listed on an overseas stock exchange;
  - (d) any certificate of deposit issued by a bank whether negotiable, convertible or otherwise;
  - (e) any bill of exchange that has been accepted or endorsed by a bank;
  - (f) any right or interest of a beneficiary or unitholder under a trust arrangement provided that the prior approval of the Board must be sought where the trust arrangement to be acquired pursuant to this Investment Power 2(f) does not comprise investments in which the authority is authorised to invest.
- (3) To provide financial accommodation secured by:-
- (a) a guarantee issued by the Commonwealth, or a State or Territory of the Commonwealth;
  - (b) a guarantee issued by a bank;
  - (c) an irrevocable documentary letter of credit established or confirmed by a bank in terms of the International Chamber of Commerce's Articles of Uniform Customs and Practice for Documentary Credits, which provides the authority with full recourse to the establishing or confirming bank;
  - (d) a first ranking mortgage of an estate in fee simple, or of a leasehold interest in land in Australia.
- (4) To purchase land in Australia or an estate or interest in any land in Australia.
- (5) To enter into a financial lease transaction provided that the lessee under a financial lease transaction entered into pursuant to this Investment Power (5) must be:
- (a) a body incorporated in Australia which either has at the time of entering into the financial lease transaction a medium term rating not less than AA provided by Australian Ratings Pty. Ltd., or is a body approved by the Board for the purposes of this Investment Power (5) or
  - (b) a public body constituted by or under the law of the Commonwealth or a State or Territory of the Commonwealth, and the obligations of that public body to which the Board has recourse must be guaranteed by the Commonwealth or a State or Territory of the Commonwealth.
- (6) To purchase or enter into the following types of futures contracts:
- (a) contracts for the purchase or sale of Treasury bonds or bank accepted bills of exchange which are traded on the Sydney Futures Exchange and options on such contracts.

- 
- (b) contracts for the payment or receipt of money calculated by reference to movement in the all ordinaries share price index, which are traded on the Sydney Futures Exchange and options on such contracts.
  - (c) contracts for the payment or receipt of money calculated by reference to the movement in the share price index of a major overseas economy and options on such contracts.
  - (d) options over the Morgan Stanley Capital International World Equities Index.
- (7) To enter into any of the following types of contracts or other arrangements for the purpose of managing, lessening, hedging or protecting against movements in currency exchange rates, interest rates, discount rates, values or prices in relation to any investment:-
- (a) contracts for the purchase or sale of bank accepted bills of exchange which are traded on the Sydney Futures Exchange, and options on such contracts;
  - (b) contracts for the purchase or sale of Treasury bonds which are traded on the Sydney Futures Exchange and options on such contracts;
  - (c) contracts for the payment or receipt of money calculated by reference to movement in the all ordinaries share price index, which are traded on the Sydney Futures Exchange, and options on such contracts;
  - (d) forward exchange transactions in foreign currencies;
  - (e) forward rate agreements; and
  - (f) currency swap contracts in foreign currencies.
- (9) Undertaking activities in the best interests of the Industry in Victoria:
- (a) To determine, in its absolute discretion, projects and activities which are considered by the Trustee to be in the best interests of the Industry in Victoria having regard to:-
    - (i) members; and
    - (ii) workers.
  - (b) To undertake and conduct such projects and activities and to make any payments (including donations) or incur expenses or liabilities which the Trustee considers necessary to conduct the projects or activities.

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This deed poll is made on 19 December 2012

By: **Redundancy Payment Central Fund Ltd.** (ACN 007 133 833) of 1 Pelham Street, Carlton, Victoria (Trustee)

## RECITALS

- A. By deed of trust made on 20 October 1995 between Construction Forestry Mining Energy Union (Federated Engine Drivers and Fireman's Association Victorian Division Branch), Australian Manufacturing Workers' Union and the Trustee, as that deed was subsequently varied (**Trust Deed**), a trust fund known as the Redundancy Payment Central Fund No. 2 was established.
- B. Clause 6.8 of the Trust Deed provides as follows:
- 6.8 (1) The Trustee may at any time or times lay down and determine further or other terms and conditions consistent or inconsistent with the terms and conditions of this **clause 6** as to the entitlement of particular workers or of particular categories of workers to benefits.
- (2) In making a determination under **clause 6.8(1)** the Trustee is at liberty to have regard to such matters as it considers to be in the best interest of workers and members.
- (3) If there is any inconsistency between a determination made by the Trustee under this clause and this Deed, the determination prevails.
- (4) If the Trustee makes a determination under this clause the Trustee shall give each member as seen [sic] as practicable thereafter notice of the determination and the date on which it was made.
- (5) A determination by the Trustee under this clause is binding on members to which it relates from the date on which it was made.
- C. The Trustee wishes to lay down and determine under clause 6.8 of the Trust Deed terms and conditions as set out in this deed, which it considers to be in the best interest of workers and members (as those words are defined in the Trust Deed).
- D. The directors of the Trustee have approved this deed and its execution by the Trustee, as evidenced by the minutes of a meeting of directors of the Trustee held on 19 December 2012 set out in schedule 2 to this deed.

## OPERATIVE PROVISIONS

### 1. INTERPRETATION

In this deed, headings and bold typing are included for convenience only and do not affect interpretation and, unless the context otherwise requires:

- (a) a reference to a word includes the singular and the plural of the word and vice versa;
- (b) a reference to a gender includes any gender;

- (c) if a word or phrase is defined, then other parts of speech and grammatical forms of that word or phrase have a corresponding meaning;
- (d) a term which refers to a person includes a person in any capacity, a body corporate, an unincorporated body (for example a society or association), a trust, a partnership, a sovereign state, a government or a government department or agency;
- (e) a reference to a document includes a reference to that document as amended, novated, supplemented, varied or replaced;
- (f) a reference to a recital, clause, paragraph, schedule, annexure or other part is a reference to an item of that type in this deed; and
- (g) a reference to a party is a reference to a party to this deed and includes a reference to that party's successors and permitted assigns.

## **2. EXERCISE BY TRUSTEE OF POWER UNDER CLAUSE 6.8 OF TRUST DEED**

### **2.1. Terms and conditions**

In exercise of the power conferred on the Trustee by clause 6.8 of the Trust Deed, the Trustee lays down and determines the terms and conditions set out in schedule 1 to this deed.

### **2.2. Terms and conditions prevail**

In accordance with clause 6.8(3) of the Trust Deed, the terms and conditions set out in schedule 1 to this deed prevail to the extent they may be inconsistent with the Trust Deed.

## **3. EFFECTIVE DATE**

The determination under clause 2 of this deed takes effect on the date on which this deed is executed by the Trustee (being the date of this deed).

## **4. GOVERNING LAW AND JURISDICTION**

This deed is governed by the laws of Victoria. The Trustee submits to the non-exclusive jurisdiction of the courts exercising jurisdiction there.

Executed as a deed poll

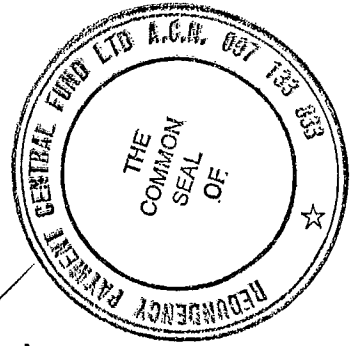
THE COMMON SEAL of  
REDUNDANCY PAYMENT  
CENTRAL FUND LTD. (ACN 007  
133 833) was affixed in accordance with  
its constitution in the presence of:

.....  
Signature of director

.....  
Name of director

.....  
Signature of director/company secretary

.....  
Name of director/company secretary





## SCHEDULE 1

### TERMS AND CONDITIONS DETERMINED BY TRUSTEE

#### Part 1 Definitions

In these terms and conditions, unless the context requires otherwise, words and expressions defined in the Trust Deed have the same meaning, and:

**"Genuine Redundancy Account"** means the account which a Worker's Account converts into in accordance with Part 2 of these terms and conditions, subject to paragraph 2.13 thereof; and

**"Trust Deed"** means the deed of trust made on 20 October 1995 between Construction Forestry Mining Energy Union (Federated Engine Drivers and Fireman's Association Victorian Division Branch), Australian Manufacturing Workers' Union and the Trustee, as that deed was subsequently varied, establishing the Redundancy Payment Central Fund No. 2.

#### Part 2 Benefits payable to workers other than apprentices on or after the Conversion Date - Genuine Redundancy Payment

- 2.1 If a worker gives the Trustee written notice of an election to convert his or her Worker's Account (representing the worker's entitlement to benefits) into a Genuine Redundancy Account (and the worker does not revoke that election by written notice in a form prescribed or approved by the Trustee given to the Trustee within 14 days after the worker gave the notice of that election to convert), that worker's Account will be converted, as a result of such notice of that election to convert being given, into a Genuine Redundancy Account on the date (**Conversion Date**) which is 15 days after the worker gave the Trustee such notice of that election to convert.
- 2.2 Notwithstanding any provision of the Trust Deed to the contrary, the worker or a person claiming through or under the worker (in the case of the worker's death) may make a claim or withdraw the balance of his or her Genuine Redundancy Account after the Conversion Date only in accordance with the provisions of this Part 2.
- 2.3 For the avoidance of doubt:
  - (1) from the Conversion Date a worker or a person claiming through or under the worker (in the case of the worker's death) may not, other than in the circumstances contemplated in paragraphs 2.5, 2.6, 2.8, 2.9 and 2.10 of these terms and conditions, make a claim or withdraw the balance of his or her Genuine Redundancy Account except where the employment of the worker is terminated by reason of genuine redundancy and such termination occurred after the Conversion Date; and
  - (2) if the employment of a worker is terminated for any reason, including by reason of genuine redundancy, and such termination occurred before the Conversion Date, the provisions of clause 6 of the Trust Deed will apply, mutatis mutandis notwithstanding that the worker's Worker's Account has been converted into a Genuine Redundancy Account.

- 2.4 Where the employment of a worker is terminated by reason of genuine redundancy on or after the Conversion Date and notice of such redundancy has not been given before the Conversion Date then, if the Trustee received a written request from the worker on a form prescribed by the Trustee within 30 days after the date of such termination or within such longer period as the Trustee may accept, the Trustee must pay to the worker a redundancy benefit equal to the amount standing to the credit of that worker in his or her Genuine Redundancy Account.
- 2.5 Where, on or after the Conversion Date, the employment of a worker is terminated for any reason after the worker has attained sixty-five years of age then, if the Trustee received a written request from the worker on a form prescribed by the Trustee within 30 days after the date of such termination or within such longer period as the Trustee may accept, the Trustee must pay to the worker a benefit equal to the amount standing to the credit of that worker in his or her Genuine Redundancy Account.
- 2.6 Where both of sub-paragraphs (1) and (2) of this paragraph 2.6 apply to a worker on or after the Conversion Date, he or she may withdraw the balance (if any) of his or her Genuine Redundancy Account in a lump sum:
- (1) the worker stops being gainfully employed before the worker's last retirement day because he or she suffered from ill-health (whether physical or mental); and
  - (2) two legally qualified medical practitioners have certified that, because of the ill-health, it is unlikely that the worker can ever be gainfully employed in a capacity for which he or she is reasonably qualified because of education, experience or training.
- 2.7 The Trustee may require a worker to satisfy the Trustee as to the matters in paragraphs 2.4 - 2.6 and paragraph 2.10 of these terms and conditions by way of statutory declaration or other form acceptable to the Trustee.
- 2.8 Where the employment of a worker is terminated by death then the Trustee may pay the balance standing to the credit of the relevant Genuine Redundancy Account to or for the benefit of such one or more of:
- (1) the dependants of the worker;
  - (2) the legal personal representative of the worker;
  - (3) if a surviving dependant of the worker subsequently dies, the dependants and the legal personal representatives of the deceased dependant; and
  - (4) any other person the Trustee thinks fit,
- to the exclusion of the other or others of them and in such manner and proportions, and subject to such conditions, as the Trustee determines.
- 2.9 Where a worker dies and at the time of death the worker is unemployed, then the Trustee may pay the balance standing to the credit of the relevant Genuine Redundancy Account to or for the benefit of such one or more of:
- (1) the dependants of the worker;

- (2) the legal personal representative of the worker;
- (3) if a surviving dependant of the worker subsequently dies, the dependants and the legal personal representatives of the deceased dependant; and
- (4) any other person the Trustee thinks fit,

to the exclusion of the other or others of them and in such manner and proportions, and subject to such conditions, as the Trustee determines.

- 2.10 Where, on or after the Conversion Date, a worker has attained sixty-six years of age then, if the Trustee received a written request from the worker on a form prescribed by the Trustee within 30 days of the worker's sixty-sixth birthday, or within such longer period as the Trustee may accept, the Trustee must pay to the worker a benefit equal to the amount standing to the credit of that worker in his or her Genuine Redundancy Account.
- 2.11 For the purposes of this Part 2, "gainfully employed" and "last retirement day" have the meanings given to them in section 995-1 of the Income Tax Assessment Act 1997.
- 2.12 For the purposes of this Part 2 the question whether the employment of a worker is or is not terminated by reason of genuine redundancy is to be determined by the Trustee. The Trustee must, in making a determination that the employment of a worker is not terminated by reason of genuine redundancy:
- (1) give notice of the proposed determination to the worker;
  - (2) give the worker at least 7 days after the service of that notice to make submissions (which may be written or oral or both) to the Trustee; and
  - (3) take into account any submissions made.

If the Trustee makes a final determination that the employment of a worker is not terminated by reason of genuine redundancy, it must advise the worker of that determination. Any determination by the Trustee under this paragraph 2.12 is final and the worker has no right of appeal or review.

- 2.13 If:
- (1) a worker's Worker's Account is converted into a Genuine Redundancy Account in accordance with paragraph 2.1 of these terms and conditions; and
  - (2) subsequently, the whole of the amount standing to the credit of that worker in his or her Genuine Redundancy Account is paid out by the Trustee under this Part 2,

that Genuine Redundancy Account will, immediately after such amount is paid out, automatically convert back into a Worker's Account, and will, from that time, be deemed to be a Worker's Account again for the purposes of the Trust Deed and these terms and conditions (including, without limitation, for the purposes of paragraph 2.1 of these terms and conditions).

- 2.14 The provisions of the Trust Deed will apply, with the necessary changes, to take into account the conversion of a Worker's Account into a Genuine Redundancy Account, subject to paragraph 2.13 of these terms and conditions. Where relevant, subject to such a conversion having occurred in respect of a worker, and subject to paragraph 2.13 of these terms and conditions, references in the Trust Deed and these terms and conditions to that worker's Worker's Account will be read as references to his or her Genuine Redundancy Account. If there is any doubt as to the interpretation of any provision of the Trust Deed or these terms and conditions, the Trustee may determine the interpretation and such determination is binding on any workers or members to which it relates.

### **Part 3 Transfers of Funds from and to Reciprocating Funds**

- 3.1 Transfers of funds from and to Reciprocating or Compatible Funds pursuant to clause 13 of the Trust Deed are not permitted where the relevant Worker's Account has been converted into a Genuine Redundancy Account pursuant to Part 2 of these terms and conditions (but subject to paragraph 2.13 thereof), except for a transfer to or from such a Genuine Redundancy Account of a worker from or to an account in respect of that worker within, or which is part of, a Reciprocating Fund or Compatible Fund which account, in the Trustee's opinion, is an equivalent account. For the purposes of this paragraph 3.1, "equivalent account" means an account from which a payment may be made or an amount may be withdrawn or claimed only in the same or substantially the same circumstances as a payment may be made, or an amount withdrawn or claimed, from a Genuine Redundancy Account in accordance with Part 2 of these terms and conditions. The Trustee may require a worker to provide the Trustee with such information (including, without limitation, by way of statutory declaration or other form acceptable to the Trustee) as the Trustee may require in order for it to form an opinion as to whether or not an account is an equivalent account.
- 3.2 Clauses 13.1 and 13.2 of the Trust Deed apply subject to paragraph 3.1 of these terms and conditions.

### **Part 4 Notices**

- 4.1 In addition to the manner in which notices or other communications may be given under clause 30 of the Trust Deed, a notice or other communication required or permitted to be given by the Trustee to a worker or vice versa in connection with these terms and conditions may be sent by electronic mail to the recipient party's electronic mail address as notified to the sending party from time to time.
- 4.2 Such a notice or other communication is deemed given when the sender's information system from which the electronic mail was sent generates a confirmation of delivery report which indicates that the electronic mail has entered the information system of the recipient (but if that confirmation of delivery report indicates that the electronic mail entered the information system of the recipient on a day which is not a business day, or after 5.00 pm on a business day, the electronic mail will be deemed to be received at 9.00 am on the next business day).
- 4.3 For the purposes of this Part 4, "business day" means a day which is not a Saturday, Sunday, bank holiday or public holiday in the city or other place where the notice or other communication is received.

## Part 5 Consequential Matters

As a consequence of the Trustee laying down and determining these terms and conditions, the Trust Deed will apply and be read as if the provisions and clauses of it specified below were amended as shown below (where deletions are crossed out and insertions are underlined):

### 5.1 Definition of "Redundancy Payments":

"**redundancy payments**" means payments to be made to workers and apprentices pursuant to clauses 6 and 7 of this Deed of Trust and Part 2 of these terms and conditions;

### 5.2 Clause 4.1(2):

- (2) subject to clause 4.1(1), the balance of each contribution shall be credited to each worker's respective Worker's Account or, where that worker's Worker's Account has been converted into a Genuine Redundancy Account pursuant to Part 2 of these terms and conditions (but subject to paragraph 2.13 thereof), to that worker's Genuine Redundancy Account.

### 5.3 Clauses 11.1 to 11.3:

- 11.1 Subject to the provisions of this Deed of Trust the Trust Fund shall be maintained exclusively for making redundancy payments to workers pursuant to clause 6 of the Trust Deed and Part 2 of these terms and conditions, ~~and to~~ apprentices pursuant to ~~clauses 6 and 7 respectively~~, and to Funded Apprentices under clause 6A.8.
- 11.2 The Trustee shall establish a Worker's Account in its books of account in respect of each worker to be credited in accordance with clause 4, subject to any conversion of such a Worker's Account into a Genuine Redundancy Account in accordance with Part 2 of these terms and conditions (but subject to paragraph 2.13 thereof).
- 11.3 Where a worker becomes entitled to a redundancy payment then the Trustee shall deal with such an entitlement in accordance with the provisions of clause 6 of the Trust Deed, or with Part 2 of these terms and conditions if that Worker's Account has been converted into a Genuine Redundancy Account pursuant to that Part (but subject to paragraph 2.13 of these terms and conditions).

### 5.4 Clause 11.6:

- 11.6 The Trustee's liability to make any one or more redundancy or other payments to a worker or Funded Apprentice shall be limited to the amount standing to the credit of that particular worker's Workers Account (or the worker's Genuine Redundancy Account, if that Worker's Account has been converted into a Genuine Redundancy Account pursuant to Part 2 of these terms and conditions, but subject to paragraph 2.13 thereof) or Funded Apprentice's Funded Apprentice Account.

**SCHEDULE 2**  
**MINUTES OF BOARD MEETING OF TRUSTEE**

**Redundancy Payment Central Fund Ltd.**

(ACN 007 133 833)

in its capacity as trustee of the Redundancy Payment Central Fund No. 2 (**Fund**)  
**(Trustee)**

**Minutes of a meeting of directors of the Trustee**

**Held on:** 19 December 2012

**Time held:** ..... 10.00 am/pm

**Place held:** 1 Pelham Street, Carlton, Victoria, 3053

**Present:** Tommy Watson (Chairman)  
 John Glasson  
 Brian Boyd  
 David Eynon  
 Bill Oliver  
 Don Ravida  
 Earl Setches  
 Elias Spervovasilis  
 Brian Welch  
 Robert Whitwell

- Quorum** The chairman noted that a quorum was present, and opened the meeting.
- Tabled** A deed titled "Deed (Trustee Determination)" in relation to the Fund setting out a proposed determination by the Trustee under clause 6.8 of the trust deed for the Fund as to the laying down and determination of terms and conditions relating to the conversion of Worker's Accounts into "Genuine Redundancy Accounts" and ancillary matters (**Determination**) was tabled at the meeting.
- Proposed determination under clause 6.8 of trust deed for Fund** It was noted that under clause 6.8(3) of the Trust Deed, in making the relevant determination, the Trustee is at liberty to have regard to such matters as it considers to be in the best interest of workers and members. The directors considered the proposed Determination, and concluded that it would allow the Trustee to give better effect to the purpose of the Fund by potentially enhancing redundancy benefits payable to workers from Genuine Redundancy Accounts. As a consequence, the directors concluded that the proposed Determination was in the best interest of workers and members.

**Approval of  
proposed  
Determination**

Accordingly, it was resolved that the Determination be approved and the Trustee execute it in any number of counterparts.


**Closure**

There being no further business, the chairman closed the meeting.

**Time meeting closed**

..... 10:20 ..... am/pm

**Signed as a correct record:**

.....  .....  
Tommy Watson - Chairman

**Date signed:** ..... 10/12 ..... / 2012

# Redundancy Payment Central Fund No. 2


## Determination by Trustee pursuant to Clause 6.8 of the Deed of Trust as amended and dated 19 December 2012

1. The Trustee has, under clause 6.8 of the Deed of Trust, power to lay down and determine further or other terms and conditions as to the entitlement of particular workers or of particular categories of workers to benefits.
2. In this Determination capitalised expressions not defined have the same meaning as in the Deed of Trust.
3. Part 2 of Schedule 1 of the Deed Poll dated 19 December 2012 to the Deed of Trust sets out circumstances when a Worker can apply for and be paid a benefit equal to the amount outstanding to the credit of that Worker in his or her Genuine Redundancy Account.
4. The Trustee wishes to clarify the position in relation to a Worker who qualifies for and participates in an **early retirement scheme** (as that term is defined in the *Income Tax Assessment Act 1997 (Cth)* as amended and wishes to be paid the amount outstanding to the credit of that Worker in his or her Genuine Redundancy Account.
5. The Trustee has resolved to exercise its power under clause 6.8 of the Deed of Trust and HEREBY DETERMINES and LAYS DOWN the following:

*"A Worker who qualifies for and participates in an **early retirement scheme** under the Income Tax Assessment Act 1997 (Cth) as amended may make a written request to the Trustee on a form prescribed by the Trustee for payment of the amount outstanding to the credit of that Worker in his or her Genuine Redundancy Account."*

6. The Trustee has further resolved to notify any Member to which this Determination relates of the Determination.

Signed as a true record of the resolution of the directors of the Trustee passed at a meeting of the directors held on 17 May 2017.

  
.....  
B Welch  
17/05/17