

1992
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Urban Services)

NRMA—ACT Road Safety Trust Bill 1992

**A BILL
FOR**

**An Act relating to certain trusts under a settlement
proposed to be made by NRMA Insurance Limited**

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

- 5 1. This Act may be cited as the *NRMA—ACT Road Safety Trust Act 1992*.

Interpretation

2. In this Act, unless the contrary intention appears:

“Deed of Trust” means—

- 10 (a) the document executed as mentioned in section 3; or
 (b) if that document is varied (otherwise than by a variation that omits or alters any of the objects or purposes set out in that document or adds any new object or purpose) pursuant to the power of variation contained in that document—that document as so varied;

“NRMA Insurance Limited” means the company incorporated under that name in the State of New South Wales;

“Trust” means the trust that would be constituted by the Deed of Trust if that deed were effective to create a valid charitable trust;

5 “Trust Fund” means the Trust Fund referred to in the Deed of Trust.

Application of Act

3. This Act has effect if a document that is substantially in accordance with the form set out in the Schedule is executed by or on behalf of the Territory, NRMA Insurance Limited, and any other persons.

10 Application to Crown

4. The provisions of this Act, other than section 6, bind the Crown.

Trust to be charitable

5. The Trust is declared to be a valid charitable trust and the Trust Fund is declared to have been established for public charitable purposes.

15 Exemption from liability

20 6. (1) A person who is, or at any time has been, a trustee of the Trust is not liable to an action, suit or proceeding for or in relation to an act done or omitted to be done by or on behalf of that person, or by or on behalf of any other person, in good faith in the exercise or performance, or the purported exercise or performance, of any power, duty or function as such a trustee.

(2) Neither the Territory nor NRMA Insurance Limited is liable to an action, suit or proceeding in relation to—

25 (a) an act done or omitted to be done by or on behalf of either of them for the purposes of, or in connection with, the Trust; or

(b) an act done or omitted to be done by a person referred to in subsection (1) in respect of which that person, by virtue of that subsection, is not liable to an action, suit or proceeding.

30 (3) A person is not liable to an action, suit or proceeding for or in relation to any act done or omitted to be done, in good faith for the purposes of or in connection with the Trust, in accordance, or purported accordance, with a direction or authority of—

(a) the Territory;

(b) NRMA Insurance Limited; or

35 (c) the trustees of the Trust or any of them.

SCHEDULE

Form of Deed of Trust

THIS DEED OF TRUST is made the day of 1992
between the following parties:

1. **NRMA INSURANCE LIMITED** a company whose registered office is situated at 151 Clarence Street, Sydney in the State of New South Wales (hereinafter called the "First Appointor"); and
2. **AUSTRALIAN CAPITAL TERRITORY**, a body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Commonwealth) (hereinafter called the "Second Appointor"); and
3. **BETTIE ANNE McNEE**, solicitor of 32 Holmes Crescent, Campbell in the Australian Capital Territory, **BRUCE GEORGE DOCKRILL**, public servant of 57 Shumack Street, Weetangera in the Territory, **MERILYN JEAN SCHILG**, public servant of 38 Weeroona Drive, Wamboin in the State of New South Wales, **BRUCE OWEN SEARLES**, NRMA executive of 28 Montview Parade, Hornsby Heights in the State of New South Wales and **IAN McLEAN CRAWFORD**, retired naval officer of 87 Endeavour Street, Red Hill in the Territory (hereinafter called the "Trustees").

WHEREAS:

- (a) It is intended by this Deed to establish a Trust to be called the "NRMA—ACT Road Safety Trust" (the "Trust");
- (b) The Trustees have agreed to act as Trustees of the Trust for the purposes herein appearing;
- (c) The Trust is to be administered for the principal object of enhancing road safety for the benefit of the Australian Capital Territory road-using community as more particularised in this Deed;
- (d) The First Appointor agrees to settle on the Trustees for the objects of the Trust, the sum of ten million dollars (\$10,000,000) (the "Initial Grant").

NOW THIS DEED WITNESSES as follows:

Part 1

INTERPRETATION

- 1.1 In this Deed, unless the context otherwise requires:

SCHEDULE—continued

“Accounting Period” means:

- (a) the period commencing on the date of this Deed and ending on the 30th day of June 1992;
- (b) subject to paragraph (c), each subsequent period of 12 months commencing on 1 July and ending not later than the Distribution Date; and
- (c) if the Distribution Date does not fall on 30 June, the period commencing on 1 July preceding and ending on the Distribution Date;

“Accounts” means the accounts, statements, notes, reports or other documents prepared in accordance with Part 10;

“Appointors” means the First Appointor and the Second Appointor jointly;

“Approved Valuer” means any duly qualified and independent person appointed by the Trustees or pursuant to the terms of this Deed;

“Associate”, in relation to a trustee, means:

- (a) a relative of the trustee or of his or her spouse; or
- (b) an employer of the trustee or of his or her spouse; or
- (c) a partner of the trustee or of his or her spouse; or
- (d) if an employee or partner referred to in paragraph (b) or (c) is a company—any body corporate that is related to the company within the meaning of the Corporations Law;
- (e) an employee of the trustee or of his or her spouse; or
- (f) a company of which the trustee or his or her spouse is a director, secretary or executive officer or in which the trustee or his or her spouse is a substantial shareholder within the meaning of Part 6.7 of the Corporations Law, or a body corporate that is related to such a company within the meaning of that Law;

“Auditor” means the auditor for the time being of the Trust appointed pursuant to clause 10.8;

“Authorised Investment” means each of the following:

- (a) Trustee Investments;
- (b) moneys on deposit at call or for a term with any company approved by the Trustees;

SCHEDULE—continued

- (c) bank accepted and/or bank endorsed bills of exchange and promissory notes;
- (d) investments in shares in or deposits with any permanent building society approved by the Trustees;
- (e) financial instruments other than ones elsewhere specified in this clause, providing the same are approved by the Trustees;
- (f) the purchase, leasing, hiring or other acquisition of any personal property and any share or interest therein including (without affecting the generality thereof) any share or interest in any contract for the sale or purchase of any such property, hire purchase or consumer credit agreement, estate of a deceased person, *spes successionis*, book or other debt, promissory note or other thing in action the purchase, leasing, hiring or other acquisition whereof has been approved by the Trustees; and
- (g) the taking of options to purchase any investment which would otherwise be an Authorised Investment;

“**Business Day**” means any day on which banks are open for business in Canberra;

“**cash**” includes cheque and bank cheque;

“**Chairperson**” or “**Chairperson of Trustees**” means the person appointed or holding the office of Chairperson of Trustees under clause 6.1;

“**Distribution Date**” means the date being one day less than the eightieth anniversary of this Deed or such earlier date as the Trustees by writing appoint as the Distribution Date;

“**NRMA**” means the National Roads and Motorists Association;

“**Relative**”, in relation to a person, means any of the following:

- (a) a parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person;
- (b) the spouse of a person referred to in paragraph (a);

“**Spouse**”, in relation to a person, includes anyone who, although not legally married to the person, is living with the person in a domestic relationship as the husband or wife of the person;

“**the Trust**” means the Trust hereby constituted and to be called “NRMA—ACT Road Safety Trust”;

“**Trust Fund**” means:

- (a) the sum referred to in clause 2.1;

SCHEDULE—continued

- (b) any other money or property paid or transferred to, or otherwise vested in, the Trustees, and, in the case of property that may involve the holder or owner in any personal liability, accepted by the Trustees, to be held on the trusts set out in this Deed;
- (c) any money otherwise raised by the Trustees for the purposes of the Trust;
- (d) all accretions or additions to money or property referred to in paragraph (a) or (b) whether of an income or a capital nature; and
- (e) any investments for the time being representing money referred to in paragraph (a), (b), (c) or (d);

“trustee” means any one of the Trustees, severally;

“Trustees” means the trustees collectively for the time being of the Trust and includes any alternative trustee and any delegate or nominee of any trustee appointed under the provisions of this Deed;

“Trustee Investment” means any investment in which trustees shall for the time being be authorised by the law of any State or Territory of the Commonwealth of Australia to invest trust moneys.

1.2 In this Deed, unless the context otherwise requires:

- (a) words importing a gender include every other gender; and
- (b) words in the singular number include the plural and words in the plural number include the singular.

1.3 Headings are included in this Deed for reference only and do not form part of this Deed.

Part 2**SETTLEMENT AND DECLARATION OF TRUST**

- 2.1 The First Appointor declares that it has settled on the Trustees the sum of ten million dollars (\$10,000,000) to be held on the trusts set out in this Deed.
- 2.2 The Trustees declare that they hold the Trust Fund on the trusts set out in this Deed.

SCHEDULE—continued

Part 3

OBJECTS AND PURPOSES OF THE TRUST

- 3.1 The principal object for which the Trust is established is to enhance road safety for the benefit of the Australian Capital Territory road-using community.
- 3.2 In giving effect to this object the Trust, without limiting the generality of the principal object, shall have the following additional objects and purposes:
- (a) to promote and stimulate research and investigation on road safety, and implementation of accident and injury counter measures, especially in the area of accident prevention and injury minimisation;
 - (b) to encourage and promote the education of the ACT road-using community;
 - (c) to co-operate with other bodies or organisations both within Australia and overseas having some or all of their purposes similar to the purposes of the Trust;
 - (d) to construct or facilitate the construction of any physical improvements to any land in the Territory to promote safe driving practice;
 - (e) to assist in the care and rehabilitation of persons injured or traumatised as a result of road accidents.

Part 4

GRANTS FOR PURPOSES OF THE TRUST

- 4.1 The Trustees may in their absolute discretion make grants from the capital or income of the Trust Fund for the purposes of the Trust on such terms and conditions as they think fit.
- 4.2 At least once in each calendar year the Trustees will invite submissions from the public for the allocation of grants for the purposes of the Trust and give due consideration to those submissions in determining whether or not to make a grant provided that nothing shall require the Trustees to make a grant within any specified period.

SCHEDULE—continued

- 4.3 No grant which exceeds \$500,000 shall be made by the Trustees to a single person or entity in any one Accounting Period without the prior written consent of the Appointors.
- 4.4 The Trustees may from time to time agree upon guidelines setting out the criteria against which submissions for grants will be evaluated but are not bound to follow those guidelines in any particular case.

Part 5**PERIOD OF TRUST, DISTRIBUTION THEREOF, AND VESTING**

- 5.1 The Trust shall commence on the date of this Deed and shall be determined or wound up on the Distribution Date.
- 5.2 The Trustees must on the Distribution Date determine the identity of such societies or organisations as are determined by them as being ones whose objects and purposes are consistent and empathetic with those of the Trust, and they must resolve to vest the whole of the Trust Fund including all income accrued up to the date of payment but less all of the costs and expenses of winding up on those societies or organisations in such amounts and proportions as the Trustees in their absolute discretion determine.
- 5.3 No determination by the Trustees pursuant to clause 5.2 shall be of any effect unless the Appointors agree in writing to the determination.
- 5.4 The receipt of the person who holds himself out as treasurer or other proper officer of any society or organisation shall be sufficient discharge to the Trustees in respect of any payment or payments by the Trustees under this Part.
- 5.5 If the Trustees do not make a valid determination in accordance with this Part then on the Distribution Date the Trust Fund and all income accrued up to the date of payment less the costs and expenses of winding up shall be held absolutely for such societies and organisations of the kind described in clause 5.2 as a judge of the Supreme Court of the Australian Capital Territory on application by the Trustees or by either Appointor may determine.

SCHEDULE—continued

Part 6

TRUSTEES

Appointment

- 6.1 The number of trustees shall be five (5), comprising two (2) trustees appointed by the First Appointor, two (2) trustees appointed by the Second Appointor, and a further trustee, appointed by the Appointors as an independent Chairperson of Trustees.
- 6.2 The founding Trustees and their respective Appointors are as follows:
- | Trustee | Appointor |
|-----------------------|----------------------|
| Ian McLean Crawford | The First Appointor |
| Bruce George Dockrill | The Second Appointor |
| Bettie Anne McNee | The Appointors |
| Merilyn Jean Schilg | The Second Appointor |
| Bruce Owen Searles | The First Appointor |
- 6.3 A trustee appointed by the First Appointor or the Second Appointor may be removed and replaced at any time by a notice in writing to the Chairperson of Trustees from the respective Appointor who has appointed that trustee.
- 6.4 The Chairperson of Trustees may be removed and replaced at any time by a notice in writing to each of the trustees from the Appointors.
- 6.5 A trustee shall not be remunerated but shall be entitled to reimbursement of all reasonable expenses incurred in carrying out the administration and purposes of the Trust.
- 6.6 The office of a trustee becomes vacant:
- (a) in any of the circumstances prescribed by the Corporations Law where the office of a director of a corporation is vacated, as if the Trust was a corporation and the trustee a director of that corporation;
 - (b) if the trustee becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law related to mental health;

SCHEDULE—continued

- (c) if the trustee resigns by notice in writing to the particular Appointor by whom he was appointed, or in the case of the Chairperson of Trustees, to the Appointors;
 - (d) if the trustee is removed from office by an Appointor or the Appointors, as the case may be.
- 6.7
- (a) In the event that a trustee appointed by the First Appointor ceases to act for whatever reason as a trustee of the Trust the First Appointor may appoint a new trustee in that trustee's stead.
 - (b) In the event that a trustee appointed by the Second Appointor ceases, for whatever reason, to act as a trustee of the Trust, the Second Appointor may appoint a new trustee in that trustee's stead.
 - (c) In the event that the Chairperson of Trustees ceases, for whatever reason, to be a trustee, the Appointors may appoint a new Chairperson of Trustees.
- 6.8 The First Appointor, the Second Appointor and the Appointors may, as appropriate, appoint temporary alternates to the existing trustees appointed by them respectively from time to time if so requested by any of the trustees for periods of up to 3 months and notice of such temporary appointment and the duration of that appointment shall be given to the Trustees.

General Powers

- 6.9 The Trustees may enter into any contract, arrangement or transaction, or do any act or thing that they consider to be for the purposes of the Trust as set out in this Deed or that is incidental to the management of the Trust or conducive to the purposes of the Trust including the carrying on of any business, (whether as a joint venturer or alone or in partnership) or the giving of third party guarantees and security.
- 6.10 The generality of clause 6.9 is not limited by any specific powers conferred on the Trustees by other provisions of this Deed.
- 6.11 Any power conferred on the Trustees by this Deed may be exercised in relation to any part of the Trust Fund, including any trade or business carried on by the Trustees.
- 6.12 The Trustees may set aside out of the Trust Fund from time to time such sum or sums of money as will, in the Trustees' opinion, be sufficient to meet any debt or obligation due or accruing due.

SCHEDULE—continued

- 6.13 The Trustees may pay out of the Trust Fund any stamp, gift or other duty, or any income tax or other tax, payable under the laws of the Commonwealth of Australia, or any of the States or Territories of the Commonwealth or of any other country in respect of this Deed or the settlement effected by this deed, in respect of any income or property transferred to the Trustees on the trusts set out in this Deed.
- 6.14 The Trustees may accept and receive as part of the Trust Fund any property or money that may at any time be conveyed, transferred or paid to the Trustees by way of an addition or accretion to the Trust Fund.

Power of investment

- 6.15 The Trustees may invest any money forming part of the Trust Fund in such manner, in such place (whether within or outside Australia) and upon such terms and conditions as the Trustees think fit provided that any such investments shall be an Authorised Investment.
- 6.16 It is the intention of subclause 6.15 that the Trustees will have the same powers in investing money forming part of the Trust Fund, and in managing and dealing with that money and any investments in which it is invested, as the Trustees would have if they were the beneficial owners of, and absolutely entitled to, the money and investments.
- 6.17 The powers of the Trustees to invest money forming part of the Trust Fund may be exercised for the purpose of increasing the capital of the Trust Fund or for the purpose of gaining income, or partly for one of those purposes and partly for the other, or for any other purpose that the Trustees consider to be for the direct or indirect benefit of the purposes of the Trust.
- 6.18 The Trustees may, at any time:
- (a) sell, call in or convert into money any investment in which any part of the Trust Fund is invested and reinvest the proceeds of the sale, calling in or conversion in another investment in which the Trust Fund may be invested; and
 - (b) vary the terms of any document or security relating to an investment in which any part of the Trust Fund is invested.
- 6.19 Unless the Trustees are indemnified to their satisfaction against all liability which they may incur on that account no investment has to be made in any Authorised Investment the holding of which by the Trustees exposes or may expose the Trustees to any personal liability actual, contingent, prospective or of some other kind.

SCHEDULE—continued

- 6.20 No money available for investment shall directly or indirectly be invested in or lent to a trustee or to any person who is an Associate of a trustee.
- 6.21 If, by reason of a change in circumstances beyond the control of the Trustees an investment which was prior to the change an Authorised Investment ceases to be such, nothing herein contained shall require the Trustees by reason of that change to dispose of or vary that Authorised Investment.

Other powers in relation to the Trust Fund**Income and capital**

- 6.22 The Trustees have power to decide any question which may arise as to whether any property or money held by them constitutes capital or income of the Trust Fund and the Trustees' decision will be conclusive and binding on all persons having any interest in the Trust Fund.

Payments

- 6.23 The Trustees have power to pay out of the Trust Fund any legal or other professional fees, costs or expenses incurred in the establishment or maintenance of the trusts set out in this Deed including the provision of any advices in relation thereto or in keeping proper records and accounts relating to the Trust Fund.

Appointment of fund manager and agents

- 6.24 The Trustees, instead of acting personally, may engage and pay a solicitor, accountant, custodian, broker or other fund manager or agent to transact any business or to do any act (including the receipt and payment of money) required or permitted to be done in connection with the administration and management of the Trust Fund.

The Trustees are entitled to be paid and reimbursed all reasonable costs, charges and expenses incurred by engaging persons referred to in this subclause, or otherwise incurred in the administration of the trusts set out in this Deed.

Delegation

- 6.25 The Trustees may delegate any of the powers conferred by this Deed, either wholly or partially and either unconditionally or subject to any limitations or restrictions, to such person or persons as they think proper and may revoke such a delegation.

SCHEDULE—continued

- 6.26 For the purposes of such a delegation, the Trustees may execute such powers of attorney or other instruments as they think proper.
- 6.27 A person dealing with a person claiming to be a delegate is not required to enquire whether the delegation is in force or whether the person who purported to give the delegation is alive or in existence.

Bank accounts

- 6.28 The Trustees may open and operate such bank accounts in Australia as they think fit.
- 6.29 Cheques and other negotiable or transferable instruments to be signed, drawn, accepted, indorsed or otherwise executed by the Trustees and receipts for money paid to the Trustees shall be signed, drawn, accepted, indorsed or otherwise executed, as the case may be, by any 2 trustees unless both have been appointed by the same Appointor, and otherwise as the Trustees from time to time determine.

Variation of Deed

- 6.30 Subject to subclause 6.31 and the consent of the Appointors, the Trustees may at any time by deed vary all or any of the provisions of this Deed.
- 6.31 A variation shall not be made that would:
- (a) confer a benefit (unless it does so merely indirectly by giving effect to the purposes of the Trust) in respect of the Trust Fund on the First Appointor, the Second Appointor, the Trustees or any person who has been a trustee of the Trust; or
 - (b) omit or alter any of the objects or purposes set out in this Deed or add any new object or purpose.

Powers of Trustees discretionary and exercisable from time to time

- 6.32 Every power conferred by this Deed on the Trustees is an absolute power and may be exercised as if the Trustees were absolutely entitled to the Trust Fund.
- 6.33 A power conferred by this Deed on the Trustees may be exercised from time to time as the occasion requires.

Persons dealing with Trustees

- 6.34 A person contracting or dealing with the Trustees is not required to enquire or ascertain:

SCHEDULE—continued

- (a) the terms of the Trust;
 - (b) whether any contract or dealing by the Trustees is proper, has been authorised by or in a manner required by this Deed or is to give effect to the purposes of the Trust; or
 - (c) whether any or all of the trustees has or have been retired or removed from office.
- 6.35 As to the correctness of the application of any purchase money, security or other property delivered to the Trustees, the receipt of any such money, security or other property by the Trustees is an absolute discharge to the person paying or delivering it to the Trustees.
- 6.36 (a) A person is not affected by constructive or imputed notice, that any contract or dealing with the Trustees is not proper, has not been authorised by or in a manner required by this Deed, or is not for the benefit of the Trust and all such contracts and dealings shall, so far as the person contracting or dealing with the Trustees is concerned, be taken to be within the powers of the Trustees under this Deed and to be valid and effectual accordingly.
- (b) A person who has actual knowledge that a contract or dealing is not proper, or who engages in any fraudulent conduct is not entitled to the protection of, or any benefit conferred by, this clause.
- (c) A reference in this clause to a person contracting or dealing with the Trustees includes, but is not limited to, a person:
- (1) selling property; or
 - (2) acquiring property from the Trustees.

Trustees may be personally interested

- 6.37 The Trustees may exercise, or concur in the exercise of any power conferred by this Deed or by any law even though a trustee of the trusts set out in this Deed:
- (a) has or may have a direct or personal interest in the manner in which the power is exercised or the result of the exercise of the power (whether that interest conforms with, or is opposed to, the particular Trustee's interest as a trustee);
 - (b) will or may benefit directly or indirectly as a result of the exercise of the power; or

SCHEDULE—continued

- (c) is in a fiduciary relationship to any person who is or may be affected by the exercise of the power.
- 6.38 A reference in clause 6.37 to an interest or benefit includes, but is not limited to, an interest as, or a benefit resulting from being:
- (a) a director, officer, employee or shareholder of, or a professional adviser to, a corporation (including the First or Second Appointor); or a trustee of, or a unit holder or other beneficiary under, a trust; or a partner in, or employee of, a partnership being a corporation, trust or partnership in which any part of the Trust Fund is or is proposed to be invested or with which the Trustees propose to deal, or a holding company or subsidiary of such a corporation;
 - (b) a member of the ACT road-using community, an employee or a person having dealings or entering into contracts with the First Appointor, an employee or member of the NRMA or having dealings or entering into contracts with any subsidiary or related company of the NRMA, or a taxpayer of the Second Appointor; or
 - (c) a member of the community or that part of a community which benefits under a grant from the Trust.
- 6.39 A trustee may retain for himself any remuneration he receives in respect of any interest he has, or any office or position he holds by virtue of which he is in a fiduciary relationship, as mentioned in the preceding subclauses even though the interest, or the office or position, arises from, or is attributable or related to, any shares, debentures, interests or other property held by the Trustees on the trusts set out in this Deed.

Interest of Trustees

- 6.40 A trustee is not disqualified merely because of being a trustee from contracting with the Trust in any respect and in particular:
- (a) a trustee may sell any property to or purchase any property from the Trust;
 - (b) a trustee may be employed by the Trust or act in any professional capacity on behalf of the Trust;
 - (c) no contract made by a trustee with the Trust and no contracts or arrangements entered into by or on behalf of the Trust in which any trustees may be in any way interested is avoided or rendered voidable merely because of the trustee holding office as a trustee or of the fiduciary obligations arising out of that office;

SCHEDULE—continued

- (d) no trustee contracting with or being interested in any arrangement involving the Trust is liable to account to the Trust for any profit realised by or under any such contract or arrangement merely because of the trustee's holding office as a trustee or of the fiduciary obligations arising out of that office.

Exercise of statutory powers

- 6.41 In addition to and without limiting the express powers conferred on the Trustees by this Deed, the Trustees are entitled to exercise in respect of the Trust Fund all the powers conferred on trustees by the laws in force in the Australian Capital Territory as if they were expressly included in this Deed.

Part 7**TRUSTEE'S LIABILITY AND INDEMNITIES**

- 7.1 Without prejudice to any indemnity allowed by law or elsewhere given to the trustees and to the extent that the trustees are not exempted from liability by any law of the Australian Capital Territory:
- (a) The trustees shall be indemnified out of the Trust Fund from and against any expense and liability that may be incurred in prosecuting or defending any action or suit in respect of the provisions of this Deed;
- (b) A trustee shall not be responsible for any loss incurred by any act, neglect, mistake or discrepancy of any agent of the Trustees except to the extent that such loss is attributable to the trustee's own wilful or fraudulent act. Nor shall a trustee be responsible for the checking of any information, document, form or list supplied by any agent provided that the trustee has no reason to believe that it is not genuine (whether or not an error in any such information, document, form or list is reproduced by the Trustees) or except to the extent that such loss is attributable to the trustee's own wrongful or fraudulent act;
- (c) A trustee shall not incur any liability to anyone in respect of any failure to perform or do any act or thing which, by reason of any provision of any present or future law of the Commonwealth of Australia or any State or Territory thereof or any Ordinance, rule, regulation or by-law made pursuant

SCHEDULE—continued

thereto or of any decree, order of judgment of any competent court, the trustee shall be hindered, prevented or forbidden from doing or performing;

- (d) A trustee shall not be liable to account to the Appointors or either of them or otherwise for any payments made by the Trustees in good faith to any duly empowered fiscal authority of the Commonwealth of Australia or any State or Territory thereof for taxes or other charges upon the Trust Fund or with respect to any transaction under this Deed notwithstanding that any such payment ought or need not have been made;
- (e) The Trustees may act upon the opinion or advice of or information obtained from barristers or solicitors independent of the Trustees and instructed by the Trustees and upon any statement of or information obtained from any bankers, accountants, Approved Valuers and other persons appointed by the Trustees being persons independent of the Trustees and believed by the Trustees in good faith to be expert in relation to the matters upon which they are consulted and no trustee shall be liable for anything done or suffered in good faith in reliance upon such opinion, advice, statement or information;
- (f) The Trustees shall not in any event be liable to any greater extent than the amount obtainable from the realisation of the investments, of the Trust except where the liability arises by virtue of their own wrongful or fraudulent act;
- (g) Should the Trustees purchase any Authorised Investment or Trustee Investment in regard to which there is a liability the Trustees shall have a right of indemnity out of the Trust Fund in respect of any such liability;
- (h) Whenever the Trustees shall sell or transfer any investment or other property the Trustees shall be indemnified by the persons entitled to the proceeds of sale or to such transfer against all costs, charges and expenses (including stamp duty) in connection therewith; and
- (i) Notwithstanding anything in this Deed contained or deemed to be contained the Trustees shall not be obliged to act upon any direction or request of or by any fund manager or other agent where in the opinion of the Trustees such direction or request is not in the interests of the purposes of the Trust.

SCHEDULE—continued

Nothing in subclauses (a)-(i) of this clause shall limit the provisions of any statute prescribing the circumstances under which a trustee may obtain relief from breach of trust.

Part 8**TRUSTEES' MEETING PROCEDURES****General**

- 8.1 The Trustees may meet together for the despatch of business and adjourn and otherwise regulate their meetings as they think fit.
- 8.2 (a) The contemporaneous linking together by telephone or other methods of audio or audio-visual communication of the number of the trustees sufficient to constitute a quorum constitutes a meeting of the trustees and all the provisions in this Deed relating to meetings of the trustees apply, so far as they can and with such changes as are necessary, to meetings of the trustees by telephone or audio or audio-visual communication.
- (b) A trustee participating in a meeting by telephone or audio or audio-visual communication is taken to be present in person at the meeting.
- (c) A trustee must not leave a meeting by telephone or audio or audio-visual communication by disconnecting the trustee's telephone or audio or audio-visual communication device unless the trustee has previously obtained the consent of the trustee presiding at the meeting and will be conclusively presumed to have been present and to have formed part of a quorum at all times during the meeting unless the trustee has previously obtained such consent.

Quorum

- 8.3 (a) No business may be transacted at a meeting of trustees unless a quorum is present at the time the meeting proceeds to business.
- (b) A quorum consists of 3 trustees.

Convening of Meetings

- 8.4 (a) The Chairperson of Trustees may, whenever thought fit, convene a meeting of Trustees.

SCHEDULE—continued

- (b) At least 2 of the trustees may, whenever thought fit, convene a meeting of Trustees, provided that the trustees exercising this power shall be respectively, appointed by the First Appointor and the Second Appointor.
- (c) The Appointors may, whenever thought fit, convene a meeting of Trustees.
- (d) The Trust's secretariat may at the request of the persons described in subclauses (a)-(c) above, make the necessary arrangements for the meeting, or in the event that the secretariat refuses or is unable to make the necessary arrangements, then any of the persons so described above may do so.

Notice of Meetings

- 8.5 (a) Subject to this Deed, notice of a meeting of Trustees must be given to each person who is, at the time of the giving of the notice, a trustee.
- (b) A notice of a meeting of Trustees:
- (1) must specify the time and place of the meeting;
 - (2) should, but need not, state the nature of business to be transacted at the meeting;
 - (3) may be given immediately before the meeting; and
 - (4) may be given in person or by post, telex, facsimile transmission, telephone or other method of written, audio or audio-visual communication.
- (c) Failure to give notice of a meeting of Trustees to a trustee does not invalidate any act, matter or thing done or resolution passed at the meeting if:
- (1) the failure occurred by accident or error; or
 - (2) before or after the meeting the trustee—
 - (A) has waived or waives notice of that meeting; or
 - (B) has notified or notifies the Chairperson of his or her agreement to that act, matter, thing or resolution personally or by post, telex, facsimile transmission, telephone or other method of written, audio or audio-visual communication; or

SCHEDULE—continued

- (3) the trustee attended the meeting.

Chairperson of Trustees

- 8.6 (a) The first Chairperson of Trustees is Bettie Anne McNee.
- (b) The Chairperson must preside at each meeting of Trustees. If at a meeting of Trustees:
- (1) the Chairperson is not present;
 - (2) the Chairperson is not present within 10 minutes after the time appointed for the holding of the meeting; or
 - (3) the Chairperson is present within that time but is not willing to preside at the meeting,

the trustees present must elect one of their number to preside at the meeting.

Decisions of Trustees

- 8.7 (a) A meeting of Trustees at which a quorum is present is competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the Trustees under this Deed.
- (b) Questions arising at a meeting of Trustees are to be decided by a majority of votes cast by the trustees present and any such decision is for all purposes a determination of the Trustees.
- (c) In the case of an equality of votes upon any proposed resolution:
- (1) the person presiding at the meeting will not have a second or casting vote; and
 - (2) the proposed resolution is to be taken as having been lost.

Written Resolutions

- 8.8 (a) If a document containing a statement to the effect that an act, matter or thing has been done or a resolution has been passed, is assented to by the greater of:
- (1) the majority of trustees; or
 - (2) the number of trustees needed to constitute a quorum at a meeting of Trustees,

SCHEDULE—continued

that act, matter, thing or resolution is taken as having been done or passed at a meeting of the Trustees.

- (b) Where a trustee signifies assent to a document otherwise than by signing the document, that trustee may by way of confirmation sign the document at the next meeting of the Trustees attended by that trustee, but failure to do so does not invalidate the act, matter, thing or resolution to which the document relates.

Minutes

- 8.9 (a) The Trustees must cause minutes of all proceedings of meetings of the Trustees and of any meetings of delegates of the Trustees to be entered, within one month after the relevant meeting is held, in books kept for that purpose.
- (b) Those minutes must be signed by the person who presided at the meeting at which the proceedings took place or by the person who presides at the next succeeding meeting.
- (c) Any minutes of a meeting purporting to be signed by the person who presided at the meeting or at the next succeeding meeting are (in the absence of proof to the contrary) prima facie evidence of:
- (1) the matters stated in the minutes of the meeting;
 - (2) the meeting having been duly convened and held; and
 - (3) the proceedings to which the minutes relate.

Part 9**ANNUAL REPORT AND INSPECTION****Annual Report**

- 9.1 The Trustees shall, not more than 120 days after the conclusion of each Accounting Period, submit a report to the Appointors made in accordance with a resolution of the Trustees and signed by at least two trustees:

SCHEDULE—continued

- (a) stating—
- (1) the names of the trustees in office during the period of the report and indicating for each trustee the number of meetings attended;
 - (2) details of receipts of funds during the period including returns on investments, grouped according to classifications of source to be determined by the Trustees, to permit trends to be identified and as a guide to judgments and decisions by the Trustees; and
 - (3) how moneys of the Trust have been allocated during the period grouped according to classifications of use of funds to be determined by the Trustees, to permit trends and changes in activities to be identified;
- (b) reviewing projects and activities to which the funds of the Trust have been allocated except those projects which had been formally terminated by formal determination of the Trustees before the accounting period;
- (c) giving particulars of any matter or circumstance that has arisen since the end of the accounting period and has significantly affected or may significantly affect the activities or the state of affairs of the Trust; and
- (d) giving particulars of any interest of a trustee in any activity of the Trust declared by the Trustees.

Inspection of Records

- 9.2 (a) Each Appointor or its nominees shall be entitled to inspect, at any time during business hours and on the giving of reasonable notice, all minutes, records and papers of the Trust.
- (b) At the request of either Appointor copies of the records referred to in clause 9.2 (a) are to be made available to the Appointor or its nominee.

SCHEDULE—continued**Part 10****ACCOUNTS AND AUDIT****Trustees to keep accounts**

- 10.1 The Trustees must keep or cause to be kept proper books of account in such manner as to show the true state and condition of the Trust Fund and will at the expense of the Trust cause the accounts of the Trust to be audited not more than 120 days after the conclusion of each Accounting Period by the Auditor.
- 10.2 The Trustees' books of account shall be kept at the offices of the Trust's accountant, as appointed by the Trustees from time to time.

Inspection of Accounts

- 10.3 The Trustees' books of account shall be open to the inspection of each Appointor or its nominee and the Auditor.
- 10.4 The Auditor shall be entitled to require the Trustees to supply such information, accounts and explanations as may be necessary for the performance of the duties of the Auditor hereunder.

Annual Financial Statement

- 10.5 (a) The Trustees shall prepare an annual financial statement in respect of each Accounting Period. Each such financial statement shall include a Report as prescribed by clause 9.1 together with such notes and explanations as may be necessary for proper understanding of the statements and those statements must comply as far as practicable with the format set out in Schedule 5 to the Corporations Regulations.
- (b) Each annual financial statement shall be audited by the Auditor who shall report on those matters required to be reported upon in respect of the Trust under this Deed and the Corporations Law as if the Trust were a company subject to the Corporations Law. In carrying out his duties the Auditor shall be entitled to require from the Trustees such information, explanations, documents and accounts as he may consider necessary for the performance of his duties.
- 10.6 The annual financial statement referred to in clause 10.5 shall include statements on:
- (a) gross revenue of the Trust divided to show separately at least the following items—rent, interest, dividends, lease premiums, capital profits on the sale of investments, and

SCHEDULE—continued

stating the extent (if any) to which income has been capitalised and used in writing down the book value of investments;

- (b) gross expenses of the Trust divided to show separately—
 - (1) rates, taxes and other outgoings attached to properties owned by the Trust;
 - (2) legal, audit and other costs payable by the Trust including reimbursement and expenses paid to the trustees;
 - (3) particulars of any provisions created for maintenance, repairs and improvements;
 - (4) remuneration, if any, of any manager itemised to show separately initial service charges, management fees or any other fees so paid;
- (c) all investments of the Trust showing separately—
 - (1) a reasonable description;
 - (2) date of acquisition;
 - (3) acquisition cost; and
 - (4) valuation and valuation date and basis of valuation; and
- (d) sales of investments during the period to which the Report refers showing separately for each investment—
 - (1) sale proceeds;
 - (2) book value; and
 - (3) independent valuation of real property sold as at the time of sale or, where the property has been sold within six (6) months of a valuation, as at the time of valuation.

10.7 The Trustees shall:

- (a) make available to the Auditor for inspection the whole of the books, accounts and documents of the Trust Fund whether kept at the office of the Trust's secretariat or its accountant or elsewhere; and
- (b) give to the Auditor such oral or written information as they or he require with respect to all matters relating to the

SCHEDULE—continued

undertaking, scheme or enterprise of the Trust Fund or any property of the Trust Fund or otherwise relating to the affairs of the Trust Fund.

Appointment of Auditor

- 10.8 (a) The Trustees shall appoint an Auditor who shall be a Chartered Accountant and a registered company auditor or firm of Chartered Accountants whose members are so registered. The remuneration of the Auditor shall be determined by the Trustees and such remuneration and all reasonable expenses of the Auditor shall be paid by the Trustees out of the Trust Fund.
- (b) The Auditor may retire upon the expiration of two (2) months notice to the Trustees which may not be given within one (1) month before or after the end of an Accounting Period.
- (c) The Auditor may at any time be removed from office by the Trustees.
- (d) In the event of the Auditor retiring or being removed for any reason the Trustees shall forthwith appoint an auditor to take office as the Auditor in accordance with clause 10.8 (a).
- (e) The Auditor shall audit the Trust Fund as soon as practicable but in any event no later than 120 days after the end of each Accounting Period and provide an audit report to the Trustees, and the Appointors.

Part 11**MISCELLANEOUS****Notices**

- 11.1 (a) Subject to this Deed, a notice may be given by the Trust to any trustee or alternate trustee either by serving it personally at or by sending it by post in a pre-paid envelope to the trustee's or alternate trustee's usual residential or business address or such other address, or by telex or facsimile transmission to such telex or facsimile number, as the trustee or alternate trustee has supplied to the Trust for the giving of notices.

SCHEDULE—continued

- (b) Where a notice is sent by post, service of the notice is taken to be effected if a pre-paid envelope containing the notice is properly addressed and placed in the post and to have been effected at the time at which the letter would be delivered in the ordinary course of post.
- (c) Where a notice is sent by telex, service of the notice is to be taken to be effected if the correct answerback code appears at the commencement and the end of the telex message and to have been effected at the time the telex is sent.
- (d) Where a notice is sent by facsimile transmission, service of the notice is to be taken to be effected if the correct facsimile number appears on the facsimile transmission report generated by the sender's facsimile machine and to have been effected at the time the facsimile transmission is sent.
- (e) Clauses 11.1 (a) (b) (c) and (d) apply, so far as they can and with such changes as are necessary, to the service of any communication or document.
- (f) A reference in this Deed to a notice in writing includes a notice given by telex or facsimile transmission or any other form of written communication.

Prohibition and Enforceability

- 11.2 (a) Any provision of, or the application of any provision of, this Deed which is prohibited in any place is, in that place, ineffective only to the extent of that prohibition.
- (b) Any provision of, or the application of any provision of, this Deed which is void, illegal or unenforceable in any place does not affect the validity, legality or enforceability of that provision in any other place or of the remaining provisions in that or in any other place.

Applicable Law

- 11.3 This Deed is governed by the law in force in the Australian Capital Territory.
- 11.4 The parties to this Deed submit to the non-exclusive jurisdiction of the courts of the Australian Capital Territory.

In witness whereof the parties have executed this instrument as a Deed on the date first hereinbefore mentioned.

SCHEDULE—continued

**THE COMMON SEAL of
NRMA INSURANCE LIMITED**
was hereunto affixed by the authority
of the Board of Directors in the presence of:

Director/Secretary

Director/Secretary

Name (please print)

Name (please print)

SIGNED, SEALED AND DELIVERED
for and on behalf of the
AUSTRALIAN CAPITAL TERRITORY
in the presence of:

Witness

Name (please print)

Name (please print)

SIGNED, SEALED AND DELIVERED
by **BETTIE ANNE McNEE** in the
presence of:

Witness

Bettie Anne McNee

Name (please print)

SCHEDULE—continued

SIGNED, SEALED AND DELIVERED
by **BRUCE GEORGE DOCKRILL** in the
presence of:

Witness

Bruce George Dockrill

Name (please print)

SIGNED, SEALED AND DELIVERED
by **MERILYN JEAN SCHILG** in the
presence of:

Witness

Merilyn Jean Schilg

Name (please print)

SIGNED, SEALED AND DELIVERED
by **BRUCE OWEN SEARLES** in the
presence of:

Witness

Bruce Owen Searles

Name (please print)

SCHEDULE—continued

SIGNED, SEALED AND DELIVERED
by **IAN McLEAN CRAWFORD** in the
presence of:

Witness

Ian McLean Crawford

Name (please print)

