

Dated

199

**THE AUSTRALASIAN INSTITUTE OF MINING AND
METALLURGY (INCORPORATED)**

("The Institute")

-and-

("The Trustees")

**THE AUSTRALASIAN INSTITUTE OF MINING AND
METALLURGY, NEW ZEALAND BRANCH, EDUCATION
ENDOWMENT TRUST**

THIS TRUST DEED is made the

day of

199

BETWEEN: THE AUSTRALASIAN INSTITUTE OF MINING AND METALLURGY (INCORPORATED) a company duly incorporated by Royal Charter and having its office at Level 3, 15-31 Pelham Street, Carlton in the State of Victoria, Australia, (hereinafter called "The Institute")
of the one part

AND

of the other part

WHEREAS:

- A. The Institute desires to establish a public fund for certain charitable purposes as hereafter specified.
- B. The Institute proposes that the public fund will raise moneys from persons and companies involved in the industry of mining and metallurgy and will further accept contributions and donations (whether of money or other property) from any person, company or organisation.
- C. The Trustees named as parties hereto of the other part have consented to act as the first Trustees hereof (as is evidenced by their execution hereof).
- D. The Institute has paid or agreed to pay to the Trustees the sum of \$100.00 to be held by the Trustees upon the Trusts hereof.
- E. The public fund hereby established shall be known as THE AUSTRALASIAN INSTITUTE OF MINING AND METALLURGY, NEW ZEALAND BRANCH, EDUCATION ENDOWMENT TRUST.

NOW THIS DEED WITNESSES AS FOLLOWS:

1. INTERPRETATION

- (1) In this Deed the words and expressions following shall have the meanings respectively attached to them:

- (a) "the Act" means the Income Tax Act 1994 of New Zealand as amended from time to time or any Act in substitution thereof;
 - (b) "Custodian Trustee" means any person, firm or company appointed from time to time by the Trustees as a custodian trustee pursuant to clause 7.2;
 - (c) "Education Act" means the Education Act 1989 of New Zealand as amended from time to time or any Act in substitution thereof;
 - (d) "Fund" means:
 - (i) the said sum of one hundred dollars (\$100.00);
 - (ii) all sums of money and all real or personal property and benefits thereof at any time and from time to time paid or transferred to and accepted by the Trustees for the purposes hereof; and
 - (iii) all income and other accretions derived or arising from the said sum and moneys, property and benefits aforesaid;
 - (e) "Industry" means the industry concerned with and involved in minerals and petroleum in New Zealand;
 - (f) "Investment Manager" means any person, firm or company appointed from time to time by the Trustees as an investment manager pursuant to clause 7(2);
 - (g) "Purposes" means the purposes of the Fund as provided in sub-clause 3(1);
 - (h) "Secretary" means the Secretary or acting Secretary of the Fund for the time being appointed by the Trustees pursuant to clause 6(7); and
 - (i) "Trustees" means the persons hereinbefore named as the parties hereto of the other part or any other trustees for the time being hereof whether original, additional or substituted;
- (2) Headings and marginal notes shall not affect the construction or interpretation of this Deed.
- (3) All references herein to clauses, sub-clauses and paragraphs are to clauses, sub-clauses and paragraphs of this Deed as amended from time to time in accordance with this Deed.

- (4) The singular shall include the plural and vice versa and any gender shall include all other genders.

2. TRUSTS OF THE FUND

The Institute HEREBY DECLARES AND IT IS HEREBY AGREED that the Trustees shall stand possessed of the Fund upon the trusts and with and subject to the powers set forth in this Deed.

3. PURPOSES OF THE FUND

- (1) The Fund is established and shall be maintained exclusively for public charitable purposes being purposes of providing money, property or benefits to the following:

- (a) public universities in New Zealand;
- (b) any university, college, institute, association or organisation in New Zealand where the gift is for purposes of scientific research;
- (c) a university, college of education, or polytechnic established under section 162 of the Education Act;

to enable or encourage such universities, colleges, institutions, associations or foundations to:

- (i) fund research projects undertaken by persons, companies or organisations or in universities or other tertiary institutions that may benefit the Industry;
 - (ii) provide scholarships to tertiary students undertaking undergraduate or postgraduate study or research in a field of study related to the Industry
 - (iii) fund and provide lectures to persons involved in the Industry and students undertaking study in disciplines relating to mining, metallurgy or petroleum; or
 - (iv) provide moneys to universities for the purpose of providing endowed professorships.
- (2) Sub-clause (1) of this clause shall not be amended or deleted without the written approval of the Commissioner of Inland Revenue of New Zealand.

4. DONATIONS

- (1) The Trustees shall actively seek and accept donations from any person, company or organisation including any member or section of the public and such donations may comprise of moneys, real and personal property or any other benefit.
- (2) All receipts from time to time issued by the Trustees on behalf of the Fund shall quote the full name of the Fund.

5. ACCOUNTS AND BALANCE SHEET

- (1) The Trustees shall keep or cause to be kept proper books of record and of account showing all the financial transactions of the Fund and they shall also prepare or cause to be prepared annual financial statements concerning the affairs of the Fund as the Trustees consider appropriate.
- (2) The annual financial statements shall be audited by an accountant appointed by the Trustees. The appointment of the auditor shall be on such terms as the Trustees shall think fit and the Trustees may remove any auditor and appoint another in his stead.

6. TRUSTEES

- (1)
 - (a) The Trustees shall be bound in the application and use of the Fund in that the Fund shall only be applied and used solely for the Purposes.
 - (b) The Trustees shall from time to time pay or apply the income and capital of the Fund to or for the benefit of the Purposes or such one or more of them to the exclusion of the others or other of them as the Trustees shall in their absolute discretion from time to time determine.
 - (c) The Trustees will maintain the Fund separately from any other fund;
 - (d) The Trustees will open and conduct a separate bank account or accounts exclusively for the purposes of the Fund into which all moneys received by the Trustees for the purposes of the Fund shall be deposited. All payments into or out of any such account and all dealings with such account shall be effected in such manner as the Trustees shall determine.
 - (e) The Trustees may maintain any property or benefit of any kind or nature in the same form in which it was originally received as long as in exercising its discretion the Trustees honestly believe that by not distributing such property or benefit the Fund can be better utilised for the benefit of the Purposes rather than if the aforesaid

property or benefit were converted into money or distributed in specie.

- (2) Subject to sub-clause (3) the Trustees may from time to time fill any casual vacancy occurring amongst the Trustees. Any Trustee who is out of New Zealand for the time being or who for any reason is or is likely to be unable to attend meetings of the Trustees or to carry out the duties of a Trustee may subject to clause 6.3 from time to time appoint any person to be the alternate of such Trustee. The alternative shall automatically cease to act upon the Trustee appointing such alternate resuming the duties as a Trustee. While the appointment of an alternate remains in force the alternate shall for all the purposes of this Deed be treated as a Trustee in the place of the Trustee in relation to whom the alternate was appointed but such last mentioned Trustee shall not be liable or responsible in any way for the acts of such alternate.
- (3) The Trustees and any alternate or replacement Trustee shall at all times be persons who are appointed by the council of The Institute and who are members of the New Zealand Branch of the Institute and shall include the Chairperson for the time being of the New Zealand Branch.
- (4) A certificate signed by any member of the Trustees that a person named therein has been appointed a Trustee or alternate or that any person is the Chairman of Trustees shall be conclusive evidence for all purposes as to the correctness of the facts set out herein. A certificate signed by the Chairman of Trustees that the persons named therein are the Trustees for the time being or that the persons named therein have become Trustees or have ceased to be Trustees shall be conclusive evidence for all purposes in favour of all persons dealing with the Fund or with the Trustees as to the correctness of the facts set out herein.
- (5) The Trustees may act notwithstanding any vacancy for the time being in their body PROVIDED THAT there are at least four Trustees.
- (6) The Trustees may appoint one or more committees on which the Trustees may confer such duties as the Trustees may from time to time think fit for the more efficient and convenient operation of the Fund. The members of any such committee shall be removable from office by the Trustees at any time. Any committee so appointed shall at all times and in all things be and remain subject to and conform with the directions of the Trustees. The Trustees shall not be liable for any breach of duty or other wrongful act of any committee or of any member of any committee.
- (7) The Trustees may appoint any person as Secretary on such terms and for such period as they may think fit and they may remove the Secretary at any time and appoint another person to such position. Pending the appointment of a Secretary or in the absence of the Secretary or during the Secretary's inability to act the Trustees may appoint an acting Secretary. The Secretary shall perform such duties as the Trustees may direct. The receipt of the

Trustees or of the Secretary given on their behalf for any moneys payable to the Fund shall be a sufficient discharge to the person by whom those moneys were paid.

- (8) The Trustees shall from time to time elect one of their members to be the Chairman of Trustees.
- (9)
 - (a) The Trustees shall meet together for the despatch of business adjourn and otherwise regulate their meetings and proceedings as they think fit.
 - (b) Any Trustee may call a meeting of the Trustees by giving notice thereof to the Secretary and to the other Trustees or to such of them as are for the time being in New Zealand.
 - (c) Three (3) Trustees shall constitute a quorum.
 - (d) At a meeting of the Trustees questions shall be decided by a majority of votes.
 - (e) A resolution in writing signed by all the Trustees or by all the Trustees who for the time being are in New Zealand (not being less than a quorum for a meeting of the Trustees) shall be as valid and effective as a resolution passed at a duly convened meeting of the Trustees and it may consist of several documents in the like form each signed by one or more of the Trustees.
- (10) The Trustees shall cause proper minutes of all resolutions and proceedings of all meetings to be kept and entered in a book or books to be provided for those purposes. Any minutes purporting to be signed by the chairman of the meeting in question or a succeeding meeting shall be receivable as prima facie evidence of the matters stated in such minutes.
- (11) The Trustees in the exercise of the authorities, powers and discretions conferred upon them by this Deed shall have an absolute and uncontrolled discretion and may exercise or enforce all or any of their authorities, powers and discretions from time to time and at any time or may refrain from exercising all or any of the same from time to time or at all.
- (12) The Trustees shall be entitled to be indemnified from the Fund for all costs, charges and expenses incurred in lawfully administering the Fund.
- (13) Each Trustee hereof shall not be liable for any loss except loss attributable to such Trustee's own dishonesty or wilful default.

7. INVESTMENT OF FUND AND ADDITIONAL POWERS OF TRUSTEES

- (1) The Trustees may from time to time and in the name of or under the control of the Trustees or in the name of any nominee selected by the Trustees or in

the name of a Custodian Trustee invest the whole or any part or parts of the moneys or assets of the Fund not required for any other purpose in any investment from time to time authorised by the laws of New Zealand for the investment of trust moneys and the Trustees may vary or transpose or convert any such investments into or for another or others of the investments hereby authorised.

- (2) The Trustees shall have power to appoint from time to time such one or more persons, firms or companies as they may think fit to act either as Custodian Trustee or Investment Manager or both subject to such conditions as the Trustees may from time to time determine and may delegate to and confer upon each such Custodian Trustee or Investment Manager such authorities, powers and discretion's as the Trustees may think fit. The Trustees shall not be liable or responsible for any act, omission, error of judgment, negligence or breach of trust of any Custodian Trustee or Investment Manager and shall not be bound to take proceedings against any Custodian Trustee or Investment Manager in respect thereof. The Trustees shall also have power to pay out of the Fund to any such Custodian Trustee or Investment Manager such remuneration for its or their services as the Trustees consider proper. The Trustees shall also have power to remove from time to time any such Custodian Trustee or Investment Manager. No such Custodian Trustee or Investment Manager shall be entitled to take any part of the proceedings or deliberations of the Trustees.
- (3) The Trustees, in addition to sub-clause 7(2), shall have power to hire, engage or employ professionally qualified persons, specialists, managers, secretaries, clerks and any other persons as the Trustees deem fit and necessary in administering the Fund and may remunerate them out of the Fund.

8. MODIFICATION

The Trustees may from time to time by resolution alter, add to or delete all or any of the provisions contained in this Deed, including the provisions of this clause PROVIDED THAT no such alteration, addition or deletion shall permit or authorise the Trustees to pay or apply the Fund or any part thereof other than for charitable purposes and PROVIDED FURTHER THAT any such alteration, addition or deletion shall not be effective until first approved by the Commissioner of Inland Revenue of New Zealand.

9. DETERMINATION OF THE FUND

- (1) If at any time the Trustees are of the opinion that it is impractical to continue the Fund or that the Fund has failed to achieve its purpose for any reason then the Trustees may resolve to determine the Fund.
- (2) If upon the determination of the Fund there remains, after satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the members of The Institute but shall be given or transferred to some other institution or institutions having objects similar to the Purposes of the Fund and which is a fund, authority or institution approved by the Commissioner of Inland Revenue of New Zealand for the purposes of section CB4(1)(b) of the Act.

10. The Institute shall not have any interest in the Fund whatsoever whether by way of resulting trust or otherwise.

11. This Deed shall be governed by the laws of New Zealand.

IN WITNESS THEREOF the parties have executed this Deed the day and year first hereinbefore written.

THE COMMON SEAL OF THE AUSTRALASIAN INSTITUTE OF MINING AND METALLURGY (INCORPORATED) was hereunto affixed in accordance with the by-laws of the Institute in the presence of:

..... Council Member

..... Secretary

SIGNED SEALED AND DELIVERED by

the said
the presence of:

in

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Witness

SIGNED SEALED AND DELIVERED by
the said
the presence of:

in

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Witness

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