

V-23

CORPORATIONS ACT 2001

UNE UNION LIMITED
ACN 065 648 419

DEED OF COMPANY ARRANGEMENT

THIS DEED is made the on 17th day of August 2005, in pursuance of the provisions of Part 5.3A of the Corporations Act 2001 (hereinafter called "the Act")

BETWEEN

UNE UNION LIMITED ACN 065 648 419 (the Company)

AND

THE UNIVERSITY OF NEW ENGLAND (the University)

AND

UNE UNION (the Union)

AND

STEPHEN NEVILLE HALL (the Administrator)

RECITALS:

- A. The Company is a company limited by guarantee whose directors and members are members of the Board of the Union.
- B. On 11 May 2005 the Company appointed the Administrator as Administrator of the Company pursuant to Section 436A of the Act.

- C. Also on 11 May 2005 the Union appointed the Administrator as Receiver and Manager of the Union.
- D. The University indemnifies the Administrator in his capacity as Administrator of the Company and as Receiver and Manager of the Union and has had and continues to have an overall role pursuant to the powers conferred on it by the University of New England Act 1993.
- E. A meeting of creditors of the Company convened pursuant to Section 439A of the Act was held on 5 August 2005 being a date within the time specified in Section 439A(5) of the Act and being not more than 21 days prior to the date hereof (which meeting of creditors is called 'the Creditor's Meeting').
- F. The Creditor's Meeting was held in accordance with the provisions of Section 439A of the Act.
- G. By resolution the Creditors resolved that the Company be required to execute a Deed of Company Arrangement under Part 5.3A of the Act.
- H. The Administrator was nominated by the Creditor's Meeting to be the Administrator of such Deed of Company Arrangement.
- I. The University and the Union are parties to the Deed by reason of the present relationships between them and the Company and the Administrator and the proposed restructure and future management of the Union and the Company as set out in this Deed.

OPERATIVE PART

Administrator

- 0. The Deed Administrator is Stephen Neville Hall of Forsyths Chartered Accountants, 127 Marius Street, Tamworth.

Nature of the Deed

2. To the extent that the Administrator, the Company and the University are parties to the Deed then this Deed is a Deed of Company Arrangement pursuant to Division 10 of Part 5.3A of the Act.
3. The Deed is subject to execution of it by the Union and in the event that the Union does not execute the Deed during the time prescribed in Section 444B(2)(a) of the Act, then the Company will be taken not to have executed the Deed and Division 12 of Part 5.3A will apply.

Commencement of the Deed

4. This Deed commences and comes into effect on execution by it of all of the parties to it.
5. The Administrator has no authority to execute this Deed until and unless it has been executed by the University.
6. The Company has no authority to execute this Deed until and unless it has been executed by the Union.

Conditions for the Deed to Continue in Operation

7. During the period of 90 days commencing on the date on which the Deed comes into effect, the parties will have the functions, powers and obligations that follow in paragraphs 8 to 12 of this Deed.
8. The Administrator will manage the Deed and the affairs of the Company pursuant to the Act. Without limiting the generality of the foregoing the Administrator will –
 - 8.1 Continue to manage the business and affairs of the Company
 - 8.2 Pay all debts of the Company in the ordinary course of business
 - 8.3 Comply with the Act, and
 - 8.4 Execute all documents to give effect to the provisions of this Deed.

9. **The Company** will cause a Special General Meeting of its members to be convened to consider and if thought fit, resolve by special resolution, that the constitution of the Company be modified so as to provide that:
- 9.1 The Company following such modification has one member being the University.
 - 9.2 The Directors of the Company are appointed by the Council of the University provided that at least two of them are members of the Student Body of the University.
 - 9.3 The Company is a controlled entity within the meaning of the University of New England Act.
 - 9.4 The Company is limited by guarantee and is prohibited from making any payment or distribution to any member, whether by way of dividend, surplus on winding up or otherwise.
 - 9.5 The objects of the Company include, but are not limited to, engaging in activities incidental or necessary for the benefit of the University, Students, Staff of the University and the broader University community, as well as the object of taking over the funds assets and liabilities of the Union.
10. The modifications to the Constitution of the Company may provide such other provisions, not inconsistent with those set out in paragraph 9 above, as are approved by the Council of the University and adopted by Special Resolution of the Company.
11. By its execution of this Deed **the Union** authorizes and requests the Administrator, as Receiver and Manager of the Union, to execute all documents and all things necessary for the Union to:
- 11.1 Extinguish the bare trust constituted in a Deed of Appointment of Trustees between the Union and the Company on 4 August 1994.
 - 11.2 Transfer to the Company all of the Union's right, title and interest, and liability, in the assets and liabilities of the Union of every nature for the Company to hold such assets and liabilities in its own right absolutely.
 - 11.3 Make arrangements with the creditors, staff, contractors, lessors and all others who deal with the Union for the transfer of their interest to the Company, and

11.4 Transfer all of the remaining affairs and interests of the Union of any nature whatsoever to the Company.

11.5 Cease the operations of the Union as it is presently constituted.

12. The parties to this Deed acknowledge that -

12.1 The assets of the Union do not include real property, or buildings thereon, located at the University of New England at Armidale. Such real property and buildings thereon remain the property of the University.

12.2 The employment, rights, salary and wages, working conditions and continuity of employment of the employees of the Union as at the date on which all of the assets and affairs of the Union are transferred to the company must not be prejudiced or decreased only by reason of such transfer.

13. The University will and hereby does -

13.1 Give its consent to the extent that it may be required to all of the provisions of this Deed.

13.2 Indemnify the Company on the terms and conditions for the duration and subject to the limitations set out in paragraph 28 of this deed.

13.3 Indemnify the Deed Administrator on the terms and conditions set out in paragraph 25 - 27 of this Deed.

13.4 Provide such reasonable assistance as may be requested to the Administrator, the Union and the Company in the execution of their respective functions and obligation pursuant to this Deed.

Circumstances in which the Deed Terminates by Failure

14. The following are circumstances in which this Deed is to terminate and the Company is to be wound up in accordance with Section 446B and Regulation 5.3A.07 of the Act -

- 14.1 Should the University not execute this Deed prior to its execution by the Company.
- 14.2 Should the Union not execute this Deed prior to its execution by the Administrator.
- 14.3 Should a Special Resolution to amend the Constitution of the Company, containing at least the matters set out in paragraph 9 of this Deed, not be passed by a Special General Meeting of the Company within 28 days of this Deed coming into operation.
- 14.4 Should the Union, whether by resolution of its Directors or by the Receiver and Manager pursuant to the authority contained in paragraph 11 of this Deed, not, within 21 days of the passage of the Special Resolution of the members of the Company referred to in paragraph 9 of this Deed extinguish the bare trust and transfer all of the assets and liabilities of the Union to the Company as set out in paragraph 11 of this Deed.
- 14.5 Should the University fail to continue, or purport to revoke, the indemnities to the Company, the Union and the Administrator set out in paragraphs 25 - 28 of this Deed.
- 14.6 Notwithstanding the times and obligations set out above, should all of the obligations set out in paragraphs 8 - 13 of this Deed not have been completed within 90 days of this deed coming into operation.

General Provisions

15. All of the property of the Company, including property of the Union transferred to the Company by operation of this Deed, is available to pay creditors of the Company.
16. There is no moratorium period in respect of the debts of the Company.
17. The Company is not, by reason of this Deed, released from its debts and accepts liability to pay the debts of the Union in addition to those of the Company.
18. Paragraphs 11 and 12 of Schedule 8A of the Corporations Regulations do not apply to this Deed but the balance of Schedule 8A is taken to be incorporated into this Deed.

Operation of the Union

19. The Administrator, as Receiver and Manager of the Union, will continue to have the powers and perform the functions set out in the Deed of Appointment between the University, the Union and Receiver and Manager dated 11 May 2005.
20. After the Receiver and Manager has performed the functions of the Union set out in paragraph 11 of this Deed, the Union will cease to operate.
21. The Receiver and Manager may resign at any time after he has performed the functions of the Union set out in paragraph 11 of this Deed and give notice of such resignation to such persons or bodies as he thinks fit. Following such resignation the Receiver and Manager will have no further role or liability in the Management of the Union but the indemnities in paragraph 7 of the Deed dated 11 May 2005, and in this Deed, shall continue.
22. The University will make such arrangements as may be necessary and appropriate, and will meet the cost of such arrangement, following the Union, as it is presently constituted, ceasing to operate including, should it be so advised, causing the constitution of the Union to be altered or the Union to be dissolved.

Operation of the Company

23. As soon as practicable after the Special General Meeting described in paragraph 9 of this Deed:
 - 23.1 The University will appoint such number and type of directors as are necessary for a meeting of the Board of the Company to convene, and
 - 23.2 The Administrator may, on behalf of the Company, accept liability for the Company in respect of all liabilities, obligations and arrangements of the Union that are transferred or to be transferred to the Company by the Union pursuant to paragraph 11 of this Deed.
24. Pursuant to Section 437C(1A) of the Act, the Administrator approves of the Company or its officers performing or exercising such functions or powers as are required to give effect to all of the provisions of this Deed and hereby gives his consent, to the extent that his consent is

required, to the Special General Meeting and Proposed Special Resolutions referred to in paragraphs 9 and 10 of this Deed.

Indemnities

25. The University indemnifies the Administrator as Receiver and Manager of the Union, and will keep him indemnified, against:
- 25.1 All claims or proceedings made against or suffered by the Receiver;
 - 25.2 All liability for any debts incurred by the Receiver arising out of his acceptance of appointment as Receiver under this Deed;
 - 25.3 All or any acts performed by him in his capacity as Receiver;
 - 25.4 Any liability incurred by him as a result of any defect in his appointment or as a result of any order or resolution to dissolve the Union whether before or after the appointment of the Receiver;
 - 25.5 The Receiver's remuneration including that of his partners employees and agents calculated at a rate not exceeding the maximum recommended from time to time by the Insolvency Practitioners Association of Australia for work of that nature.
 - 25.6 Any other liability of the Receiver arising out of the proper exercise by him of the powers and functions conferred upon him by this instrument except to the extent that they are the result of personal default or neglect of the Receiver, his employee or agents or any of them.
26. The University indemnifies and will keep indemnified the Administrator against all claims, demands, actions, costs, charges, and expenses or other liabilities whatsoever (without limitation, including liabilities imposed by Section 443A and 443B of the Act) that may be made brought, suffered or sustained or incurred by the Administrator arising in any way out of or in connection with:
- 26.1 his appointment as Administrator of the Company;
 - 26.2 in the event of the Company entering into a Deed of Company Arrangement and the Administrator becoming a Deed Administrator pursuant to that Deed, the carrying out or administration of the Deed.
 - 26.3 in the event that the Administrator becomes the Liquidator of the Company, his appointment as Liquidator of the Company.

- 26.4 any defect whatsoever in his appointment;
- 26.5 the removal of the Administrator as Administrator, Deed Administrator or Liquidator of the Company for any reason whatsoever and at any time either before or after the meeting of the Creditors of the Company convened pursuant to Section 439A of the Act;
- 26.6 the Administrator performing the duties imposed on him in relation to the Administration, Deed of Company Arrangement or liquidation or failing or neglecting or omitted to perform any such duties other than incurred or arising out of actual dishonesty on his part;
- 26.7 the Administrator defending any action brought by any person for the removal of him as Administrator, Deed Administrator or Liquidator of the Company;
- 26.8 the Administrator pursuing any right of indemnity available including any right of indemnity pursuant to Section 443D of the Act;
- 26.9 the Administrator enforcing his rights pursuant to the Deed;
- 26.10 any security given or payments made by the Company to the Administrator being reduced, varied or set aside.
27. The indemnities in paragraphs 25 and 26 are in addition to, and do not restrict or prejudice, the indemnities given by the University, the Company and the Union in the Deed of Appointment of the Administrator as Receiver and Manager of the Union on 11 May 2005 and as Administrator of the Company in a Deed made on 11 May 2005.
28. The University indemnifies and will keep indemnified the Company in respect of all debts of the Company incurred by the Board of the Company in its management of the affairs of the Company and in pursuance of the objects of the Company but subject to the following:
- 28.1 The indemnity in this paragraph applies only to debts incurred by the Board of the Company after all of its Directors have been appointed by the University following alteration of the Rules of the Company by Special Resolution referred to in paragraph 9 herein.
- 28.2 This indemnity does not apply to any purchase of real property by the Company or to any Contract extending beyond 6 months after the commencement of this Deed unless the University has, prior to the execution of such Contract, resolved to extend the indemnity to such Contract.

28.3 At any time after 5 months after the commencement of this Deed the University may give the Company notice that one month after the date of such notice the indemnity contained in this paragraph is withdrawn and on the expiration of one month after the date of such notice this indemnity does not apply to any debt incurred by the Company.

28.4 The Company is indebted to the University in respect of any amounts paid by the University pursuant to this indemnity and the University may exercise any of its powers as creditor, in addition to its powers as member.

Termination of Deed Where Arrangement Achieves Purpose

29. This Deed is to terminate in accordance with Section 445C(c) of the Act when the last of the following happens:

29.1 The Administrator has paid to each creditor the sum of one hundred cents in the dollar or has made arrangements satisfactory to the creditor securing the payment or future payment of the creditor's debt by the Company.

29.2 The Union or Administrator, as Receiver and Manager of the Union, has carried out the functions and performed the duties described in paragraph 11 of this Deed.

29.3 A Special General Meeting of the members of the Company has passed a Special Resolution of the nature outlined in paragraph 9 of this Deed and, following such Special General Meeting, directors appointed by the University in accordance with the amendments to the Constitution have taken Office.

30. Upon the last of the events stated in paragraph 29 above, the Administrator must certify to that effect in writing and must within 28 days lodge with the Commission a notice of termination of this Deed in the following form:

"UNE UNION LIMITED ACN 065 648 419

I, STEPHEN NEVILLE HALL, of Forsyths Chartered Accountants, 127 Marius Street, Tamworth as Administrator of the Deed of Company Arrangement Executed on August 2005 CERTIFY that the Deed has been wholly effectuated."

General Provisions

31. Any provision of this Deed which is prohibited or unenforceable will be effective to the extent of such prohibition or unenforceability. The validity of the remaining provisions will not be effected.
32. Any obligations of a party to this Deed includes the agreement of the party to execute all documents, do all things and give all instructions to give effect to that obligation.
33. In this Deed:
 - 33.1 'Council' means the Council of the University
 - 33.2 'Company' is UNE Union Limited ACN 065 648 419 or any name to which the name of the Company is changed by special resolution of the Company
 - 33.3 'University' means the University of New England
 - 33.4 'Union' means the UNE Union
 - 33.5 Any terms in this singular includes the plural and vice versa
 - 33.6 Any liability of the University, the Union and the Company is joint and several.

EXECUTED AS A DEED
SIGNED FOR THE COMPANY



The COMMON SEAL of UNE UNION LTD.)
ACN 065 648 419)
was affixed in accordance with a resolution)
of the Board of Directors)

[Signature]
Director

[Signature]
Secretary

[Signature]
Administrator

SIGNED FOR THE UNIVERSITY

By [Signature])
15.08.05)
who warrants that he/she has the authority)
of the Council so to do)
in the presence of :)

Witness [Signature]

SIGNED FOR THE UNION

By [Signature])
who warrants that he/she has the authority)
of the Board so to do)
in the presence of :)

Witness: [Signature]

SIGNED SEALED AND DELIVERED

BY STEPHEN NEVILLE HALL

In the presence of: Andrew Kirk)

[Signature]

Witness [Signature]