

Bendigo Superannuation Pty Limited

Supplemental Deed

Amending the trust deed of the Bendigo Superannuation Plan

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This Deed Poll is made on 31 August 2024

By

Bendigo Superannuation Pty Limited (ACN 644 620 128) of The Bendigo Centre, 22-44 Bath Lane, Bendigo Victoria, 3550 (**Trustee**).

Recitals

- A The Trustee is the trustee of the regulated superannuation fund known as the Bendigo Superannuation Plan (the **Fund**).
- B The Fund is governed by a trust deed dated 3 June 1988, as amended from time to time (the **Trust Deed**).
- C On 26 September 2023, Betashares Australia Holdings Pty Ltd (**Betashares**) entered into an agreement with Bendigo and Adelaide Bank Limited (**Bank**) to acquire the shares in the Trustee.
- D Clause 17.1 of the Trust Deed provides that the Trustee may by a supplemental deed, alter, modify, add or delete any of the provisions of the Trust Deed subject to certain conditions. Clause 17.2 of the Trust Deed provides that any amendments made under clause 17.1 may take effect from a date that is before or after it is made.
- E The Trustee wishes to alter, modify, add or delete certain provisions of the Trust Deed to reflect changes to the Plan and the Trustee which will take effect on the date the sale of the shares in the Trustee to Betashares is completed (**Settlement**). This Deed will make those changes.
- F The Trustee is satisfied the conditions to its amending power will be satisfied.

It is declared as follows.

1 Definitions

In this Deed, including the Recitals, the following definitions apply unless the context otherwise requires.

Fund has the meaning given in Recital A.

Settlement has the meaning given in Recital E.

Trust Deed has the meaning given in Recital B.

2 Amendment of Trust Deed

With effect on and from Settlement, the Trust Deed is amended by:

- (a) In clause 1.1,:
- (i) deleting the definition of Bendigo and Adelaide Bank; and
 - (ii) in the definition of Plan, replacing 'known as Bendigo Superannuation Plan' with 'with ABN 57 526 653 420 and RSE Registration Number R1000139'; and
- (b) In clauses 8.6 and 8.7(d), deleting the references to 'Bendigo and Adelaide Bank' and replacing them with 'the Trustee's shareholder(s)'; and
- (c) In clause 16.12(e), deleting 'Bendigo Superannuation Plan'.

3 No Resettlement

The Trustee confirms that it is not, by this Deed, intending to:

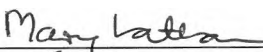
- (a) resettle or redeclare the trust declared under the Trust Deed; or
- (b) cause the transfer, vesting or accruing of any property comprising the assets of the Plan in any person.


4 Governing Law and Jurisdiction

This Deed is governed by the laws of Victoria.

Executed and delivered as a deed poll


Executed as a deed in accordance with section 127 of the *Corporations Act 2001* (Cth) by **Bendigo Superannuation Pty Limited** (ACN 644 620 128) as trustee of the Bendigo Superannuation Plan:



Director Signature


Print Name



Director/Secretary Signature


Print Name

Amending Deed

Bendigo Superannuation Pty Ltd (**Trustee**)

Amending Deed

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Amending Deed

Date 29 August 2022

Parties

Bendigo Superannuation Pty Ltd ABN 23 644 620 128 of GPO Box 264,
Melbourne, Victoria 3001 (**Trustee**)

Recitals

- A The Trustee is the current trustee of the regulated superannuation fund known as the Bendigo Superannuation Plan constituted by Trust Deed dated 3 June 1988.
- B The original Trust Deed has subsequently been amended by various deeds of amendment (the original Trust Deed as amended being referred to in this deed as the **Trust Deed**).
- C Clauses 17.1 and 17.2 of the Trust Deed provide as follows:

“17.1 Power to Amend

Subject to any restrictions on amendment of trust deeds in Relevant Law and in clause 17.4, the Trustee may by deed supplemental to this Deed alter, modify, add or delete any of the provisions of this Deed, including this clause if such alteration, modification, addition or deletion:

- (a) *is in the opinion of the Trustee or a barrister or solicitor instructed by the Trustee necessary or expedient to comply with the provisions of any statute, ordinance or with the requirement of any statutory authority; or*
- (b) *is in the opinion of the Trustee made to correct a manifest error or is of a formal, technical or administrative nature only (including without limitation any change of the name of the Plan); or*
- (c) *is in the opinion of the Trustee required by or in consequence of or consistent with any amendment to Relevant Law and is in the opinion of the Trustee not prejudicial to the interests of Members; or*
- (d) *is considered by the Trustee not to be or to be likely to become prejudicial to the interests of Members; or*
- (e) *is to amend clause 12 provided that the Trustee is satisfied that owing to changed economic circumstances any increase proposed is reasonable and that any such increase only will take effect after 30 days’ notice to Members or other notice required by Relevant Law, whichever time is later; or*
- (f) *is approved by an Extraordinary Resolution of Members where in the opinion of the Trustee the rights of those Members may be adversely affected.*

17.2 Date of Effect

An amendment made pursuant to this Part 17 may take effect from a date before or after it is made.”

- D The Trustee proposes to amend the Trust Deed and is satisfied that the amendments made by this deed and set out in the Annexure to it are permitted by Clauses 17.1 and 17.2.

Operative Provisions

With effect from the date of this deed the parties agree

1 Amendment to Trust Deed

The Trust Deed is amended as set out in Annexure A.

2 Confirmation

In all other respects the provisions of the Trust Deed remain in effect.

3 Not a resettlement

The amendment effected by this deed does not constitute the declaration of new trusts or a resettlement.

4 Governing law

This deed is governed by the law in force in Victoria.

EXECUTED as a deed.

Signing page

EXECUTED by **BENDIGO
SUPERANNUATION PTY LTD ABN 23 644
620 128** in accordance with section 127 of the
Corporations Act 2001 (Cth) by being signed
by the following officers:



Signature of director

Paul Gerard Rohan

Name of director
(please print)



Signature of director/company secretary

Melissa Jane Lovell

Name of ~~director~~ company secretary
(please print)

Annexure A

Bendigo Superannuation Plan Trust Deed

Bendigo Superannuation Plan Trust Deed

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Bendigo Superannuation Plan Trust Deed

1 Definitions and Interpretation

1.1 Definitions

In the interpretation of this Deed and in any document issued hereunder, the words and phrases set out below shall, unless the context otherwise requires, have the meanings respectively ascribed to them:

Accounts means such accounts and statements as are required to be prepared for a particular period pursuant to Relevant Law.

Act means the *Superannuation Industry (Supervision) Act 1993* and any prudential standards made thereunder.

Actuary means a person who is a fellow or an accredited member of the Institute of Actuaries of Australia or who is otherwise qualified under Relevant Law to perform the function of an actuary pursuant to clause 14.1(b).

Administrator means an administrator appointed by the Trustee pursuant to clause 10.8.

Annuity has the meaning given to that expression in section 10 of the Act.

Approved Benefit Arrangement means a fund or benefit arrangement including without limitation another complying superannuation fund, an Approved Deposit Fund, Retirement Savings Account and an Annuity arrangement into which or from which assets can be transferred without causing the Plan to be in breach of or to fail to comply with Relevant Law and includes an Eligible Rollover Fund.

Approved Deposit Fund has the meaning given to that expression in section 10 of the Act.

Approved Valuer means in respect of the Plan any person who is:

- (a) independent of the Trustee;
- (b) experienced in relation to the valuation of assets of the kind required to be valued; and
- (c) in the case of a valuation of Land, a member of the Australian Valuers Institute.

Assets of the Plan means all the cash and Investments, including Contributions received, held by the Trustee upon the trusts of the Plan and without limiting the generality of the foregoing includes:

- (a) the first contribution;
- (b) amounts owing to the Plan by debtors (excluding any bad debts);
- (c) income accruing from Investments of the Plan to the extent not included in the preceding paragraph of this definition;
- (d) the proceeds of sale of any Investments;

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- (e) any pre-payment of expenditure; and
 - (f) all additions or accretions (if any) to the Plan which arise by way of dividend interest premium or distribution or which are otherwise received and for the time being retained.

Auditor means in respect of the Plan, any person appointed, for the time being, by the Trustee to act in relation to the Plan.

Australian Accounting Standards means:

- (a) the accounting standards approved under the Corporations Act and the requirements of that law about the preparation and content of accounts; and
- (b) generally accepted and consistently applied principles and practices in Australia, except those inconsistent with the standards or requirements referred to in paragraph (a).

Authorised Dealer means a Corporation that is for the time being declared to be an authorised dealer in the short-term money market under section 65 of the Corporations Act.

Authorised Investments means all or any investments in which trustees are for the time being authorised by the law of any State or Territory of the Commonwealth to invest trust funds, and which is not prohibited by Relevant Law, and is permitted by the Trustee's policies from time to time, and without limiting the generality of this clause includes:

- (a) securities as defined in sub-section 92(1) of the Corporations Act and convertible notes (as defined in Division 3A of Part 111 of the Tax Act) and options or rights to purchase any such shares (whether issued or not) or convertible notes;
- (b) the purchase, leasing or other acquisition of any Land or interests in Land;
- (c) the purchase, leasing, hiring or other acquisition of any plant, equipment, furnishings and fittings and any other personal property and any share or estate or interest in them;
- (d) in any policy of insurance;
- (e) units or sub-units (or the equivalent rights or interests) in any Investment Fund;
- (f) any investment in a Pooled Superannuation Trust;
- (g) holding deposits for Authorised Investments which it is proposed to purchase on behalf of the Plan;
- (h) options, futures contracts, swap agreements, currency hedges or other derivatives or financial instruments, subject to any restrictions in Relevant Law or in the Trustee's policies from time to time;
- (i) deposits with or the acquisition of certificates of deposit or any other security issued by a Bank or Building Society;
- (j) any investment of money on security of any Land.

Bank means a body corporate which carries on the general business of banking.

Bendigo and Adelaide Bank means Bendigo and Adelaide Bank Limited ABN 11 068 049 178.

Benefit means the amount paid or payable by the Trustee out of the Plan to or in respect of a Member pursuant to the rules of the Plan. The term 'Benefit' includes a payment of part or all of a Member's interest in the Plan, an amount payable in the form of a lump sum or pension, or a payment in respect of a Member after the death of the Member.

Binding Death Benefit Notice means a notice given to the Trustee under clauses 3.3 that complies with Relevant Law.

Building Society means any building society registered as a building society under the provisions of an Act of Parliament of a State or Territory of the Commonwealth of Australia.

Business Day means those days other than Saturday, Sunday, Bank holidays and public holidays in the State of Victoria.

Cashing Restriction means in relation to a Benefit, a requirement under Relevant Law that the Benefit may only be cashed on or after the satisfaction by the recipient of a Condition of Release.

Child has the meaning given to that expression in section 10 of the Act.

Civil Penalty Order has the meaning given to that expression in section 10 of the Act.

Commissioner means the Australian Prudential Regulation Authority, the Australian Securities and Investments Commission, the Commissioner of Taxation or such other regulatory body as shall have responsibility for the administration of superannuation.

Condition of Release has the meaning given to that expression in the Regulations.

Constitutional Corporation has the meaning given to that expression in section 10 of the Act.

Contribution means any or all of any deposits, payments or contributions, including Directed Termination Payments and Superannuation Lump Sums, made to the Plan by, for, in respect of or on behalf of a Member and permitted by Relevant Law.

Corporation means any statutory corporation, sole corporation or company formed or incorporated according to law.

Corporations Act means the *Corporations Act 2001* (Cth) and the regulations made under it from time to time.

Custodian means any custodian appointed by the Trustee pursuant to clause 10.9.

Deed means this Deed and Schedules, as amended from time to time.

Deferred Annuity has the meaning given to that expression in the Regulations.

Dependant means in relation to a person who is a Member:

- (a) the person's Spouse;
- (b) a person who is in an Interdependency Relationship with the Member;

-
- (c) any Child of the person; and
 - (d) any person who in the opinion of the Trustee is or was at the relevant time wholly or partially financially dependent upon the Member for maintenance and support.

Directed Termination Payment has the meaning attributed to it in the Tax Act.

Disclosure Document means any product disclosure statement or other disclosure document issued by the Trustee which meets the requirements of Relevant Law.

Disqualified Person means a body corporate which is in respect of the Plan a disqualified person for the purposes of Part 15 of the Act.

Eligible Person means a person who is permitted to become and remain a Member of the Plan under Relevant Law and may include a Spouse (within the meaning of paragraph (b) of the definition of "Spouse") of a Member, or any other person.

Eligible Rollover Fund has the meaning given to that expression in section 242 of the Act.

Employee means a person who is:

- (a) in the employment of an Employer whether on a full time, part time or casual basis, and in the case of an Employer which is a Corporation shall include a director, manager or secretary of the Corporation; or
- (b) a person who is an Employee of the Employer for the purposes of the *Superannuation Guarantee (Administration) Act 1992*.

Employer has the meaning given to that expression in section 10 of the Act.

Expenses of the Plan means the costs referred to in clause 4.3(d).

Expense Reserve Account means the account of that name established in respect of the Plan (if any).

Extraordinary Resolution means a resolution passed at a meeting of Members duly convened and held in accordance with the provisions of this Deed by a majority consisting of not less than 75% of the persons voting by show of hands or by poll.

Financial Year means each successive period of 12 Months commencing on the first day of July and ending on the 30th day of June except that the first Financial Year will be the period commencing on the commencement of the Plan and ending on the 30th day of June next ensuing and the last Financial Year will be the broken period (if that be the case) ending on the date of termination of the Plan and commencing on the first day of July preceding the date of termination.

Gainfully Employed Person means a person engaged in a business, trade, profession, vocation, calling, occupation or employment.

III-Health means partial disability or total disability as those terms are defined in the relevant policy of insurance effected by the Trustee in respect of the Member or Members.

Insured Benefit means the amount, if any, payable under a policy of insurance on death, illness, incapacity or Total and Permanent Disablement.

Insurer means a Life Insurance Company which has issued to the Trustee a policy of life or disability insurance covering a Member or group of Members.

Interdependency Relationship means:

- (a) a close personal relationship between two people (whether or not related by family) who live together, where one or both provides the other with financial and domestic support and personal care; or
- (b) a close personal relationship between two people which may not satisfy all of the requirements in (a) above on account of either or both of them suffering from a physical, intellectual or psychiatric disability; or
- (c) such other relationship as prescribed pursuant to Relevant Law.

Investment means any Authorised Investment purchased or to be purchased by the Trustee on account of the Plan.

Investment Fund means any collective investment structure, unit trust or similar entity.

Investment Manager means any investment manager appointed by the Trustee pursuant to clause 10.7.

Investment Option means an investment option settled by the Trustee in respect of some of the Assets of the Plan.

Investment Option Nomination means the nomination made from time to time by a Member pursuant to clause 5.1(d)(i).

Land includes, without limitation, all:

- (a) interests and estates in land, whether freehold, leasehold, legal, beneficial, vested or contingent;
- (b) improvements on land;
- (c) natural resources on, above or under land;
- (d) easements and other rights enjoyed in relation to land;
- (e) rights and things that the law considers to be part of land,

whether inside or outside of Australia.

Legal Personal Representative means in respect of a Member the executor or administrator of the estate of the deceased Member, the trustee of the estate of a Member under a legal disability or a person who holds a general power of attorney granted by a Member.

Liabilities of the Plan means:

- (a) any amounts borrowed for the purpose of the Plan and remaining owing together with interest thereon;

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- (b) unpaid administrative costs and Expenses of the Plan including the fees of the Trustee determined in respect of the Plan pursuant to clause 12.1;
 - (c) accrued charges owing in respect of or in relation to any of the Investments of the Plan;
 - (d) deposits or margin calls required to be paid under any futures or other investment contract;
 - (e) any provisions for Taxes and Charges which in the opinion of the Trustee should be taken into account; and
 - (f) such other liabilities or other expenditure which in the opinion of the Trustee should be taken into account and which have not otherwise been taken into account in determining the amount of the Liabilities of the Plan in any of the preceding paragraphs of this definition.

Life Insurance Company has the meaning given to that expression in section 10 of the Act.

Member means a person who has been admitted as a member of the Plan.

Member Account means the total of the interest in the Plan maintained in respect of a Member, and may include any sub-accounts, or an account in respect of a Member's MySuper Product.

Month means a calendar month except in the event of termination of the Plan whereupon **Month** means the broken period ending on the date of termination of the Plan and commencing on the first day of the Month in which the termination occurs.

MySuper assets means the Plan assets attributable to the MySuper Product.

MySuper Member means a Member who holds a MySuper Product of the Plan in respect of all or part of their interest in the Plan.

MySuper Product means the class of beneficial interest in the Plan which is a MySuper product for the purposes of the Relevant Law.

MySuper Requirements means the legislative and regulatory requirements applicable to a MySuper Product under the Relevant Law.

Net Value of Assets of the Plan means the Value of the Assets of the Plan less the Liabilities of the Plan.

Operational Risk Financial Requirement means the financial resource that the Trustee has determined is necessary to hold to meet operational risks that may affect the Plan, as required by Relevant Law.

Ordinary Resolution means a resolution passed at a meeting of Members duly convened and held in accordance with the provisions of this Deed by a majority of the persons voting upon a show of hands or by poll.

Pension means a Benefit payable by instalments.

Pensioner Member means a Member in receipt of a Pension.

Plan means the regulated superannuation fund known as Bendigo Superannuation Plan established by declaration of trust dated 3 June 1988 as varied from time to time.

Pooled Superannuation Trust has the meaning given to that expression in section 10 of the Act.

Prescribed Period means in respect of any matter or thing required to be done by this Deed the period in which that matter or thing is required to be done in the circumstances under Relevant Law.

Privacy Law means the *Privacy Act 1988* (Cth), the Australian Privacy Principles and any other provisions of that Act.

Register of Members means the register of Members and administration system maintained by or on behalf of the Trustee pursuant to clause 7.1.

Regulated Superannuation Fund has the meaning given to that expression in section 19 of the Act.

Regulation means, unless the contrary intention appears, the regulations issued pursuant to the Act as amended from time to time.

Relevant Law means:

- (a) any requirements under the Act, the Regulations, the Corporations Act, the Corporations Regulations 2001, the *Financial Sector (Collection of Data) Act 2001* (Cth), the former *Occupational Superannuation Standards Act 1987* (Cth), the former *Occupational Superannuation Standards Regulations 1987* (Cth), the *Superannuation (Resolution of Complaints) Act 1993* (Cth), the *Family Law Act 1975* (Cth), *Family Law Legislation Amendment Act 2001* (Cth), *Family Law (Superannuation) Regulations 2001* (Cth) and *2002* (Cth), the Tax Act and any other present or future legislation which the Trustee must comply with in order for the Plan:
 - (i) to qualify for the most favourable taxation treatment available to superannuation funds; or
 - (ii) avoid any penalty, detriment or disadvantage which is or may become payable or imposed in connection with the Plan or anything done or to be done under this Deed; or
 - (iii) to meet any other requirements of the regulator; and
- (b) such circulars, rulings, policy statements, class orders, prudential and reporting standards published from time to time by the Commissioner or the Federal Commissioner of Taxation or announced or proposed by the Federal Treasurer of the Commonwealth of Australia applicable to the operation of the Plan; and
- (c) Privacy Law,

and includes any proposed requirements, rulings, announcements or obligations which the Trustee believes will have effect retrospectively.

Required Cash Holding means the amount determined by the Trustee that the Trustee requires each Member to maintain in the form of cash in the Member Account. The amount

may be a fixed sum or a percentage of the Assets held in the Member Account or a combination of both.

Retirement Savings Account has the meaning given to that expression in Section 8 of the *Retirement Savings Account Act 1997* (Cth).

Reversionary means, in relation to a Pension payable to a Pensioner Member, a person nominated by the Member under clause 2.12 of the Deed and eligible to receive the Pension on the death of the Pensioner Member.

Reversionary Dependant means:

- (a) in relation to a Pensioner Member, a person receiving or eligible to continue to receive a Pension under Rule 6.6(b)(i) by virtue of being a Reversionary in relation to a Pension payable to a Pensioner Member; or
- (b) in relation to any other Member, a person nominated by the Member, in accordance with clause 2.12, to receive a Pension payable in accordance with Rules 6.4(c) and 6.6(b)(iii), as the case may be.

Reversionary Nomination means a nomination given to the Trustee under clause 2.12 that complies with Relevant Law.

Reversionary Pension means a Pension payable to a Reversionary Dependant.

Roll Over Payment means any payment made by or received by the Trustee at the request of a Member, or former Member, or beneficiary or in other circumstances which satisfy the Relevant Law to or from any Approved Benefit Arrangement and shall include a Directed Termination Payment, Superannuation Lump Sum, or death benefit rollover.

RSE means a registrable superannuation entity, as that term is defined in the Relevant Law.

Rules means the rules set out in Schedule 1 of this Deed or any of them and any amendment of them for the time being in force.

Schedule means Schedule 1 of this Deed.

Securities Exchange means the Australian Securities Exchange Limited, and any other securities exchange, whether situated in Australia or not, determined by the Trustee.

Service means:

- (a) in respect of a Member, service as an Employee of an Employer and includes service as a full time or part time salaried director of an Employer.

The following periods shall be included in an Employee's Service:

- (i) any period during which the Employee is employed by any other person directly or indirectly allied or associated with an Employer;
- (ii) any period of employment during which the Employee is employed (whether in military employment or otherwise) in connection with or in contemplation of hostilities or compulsory national service;

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- (iii) any period of absence from duty with an Employer which by operation of any statute is deemed to be employment with that Employer;
 - (iv) any period of absence from duty with an Employer not exceeding six Months (or such longer period as the Trustee upon the advice of the Employer may determine in any particular case) where such absence is due to illness or injury; and
 - (v) the whole or any part of a period of absence from duty with an Employer which that Employer determines and confirms to the Trustee in writing shall be regarded as employment of the Employee by the Employer for the purposes of this Deed; and
- (b) in respect of a Gainfully Employed Person, such periods of gainful employment as may be permitted under Relevant Law for the purpose of determining Benefits.

Spouse means:

- (a) in relation to "Dependant":
 - (i) a person legally married to a Member at any time; or
 - (ii) a person who, although not legally married to the Member, in the opinion of the Trustee, lives with a Member on a bona fide domestic basis in a relationship as a couple (whether the persons are the same sex or different sexes) and in relation to a deceased Member the term "widow" or "widower" includes such a person,

PROVIDED THAT where there is more than one such person the Trustee shall determine which one or more of them shall be deemed to be the Spouse, and, if more than one person is so deemed to be the Spouse, the Trustee shall determine the proportions in which a Benefit payable to the Spouse is to be divided between them; or

- (b) in relation to the definition of "Eligible Person", a person in respect of whom Contributions by another Eligible Person, or Member are permitted under the Relevant Law by virtue of that person being legally married to the other Eligible Person, or Member or that person otherwise being presumed under the Relevant Law to be a Spouse of the other Eligible Person, or Member.

Standard Employer-Sponsored Member has the meaning given to that expression in section 16(5) of the Act.

Superannuation Fund has the meaning given to that expression in section 10 of the Act.

Superannuation Lump Sum has the meaning attributed to it in the Tax Act.

Taxes and Charges includes any tax, duty, charge or other impost whether direct or indirect arising under any law including without limitation any tax on income, consumption, surcharge, capital gains or holdings in land and any stamp duty or other duty on transactions or instruments.

Tax Act means the *Income Tax Assessment Act 1936* (Cth), the *Income Tax Assessment Act 1997* (Cth) and the *Income Tax (Transitional Provisions) Act 1997* (Cth), as appropriate, and any regulations issued under those Acts.

Total and Permanent Disablement means in relation to a Member:

- (a) where the Benefit payable on Total and Permanent Disablement is insured, the definition of "Total and Permanent Disablement" or a corresponding term in the policy of insurance and, where the Trustee has taken out different policies of insurance for different Members or groups of Members, means the definition in the policy of insurance applicable to that Member; or
- (b) otherwise, incapacity, whether physical or mental, such that the Trustee is satisfied that the Member is unlikely because of the incapacity ever again to engage in gainful employment to which the Member is reasonably qualified by education, training or experience,

PROVIDED THAT the Trustee is reasonably satisfied that such loss, injury or illness was not incurred or inflicted for the purpose of obtaining a Benefit from the Plan, and "**Totally and Permanently Disabled**" shall have a corresponding meaning.

Trustee means the trustee appointed for the time being as the trustee of the Plan for so long as they are trustee of the Plan and includes, where applicable, any delegate or nominee of the Trustee appointed under the provisions of the Plan.

Unit means a share determined by the Trustee in its absolute discretion in the beneficial interest in the Assets of the Plan.

Value means in respect of assets or Investments their value as determined by the Trustee having regard to the nature and characteristics of the assets or Investment as may apply at the date of determination and unless otherwise determined by the Trustee the basis of the determination shall generally include the methods of valuation set out in the Trustee's Investment Management Policy document from time to time.

Value of the Assets of the Plan means, in respect of the Plan, the total Value on a particular day of the Assets of the Plan.

1.2 Interpretation

Unless the context indicates otherwise:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing gender include the other genders;
- (c) headings in this Deed are for convenience only and do not affect the interpretation of this Deed;
- (d) references to statutes regulations ordinances or by-laws will be deemed to extend to all statutes regulations ordinances or by-laws amending consolidating or replacing the same;
- (e) references to a person will be construed as references to an individual, firm, body corporate, association, government or governmental authority;
- (f) references to authorities and bodies, whether statutory or otherwise, will be deemed to include references to the delegates of those authorities and bodies whether appointed by statute or otherwise.

1.3 Compliance with Relevant Law

- (a) The Trustee must comply with any requirement of Relevant Law notwithstanding that:
 - (i) compliance with the requirement conflicts with an express provision of this Deed; and
 - (ii) the requirement is not required to be included in this Deed.
- (b) The Trustee is not taken to have committed any breach of trust by virtue of any act or thing done to comply with any requirement of Relevant Law.
- (c) Where the Trustee must comply with a requirement of Relevant Law within a Prescribed Period, the Trustee does not commit a breach of trust merely by failing to comply with Relevant Law within the Prescribed Period.
- (d) Notwithstanding any other provision in this Deed, the Trustee in the exercise of its powers under this Deed is not subject to the direction of any other person except where Relevant Law permits the direction to be given to the Trustee by that person, and where any provision of this Deed would permit any person to give a direction to the Trustee other than as permitted by Relevant Law:
 - (i) the Trustee must disregard any direction given by that person; and
 - (ii) the Trustee may alone exercise the power, authority or discretion which is by the terms of this Deed subject to the direction of that other person.
- (e) Notwithstanding any other provision in this Deed, where any discretion under this Deed may be exercised by a person other than the Trustee and Relevant Law do not permit the exercise of that discretion without the Trustee's consent:
 - (i) the person on whom the discretion is conferred may not exercise that discretion in any case unless the Trustee consents to the exercise of the discretion in the manner in which the person proposes to exercise the discretion;
 - (ii) the provision conferring the discretion is deemed to require the consent of the Trustee to the exercise of the discretion; and
 - (iii) the person on whom the discretion is conferred may exercise the discretion with the Trustee's consent.
- (f) Notwithstanding any other provision of this Deed, the Trustee may do any act or thing in the administration or investment of the Plan which is permitted by the Commissioner in writing, notwithstanding that:
 - (i) the act or thing breaches a provision of this Deed;
 - (ii) the act or thing would not be permitted under Relevant Law except for the consent of the Commissioner,

and the Trustee does not commit a breach of trust or a breach of any other obligation imposed on the Trustee by virtue of doing that act or thing.

1.4 Severance

- (a) If any provision of this Deed or the Rules is void or voidable or unenforceable or illegal, but would not be void or voidable or unenforceable or illegal as aforesaid if it were read-down and it is capable of being read-down, it shall be read-down accordingly.
- (b) If, notwithstanding clause 1.4(a), a provision of this Deed is void or voidable or unenforceable or illegal:
 - (i) if the provision would not be void or voidable or unenforceable or illegal as aforesaid if a word or words (as the case may be) were omitted, that word or those words are to be severed; and
 - (ii) in any other case, the whole provision is to be
 - (iii) severed,and the remainder of this Deed shall have full force and effect.

2 Membership

2.1 Members Bound by Deed

The terms and conditions of this Deed are binding on the Trustee and each Member and all persons claiming through them respectively as if each Member had severally been a party to this Deed.

2.2 Admission to Membership

- (a) The Trustee may admit as a Member any person who is eligible under Relevant Law to be a Member, including:
 - (i) a person who applies to be a Member; or
 - (ii) a person, or group of persons the Trustee determines to admit as a Member.
- (b) The Trustee may reject an application for membership without giving any reason.

2.3 Membership

- (a) Subject to Relevant Law the Trustee may, in its absolute discretion, determine the date a Member's membership commences, and any other terms and conditions, limitations and restrictions of membership.

Upon acceptance of a Member, and within any timeframe required by Relevant Law the Trustee must give to the Member in writing:

- (i) notice of the Member's admission to the Plan; and
- (ii) such other statements, reports and notices as the Relevant Law requires or the Trustee considers appropriate,

except where the Trustee is satisfied that the Member has been advised of the matter in question prior to becoming a Member; and

- (b) enter the name of the Member and other details required by Relevant Law or appropriate to be recorded in the Register of Members.

2.4 Compliance with MySuper Requirements

The Trustee:

- (a) may do anything which the Trustee considers is necessary or desirable to comply with any MySuper rules; and
- (b) must take all actions necessary to ensure that the Trustee complies with the MySuper rules and may establish, vary, replace or revoke rules for that purpose as the Trustee sees fit.

2.5 MySuper Product rules

The following rules are to apply to the MySuper Product:

- (a) a single diversified investment strategy is to be adopted in relation to assets of the Plan, to the extent that they are attributed to the MySuper Product; and
- (b) MySuper Members who hold a MySuper Product are entitled to access the same options, benefits and facilities except to the extent that an insured benefit is provided; and
- (c) amounts are attributed to MySuper Members in relation to their MySuper Product in a way that does not stream gains or losses that relate to any assets of the Plan to only some of those members, except to the extent permitted under Relevant Law; and
- (d) the same process is to be adopted in attributing amounts to Members in relation to their MySuper Product, except to the extent that a different process is necessary to allow for fee subsidisation by employers; and
- (e) if fee subsidisation by employers is permitted, all Members who are employees of that employer are entitled to the subsidy on an identical basis; and
- (f) the only limitations imposed on the source or kind of contributions made by or on behalf of Members who hold a MySuper Product are those permitted under Relevant Law; and
- (g) a beneficial interest in the MySuper Product cannot be replaced with a beneficial interest of another class in the Plan, unless the person consents in writing to that replacement no more than 30 days before it occurs; and
- (h) a beneficial interest in the MySuper Product (the old interest) cannot be replaced with a beneficial interest (the new interest) in another superannuation entity unless:
 - (i) the replacement is permitted, or is required, under Relevant Law; or

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- (ii) the Member who holds the old interest consents in writing to the replacement with the new interest no more than 30 days before it occurs; and
 - (i) to the extent that assets of the Plan are attributed to the MySuper Product, a pension is not payable out of those assets, except as permitted by Relevant Law; and
 - (j) any other rules required by Relevant Law or determined by the Trustee for the MySuper Product from time to time.

2.6 MySuper Product fees and payments

- (a) The Trustee must charge fees in relation to the MySuper Product in the manner required by Relevant Law and only as permitted by Relevant Law.
- (b) The Trustee must not pay any conflicted remuneration (within the meaning of Relevant Law) in relation to the MySuper Product.
- (c) The Trustee must ensure that any arrangement for the payment of a performance fee to an investment manager for the investment of one or more of the MySuper assets complies with Relevant Law.

2.7 MySuper Insured Benefits

The Trustee must provide Insured Benefits for Members who hold a MySuper Product to the extent and on the basis required by Relevant Law and as permitted by Relevant Law.

2.8 Publication of information

The Trustee must publish on its website information about the MySuper Product as required by Relevant Law.

2.9 Provision of Information by Member

- (a) A Member must:
 - (i) promptly give any information requested by the Trustee in connection with the Plan;
 - (ii) submit to any medical examinations or give any other information as required by the Trustee for the purposes of clause 10.10; and
 - (iii) without being requested by the Trustee, promptly notify the Trustee in writing of any occurrence which may affect the Member's participation in or membership of the Plan or eligibility to contribute to the Plan.
- (b) If a Member fails to comply with clause 2.9(a), the Trustee may refuse to accept contributions for that Member or withhold any Benefit payable to that Member until the Member complies.

2.10 Cooling Off Period

- (a) A Member may, by written notice to the Trustee, request the Trustee to redeem the Member's interest in the Plan where the Member is entitled to do so under Relevant Law, within 14 days or such other period specified in Relevant Law, and
- (b) the Trustee must repay to the Member an amount calculated and repaid in accordance with Relevant Law.

2.11 Division, Sub-Plan and Categories

- (a) The Trustee may establish any division, sub-plan or other category of Membership as it determines in its absolute discretion and may:
 - (i) determine the conditions for entry to and exit from each division, sub-plan or category;
 - (ii) classify members into the relevant division, sub-plan or category; and
 - (iii) determine the benefits and other terms and conditions for each division, sub-plan or category.
- (b) Without limiting the generality of clause 2.11(a), but subject to any requirements of Relevant Law and this Deed, the Trustee:
 - (i) may transfer a Member's interest to another division, sub-plan or category and reclassify that Member into the relevant division, sub-plan or category;
 - (ii) must not transfer a Member's interest without obtaining the Member's prior written consent, unless
 - (A) the transfer is to a division, sub-plan or category of the Plan which confers on the Member equivalent rights to the rights that the member had under the original division, sub-plan or category of the Plan in respect of the benefits; or
 - (B) the transfer could, in the absence of any condition on the RSE licence, have lawfully been made without the member's consent.

2.12 Nomination of Reversionary Dependant by Member

- (a) A Member may nominate a Reversionary Dependant to receive a Pension payable in accordance with Rule 6.6(b)(iii) or other Rules as the case may be.
- (b) The nomination under this clause 2.12:
 - (i) must be in the form approved by the Trustee, and required by Relevant Law from time to time;
 - (ii) may be varied or replaced from time to time by the Member in the manner approved by the Trustee and required by Relevant Law from time to time; and

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- (iii) is binding on the Trustee, provided that the nomination is in the required form, and the person nominated is an eligible pension beneficiary (defined under relevant legislation) at the date of the Member's death.
 - (c) In the event of an inconsistency between a valid Reversionary Nomination and a valid Binding Death Benefit Notice, the Reversionary Nomination takes precedence over the Binding Death Benefit Notice and the Trustee will follow the Reversionary Nomination.

3 Payments and Benefits

3.1 Contributions

- (a) Each Member or other person eligible to contribute to the Plan in respect of a Member under Relevant Law may contribute from time to time to the Plan in the manner prescribed by the rules of the Plan, or permitted by Relevant Law, subject to any requirements of Relevant Law.
- (b) Contributions by a Member or other person eligible to contribute to the Plan in respect of a Member under Relevant Law may not be accepted by the Trustee in circumstances it determines, and must cease if required by Relevant Law

3.2 Contributions to Trustee

All Contributions paid to the Plan must be either paid to the Trustee and held by the Trustee as part of the Plan (or paid where Relevant Law requires the same to the Custodian and held by the Custodian as part of the Plan). Any Contribution may, subject to Relevant Law, be paid by cash or assignment or transfer of ownership of any benefits or assets (including insurance policies) which are Authorised Investments provided that Contributions paid other than by cash must be accompanied by such evidence of title and other matters (including a valuation of the benefits or assets by an Approved Valuer) as the Trustee (or where relevant, the Custodian) may require, together with duly executed and stamped transfers or conveyances where appropriate. Where any Contribution is paid by assignment or transfer of ownership of any benefits or assets the Member or person paying the same is responsible for all stamp duty, brokerage fees, commission and other costs, charges and expenses in respect of such assignment or transfer. The restrictions in clause 5.2 apply to any such assignment or transfer.

3.3 Binding Death Benefit Notice

- (a) A Member may at any time and from time to time, in accordance with clause 3.4 and in a manner approved by the Trustee give to the Trustee a notice which in the opinion of the Trustee meets the requirements of Relevant Law and which requires the Trustee to provide any Benefits in respect of the Member on or after death of the Member to the person or persons specified in the notice, being either the legal personal representative or a Dependant or Dependents of the Member.
- (b) A Binding Death Benefit Notice is binding on the Trustee, but subject to the Trustee's obligations in clause 2.12(c).

3.4 Form of Notice

Subject to Relevant Law, and to the requirements of the Trustee, a notice under clause 3.3 above will:

- (a) set out the names and any other relevant details of any persons to whom the Member requires Benefits to become payable upon the death of the Member;
- (b) set out the proportions in which the Member requires those Benefits to be paid between the persons named and described in the notice and such other details as the Trustee considers appropriate or Relevant Law requires; and
- (c) may be confirmed, revoked or amended from time to time in a manner approved by the Trustee and permitted by Relevant Law.

3.5 Rules applying to Benefits

- (a) Subject to the terms of this Deed, Benefits of any kind payable under this Deed to any Member are to be determined and paid according to the rules of the Plan, division, sub-plan or category to which the Member has been admitted.
- (b) Any Benefit which is subject to a Cashing Restriction can only be paid on satisfaction of the relevant Condition of Release unless otherwise permitted by Relevant Law.
- (c) Notwithstanding clause 3.5(b), but subject to any requirements of Relevant Law, the Trustee may pay an amount comprising any part of the accrued Benefit of a Member to or for the benefit of the Member's Dependants, where:
 - (i) the Member or the Dependant has requested payment of the amount;
 - (ii) the Member or the Dependant has produced evidence satisfactory to the Trustee that refusal to pay the amount would cause financial hardship to the Member or the Member's Dependants, or payment of the amount is otherwise justified; and
 - (iii) the Commissioner has made a determination in writing that the Member is in financial hardship and has approved payment of the amount, or the payment is otherwise authorised under Relevant Law.
- (d) Where any Benefit is payable in respect of a Member and either the Member or a Dependant or other beneficiary has requested the Trustee to satisfy the Benefit by transfer of the Benefit, or by the transfer of Plan Investments, the Trustee may (as permitted by Relevant Law) but is not obliged to, transfer the Benefit, or transfer such Investments where appropriate to the Member, Dependant or beneficiary or as directed by the Member, Dependant or beneficiary.

3.6 Payment by Trustee complete Discharge

The payment or assignment of any Benefit is a complete discharge to the Trustee for the amount of moneys paid or applied as against any person claiming an interest in the Benefit.

3.7 Proof of Qualification for Benefits

Any person appearing, purporting or claiming to be qualified or entitled to any Benefit must on request produce to the Trustee or its nominee such evidence, do such acts and execute such documents as and when the Trustee may reasonably require.

3.8 Payment in Good Faith Valid

Payment or assignment of a Benefit in good faith to a person believed by the Trustee to be entitled to receive it is deemed to be payment or assignment to a person entitled to receive it and is a valid discharge to the Trustee of its obligations in respect of the payment or assignment of that Benefit.

3.9 Determination of Questions of Fact

When determining questions of fact the Trustee may act upon such proofs or presumptions as it may deem satisfactory whether strictly legal proofs or presumptions or not.

3.10 Deduction of Taxes and Charges from Benefits Payable

- (a) The Trustee may deduct from any Benefit payable to or in respect of a Member any Taxes and Charges payable for any reason which is referable to the Member.
- (b) Amounts deducted under clause 3.10(a) must be:
 - (i) paid to the relevant taxation authority or other person entitled to them; or
 - (ii) reimbursed to the Trustee for any corresponding amount paid from its own funds,and to the extent not required for the purpose of clauses 3.10(b)(i) or 3.10(b)(ii), paid to the Member.
- (c) The Member is entitled only to receive the net Benefit after the deduction of Taxes and Charges payable.
- (d) Nothing in this clause 3.10 prejudices any other rights which the Trustee has to deduct in respect of a Member.

3.11 Inactive Accounts

The Trustee may:

- (a) pay or transfer or otherwise deal with the Member Accounts as permitted by Relevant Law; and
- (b) must pay or transfer or otherwise deal with the Member Accounts as required by Relevant Law.

3.12 Unclaimed Benefits

- (a) Subject to the Relevant Law, where a Benefit is payable to or in respect of a Member and the Trustee is unable to pay the Benefit to the Member because the

Trustee is unable to find the Member after having made reasonable efforts to do so:

- (i) the Trustee may pay the Benefit to an Eligible Rollover Fund in circumstances permitted by Relevant Law; and
 - (ii) must deal with the Member's Benefit in the manner required by Relevant Law.
- (b) The Trustee must provide to Members such details of its powers and other information under this clause 3.12 as Relevant Law requires.

4 Establishment of Accounts

4.1 Member Account

- (a) The Trustee must establish and maintain a Member Account in respect of each Member and may establish and operate any sub-accounts as it considers necessary or appropriate for the proper administration of the Plan.
- (b) The Trustee may credit to a Member's Member Account:
- (i) any Contributions, or amounts deemed to be contributions by the Trustee;
 - (ii) any amounts transferred or rolled over into the Plan in respect of the Member;
 - (iii) any interest, earnings, allocations or allotments which the Trustee determines to credit; and
 - (iv) any other amount which the Trustee determines is appropriate;
- and may debit from a Member's Member Account:
- (v) any Benefit in respect of the Member;
 - (vi) any amounts transferred or rolled over out of the Plan in respect of the Member;
 - (vii) any fees, expenses, premiums or other amounts which the Trustee determines to debit; and
 - (viii) any other amount which the Trustee determines is appropriate
- subject always to Relevant Law.

4.2 Operational Risk Financial Requirement

- (a) Subject to Relevant Law, and to any strategy established by the Trustee from time to time, the Trustee may:
- (i) establish an account or sub-account within the Plan and designate its purpose for meeting any Operational Risk Financial Requirement if it

determines it is necessary or appropriate for the better operation or administration of the Plan, and manage that account or sub-account as the Trustee determines; or

- (ii) satisfy its Operational Risk Financial Requirement in any other manner permitted by Relevant Law.

4.3 Expense Reserve Account and other reserves or provisions

- (a) Subject to Relevant Law, the Trustee may:
 - (i) establish any reserve account or provision or other account or sub-account and designate its purpose if it determines it is necessary or appropriate for the better operation or administration of the Plan;
 - (ii) credit to those accounts or provisions any amounts which it determines, including without limitation any allocation of earnings or contributions and any deduction or allocation from Member Accounts;
 - (iii) debit to those accounts or provisions any amounts which it determines, including without limitation, in respect of the payment of liabilities or expenses, and any allocation to Member Accounts; and
 - (iv) have regard to the advice of the auditor or administrator in establishing and operating the accounts or provisions.
- (b) Without limiting the generality of clause 4.3(a), the Trustee may record the following credits to the Expense Reserve Account, Operational Risk Financial Requirement account, or any other reserve or provision account it has established in respect of the Plan:
 - (i) any amount levied in respect of Members of the Plan;
 - (ii) any commissions or other emoluments received by the Trustee on its own account and not on account of any other person in respect of the investments of the Assets of the Plan or otherwise in respect of the Plan generally;
 - (iii) the amount of any Taxes and Charges or charge debited in respect of the Members pursuant to clause 3.10;
 - (iv) all interest dividends and other income earned from the investment of the amount standing to the credit of the relevant account from time to time;
 - (v) any other amount permitted under this Deed to be credited to the reserve or provision account as determined by the Trustee.
- (c) The Trustee may record as and when incurred as a debit against the Expense Reserve Account or other reserve or provision account it has established for the purpose the Trustee's fees calculated and paid to the Trustee in respect of the Plan pursuant to clause 12.1.
- (d) The Trustee may pay for such of the costs, charges and expenses described in this clause 4.3(d) as the Trustee determines may have been reasonably and properly incurred in or about the administration or operation of the Plan out of its own

moneys and seek reimbursement, or from an Expense Reserve Account, Operational Risk Financial Requirement account, or other reserve or provision account it has established for the purpose subject to the proviso that the Trustee cannot record the costs, charges and expenses as debits where the effect of the debit would be to create a negative balance in the Expense Reserve Account. The costs, charges and expenses referred to in this clause 4.3(d) are as follows:

- (i) the costs of establishing the Plan including the costs of acquiring the text and format of this Deed, the licence to use the same and of the preparation, stamping and approval of this Deed and any amendments to it;
- (ii) the costs of preparing, printing and issuing any Disclosure Document and including but without limiting the generality of the foregoing legal, valuation, listing, printing and graphic design fees payable in respect of any Disclosure Document and further to the costs of preparing printing and issuing brochures advertising the Plan;
- (iii) the costs of maintaining and auditing the Accounts and the Register of Members in accordance with this Deed and Relevant Law generally;
- (iv) the costs of establishing and maintaining the Register of Members;
- (v) disbursements in connection with the acquisition, sale, collection, distribution of or other dealing with any Investment of the Plan including legal fees, stamp duties, brokerage and commission, survey and valuation fees, registration fees and consultants' fees;
- (vi) the costs of acquiring establishing and developing computer hardware and software systems required for the administration of the Plan;
- (vii) fees and disbursements payable to any managing agents or collection agents not exceeding the prevailing commercial rates chargeable by managing agents or collection agents for services performed by them in relation to the Plan;
- (viii) the Auditor's reasonable fees and expenses in connection with the auditing of the Accounts of the Plan, the preparation of taxation returns in relation to the Plan and all other functions of the Auditor performed in respect of the Plan pursuant to this Deed;
- (ix) fees paid to Actuaries, Approved Valuers, solicitors, barristers, accountants, surveyors, contractors and other qualified persons as provided in this Deed including valuation fees paid in respect of investments proposed to be purchased whether purchased or not;
- (x) advertising expenses relating to the sale of Investments;
- (xi) Bank, Building Society and financial institution charges on Bank, Building Society and financial institution accounts operated solely for the use of the Plan by the Trustee;
- (xii) stamp duties on cheques, payment orders, Bank and Building Society account debits, taxes and other similar imposts;

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- (xiii) stamp duties, financial institution duties and similar imposts;
 - (xiv) any amounts paid in respect of Taxes and Charges, any surcharge, advance instalments of surcharge and charges assessed, charged or imposed by or under any law of the Commonwealth of Australia or any State or Territory upon the taxable income of the Plan (including capital gains realised or unrealised in respect of the Plan);
 - (xv) costs of preparing, printing and issuing of the information required to be given pursuant to this deed or Relevant Law, confirmations, accounts, other statements cheques and payment orders required to be circulated amongst the Members;
 - (xvi) costs of postage of all cheques, payment orders, accounts, notices and other documents posted to all or any Members or other persons in accordance with the provisions of this Deed;
 - (xvii) disbursements incurred in convening or holding any meetings and implementing any resolution passed at such meetings including an allowance to the Trustee for the reasonable costs of the time expended by its employees and agents in relation to the preparation for the holding of such meetings;
 - (xviii) disbursements and costs incurred by or on behalf of the Trustee or in connection with the retirement of the Trustee under this Deed and the appointment of another in substitution thereof and anything ancillary or incidental to such retirement or appointment including disbursements incurred in convening or holding any meeting convened to remove or approve the appointment of a new trustee of the Plan;
 - (xix) except where the court otherwise directs, disbursements and costs by or on behalf of the Trustee in or in connection with the initiation, carriage and settlement of any court proceedings (including any negotiations and demands relating to them) against the Trustee or other claim or loss arising howsoever from any breach or default under this Deed or Relevant Law;
 - (xx) all costs and expenses incurred in modifying or altering the provisions of this Deed including any costs and expenses reasonably and properly incurred by the Trustee obtaining the approval and execution of any supplemental deed or obtaining any approvals which may be required by law or otherwise for the supplemental deed;
 - (xxi) all rates, taxes, charges, surcharges, advance instalments of surcharge, assessments and impositions whatsoever (whether parliamentary municipal or otherwise and whether assessed charged or imposed by or under law of the Commonwealth of Australia or any State or Territory and whether on a capital or revenue value or any other basis and even though of a novel character) which may be or are assessed charged or imposed in respect of the Plan or any part thereof;
 - (xxii) costs of the preparation and lodgement of returns pursuant to the Tax Act or the Act or any Statute or regulation forming part of the laws of the Commonwealth of Australia or any State or Territory thereof;

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- (xxiii) any fees incurred in respect of obtaining any determinations or valuations required by an Actuary or Approved Valuer under this Deed;
 - (xxiv) any commission or brokerage paid;
 - (xxv) any fees and expenses payable to any Investment Manager appointed in respect of the Plan;
 - (xxvi) subject to clause 10.8(d), any fees or expenses payable to any Administrator appointed in respect of the Plan;
 - (xxvii) any fees and expenses paid to any Custodian or sub-custodian of the Plan;
 - (xxviii) any other fee or expense or disbursement or allocation reasonably and properly incurred by the Trustee for or on behalf of the Plan or in the administration of the Plan or in the observance or performance of any right, power, duty, obligation or covenant or in complying with the requirements of or under any law.

5 Investment

5.1 Investment Policy

In accordance with Relevant Law, the Trustee must:

- (a) formulate an investment policy for the Plan;
- (b) determine the investment strategy which the Trustee will adopt for the whole of the Plan in accordance with Relevant Law; and

the Trustee may, in its absolute discretion:

- (c) select Investment Options;
- (d) determine the extent to which a Member will be permitted to:
 - (i) direct the Trustee, or vary such direction, to invest the Member's Member Account in one or more Investment Options by making an Investment Option Nomination; and
 - (ii) the terms, conditions, restrictions or requirements by which a Member may select one or more Investment Options; and
 - (iii) such other matters as the Trustee determines or Relevant Law requires.

5.2 Absolute Matters to have regard to in selecting Investment Options

In selecting the Investment Options the Trustee must ensure that the following requirements are met:

- (a) the Trustee must only invest in Authorised Investments;

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- (b) the Trustee must not invest money of the Plan unless the Trustee and the other party to the relevant transaction are dealing with each other on an arm's length basis in respect of the transaction;
 - (c) the Trustee must not lend Assets of the Plan or give any other financial assistance using the resources of the Plan to a Member or a relative of a Member except as permitted under Relevant Law;
 - (d) the Trustee must not invest in any Authorised Investment where the nature, terms and conditions or identity of the vendor or issuer of the Investment would contravene Relevant Law;
 - (e) the Trustee must not borrow money or maintain an existing borrowing of money except as permitted by Relevant Law.

5.3 Selecting and operating Investment Options

Subject to Relevant Law and clause 5.2, the Trustee may, in its absolute discretion:

- (a) select Investment Options;
- (b) establish or adopt a distinct investment strategy for each selected Investment Option, and change that investment strategy as and when it determines;
- (c) publish a Disclosure Document or other disclosure material in respect of each Investment Option;
- (d) monitor and review the suitability and performance of each Investment Option for the Plan;
- (e) merge or close Investment Options, and select new Investment Options;
- (f) invest amounts relevant to each Investment Option Nomination made by a Member in the nominated Investment Option;
- (g) establish or adopt rules for the valuation, or the attribution of income and capital, or the attribution of costs and expenses, or any other matter relevant to an Investment Option to the Member Account of a Member who has nominated that Investment Option;
- (h) maintain suitable records in relation to a Member's Investment Option Nomination and the investment in an Investment Option;
- (i) do any other thing necessary or desirable for the proper operation and administration of Investment Options.

5.4 Calls

Calls on partly paid shares or units held on behalf of a Member must be paid out of the funds held on behalf of the Member and must be debited to the Member's Member Account as the Trustee determines is appropriate. The Trustee must so far as possible have regard to the need to meet such calls in giving an approval to a Member's Investment Option Nomination.

5.5 To Deal at Value

The Trustee will in all acquisitions and sales, subject to this clause 5, deal with such Investments, in the case of acquisitions, at no more than Value and in the case of sales, at not less than Value.

5.6 Retention of Cash

The Trustee may place or leave on deposit cash for such time as the Trustee considers desirable and may retain cash received by it pending a decision as to its investment.

5.7 Investment in Investment Fund

Where the Trustee proposes to make an Investment in an Investment Fund of which the Trustee is the trustee or manager then the remuneration to which the Trustee is entitled pursuant to this Deed and pursuant to the arrangements in respect of the Investment Fund in which the Investment is being made must not exceed the remuneration the Trustee would have been entitled to receive pursuant to this Deed and that arrangement had the Investment not been made in the Investment Fund.

5.8 Voting Rights on Investments

- (a) All rights of voting conferred by any of the Authorised Investments shall be exercised in such manner as the Trustee may determine.
- (b) Without otherwise limiting the other provisions of this Deed the Trustee shall not be under any liability or responsibility in respect of any vote or action taken or consent given by the Trustee in person or by proxy or attorney and neither the Trustee nor the holder of any such proxy or power of attorney shall incur any liability or responsibility by reason of any error of law or mistake of fact or any matter or thing done or omitted or approval voted or given or withheld by the Trustee or by the holder of such proxy or power of attorney under this Deed and the Trustee shall be under no obligation to anyone with respect to any action taken or caused to be taken or omitted by the Trustee or by any such holder of a proxy or power of attorney.

6 Valuation and Investment Income

6.1 Trustee to Value

The Trustee must value the Investments (or cause them to be valued) in accordance with the methodology for valuation adopted by the Trustee which complies with Relevant Law and reflects appropriate valuation principles, and the Trustee may change the valuation methodology in relevant circumstances. The Trustee may be advised by its auditor, custodian, or other expert in relation to valuation methodology.

6.2 Unitisation

- (a) The Trustee may divide the Investments into Units, and deal with creation, valuation and redemption of Units as it sees fit in its absolute discretion.
- (b) Without limiting the generality of clause 6.2(a), the Trustee may adopt rules from time to time in relation to:

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- (i) whether parts of Units may be issued in a particular Investment and, if so, the number of decimal places to which part Units may be issued;
 - (ii) the means by which actual or anticipated transaction costs in relation to the acquisition or disposal of the underlying assets in an Investment are recovered;
 - (iii) switching between the Units of one Investment and another;
 - (iv) the method, timing and frequency of valuing and determining the buy price and sell price of Units in each Investment;
 - (v) the calculation of any differential between the buy price and the sell price (if any); and
 - (vi) any other matter which the Trustee determines to be necessary or appropriate for administering the Plan as a unitised fund or for complying with Relevant Law.
- (c) If and to the extent that the Trustee administers the Plan's investments on a unitised basis the Trustee may:
- (i) credit any amount in respect of a Member by allocating an appropriate number of Units to that Member's Member Account in the Plan in the relevant Investment or Investments in which the amount is to be invested, at the relevant buy price of those Units at that time; and
 - (ii) debit any amounts (including Expenses of the Plan and Taxes and Charges) in respect of a Member by redeeming an appropriate number of Units from that Member's Member Account in the Plan in the relevant Investment or Investments in which the amount is invested, at the relevant sell price of those Units at that time.
- (d) Where the Relevant Law requires it, or the Trustee does not believe that the buy price or the sell price is fair and reasonable or can be calculated, the Trustee may apply such alternative buy price or sell price as the Trustee determines.
- (e) Where this Deed refers to the balance, or the amount standing to the credit, of a Member Account, it will (where appropriate) be taken as a reference to the amount or balance calculated by reference to the number of Units of each Investment in which the Member Account is invested at the relevant sell price of each of those Units at that time.
- (f) The investment performance attributable to a Member Account shall be determined by reference to the number of Units of each Investment in which the Member Account is invested and any rise or fall in the unit price of those Units.
- (g) Notwithstanding clause 6.2(f), a Member has no right to claim any interest or exercise any right in any particular part, investment or asset of an Investment but only such interest in the relevant Investment as a whole as is conferred on a Unit in accordance with this Deed.

7 Register of Members

7.1 Register of Members

- (a) The Trustee will keep and maintain a Register of Members.
- (b) The Trustee will enter in each Register of Members maintained by the Trustee:
 - (i) the name, current residential address and date of birth of each Member;
 - (ii) the date on which the name of the Member was entered in the Register of Members as a Member;
 - (iii) the balance standing from time to time to the credit of the Member's Member Account;
 - (iv) the date on which the Member's beneficial interest in the Plan was paid out;
 - (v) such further information as the Trustee thinks fit, or Relevant Law requires.
- (c) A Member may review the information held by the Trustee as permitted by Privacy Law.
- (d) Any requested correction or change to the Register of Members may be made by the Trustee (or its administrator) if satisfactory proof of the changed or corrected information is provided to the Trustee or as required by Relevant Law. The Trustee must cause the Register of Members to be audited by the Auditor at intervals of not more than 12 Months or as required by Relevant Law.

7.2 No Notice of Trust

No notice of any trust express, implied or constructive shall be entered upon the Register of Members except where by law required.

8 The Trustee

8.1 Trustee must be a Constitutional Corporation

The Plan must be administered by a sole Trustee which is:

- (a) a Constitutional Corporation; and
- (b) the holder of such licences and authorisations as are required under Relevant Law.

8.2 Trustee must not be a Disqualified Person

The Trustee cannot act if it is a Disqualified Person.

8.3 Covenants by Trustee

The Trustee must comply with all of the covenants that are taken to be included in this Deed under the Act.

8.4 Removal of Trustee

The Trustee covenants that, subject to Relevant Law, it will retire from office:

- (a) if:
 - (i) the Trustee becomes a Disqualified Person;
 - (ii) the Trustee is not, or is no longer, empowered to act as trustee; or
 - (iii) approval of the Trustee to act is revoked under Relevant Law

and the Trustee further covenants that it will retire from office as Trustee of the Plan, subject to Relevant Law where:

- (b) the questions of whether the Trustee should be removed, and who should replace the Trustee if the removal is agreed to, have been voted on at a meeting of Members of the Plan;
- (c) the Members who vote (in person or by proxy) on each question mentioned in clause 8.4(b) at the meeting referred to in that sub-clause hold at least 25% of the total value of all the interests of Members in the Plan;
- (d) at least 75% by number of the Members in the Plan who vote (in person or by proxy) at the meeting on whether to remove the Trustee vote in favour of removing the Trustee, and in favour of a particular person as trustee;
- (e) that person will become the trustee of the Plan immediately after the removal takes effect.

8.5 Suspension or Removal of Trustee

The Commissioner may suspend or remove the Trustee in accordance with the Relevant Law.

8.6 Trustee may Retire

The Trustee may retire as Trustee of the Plan by giving notice to Bendigo and Adelaide Bank.

8.7 Right of Appointment of New Trustee

- (a) If the Commissioner suspends the Trustee, the Commissioner will appoint a Constitutional Corporation as acting Trustee during the period of suspension.
- (b) If the Commissioner removes the Trustee, the Commissioner will appoint a Constitutional Corporation to be Trustee of the Plan in question.
- (c) If the Members resolve to remove the Trustee in accordance with clauses 8.4(b) to 8.4(e), the Trustee must retire from office and appoint in its stead the Constitutional Corporation approved by the Members.
- (d) If the Trustee resigns from office by notice in writing to Bendigo and Adelaide Bank, the Trustee will retire from office and appoint in its stead a Constitutional Corporation nominated by it and approved by the Commissioner for the purpose.

8.8 Vesting Plan in New Trustee

The Trustee must on its removal or retirement as trustee of the Plan transfer or cause the Assets of the Plan to be transferred to the new trustee as is appointed pursuant to clause 8.7 and deliver to the new trustee all books, documents, records and other property whatsoever relating to the Plan. The costs and expenses incidental to this are an expense of the Plan.

8.9 Validity of Acts and Determinations

Any act or determination of a Trustee is valid notwithstanding any defect in the Trustee's appointment.

8.10 Change of Name of the Plan

The Trustee, upon its retirement or removal as Trustee of the Plan may require the new trustee to take any steps which are necessary to change the name of the Plan to a name which does not include the current name of the Trustee and is not substantially or deceptively similar to that name or any former name of the Trustee.

9 Policy Committee

9.1 Composition of Policy Committee

The Trustee may determine to establish one or more policy committees. The circumstances, the functions and the rules for conduct, the composition of each policy committee and the manner in which its members are appointed, retired and removed may be determined by the Trustee having regard to the particular circumstances and Relevant Law.

10 Management, Powers and Responsibility

10.1 Trustee to Manage the Plan

Subject to the provisions of this Deed, the Trustee must manage the Plan for the benefit of the Members with full and complete powers of management.

10.2 Trustee to use Best Endeavours to Protect Investments

The Trustee, itself or by its agent or delegate, must manage and supervise all the Investments made in respect of the Plan. The Trustee must use its best endeavours to ensure that all Investments are kept secure, that all valid notices from and requirements of the relevant authorities are observed and complied with, and that they are dealt with in the best interests of the Members of the Plan.

10.3 Trustee to have Powers of Absolute Owner

Subject to the provisions of this Deed, the Trustee has all the powers over and in respect of the property and Assets of the Plan which it could exercise if it were a natural person and the absolute and beneficial owner of them.

10.4 Trustee can rely on Advice

The Trustee may act upon the opinion, advice or information obtained from barristers and solicitors instructed by the Trustee. The Trustee may also act upon statements or information sought by it from bankers, accountants, actuaries, brokers, valuers or other persons believed by the Trustee in good faith and upon reasonable grounds to be expert in relation to the matters upon which they are consulted. The Trustee may pay fees, disbursements and expenses in relation to the appointment or engagement.

10.5 Trustee Powers

Without in any way affecting the generality of clause 10.3, the Trustee may take such action and do such things as it determines necessary to administer the Plan and to comply with Relevant Law including:

- (a) making an irrevocable election to become a Regulated Superannuation Fund where appropriate;
- (b) purchasing and selling for cash or upon terms any Investment and investment of the proceeds of any sale of Investment;
- (c) leasing and accepting surrenders of leases (or agreeing to do so) with power to compromise with lessees and others;
- (d) executing and paying for repairs and improvements;
- (e) instituting, prosecuting, compromising and defending legal proceedings to secure compliance with the terms of this Deed and any Disclosure Document issued in respect of this Deed or to recover any loss suffered by Members in respect of their investment under this Deed;
- (f) maintaining reserves in respect of the Plan;
- (g) attending and voting at meetings;
- (h) paying all outgoings reasonably and properly incurred in connection with the Plan or this Deed;
- (i) subject to clause 5.2, lending money whether with or without security or interest and on such terms as it determines;
- (j) developing, improving, subdividing, building, rebuilding, altering, extending, replacing, repairing, managing, operating, leasing and otherwise dealing with any Investment and purchasing such plan, equipment and fittings as are necessary having regard to the purposes for which an Investment is from time to time being used or intended to be used;
- (k) entering into performing and enforcing agreements;
- (l) drawing, endorsing, discounting, selling, purchasing and otherwise dealing with bills of exchange either alone or jointly and in particular commercial bills;
- (m) entering into agreements with joint or co-owners of assets an interest in which constitutes an Authorised Investment for the time being held on behalf of the Plan

for such purposes as the Trustee may consider conducive to the interests of the Plan and the relevant Members;

- (n) setting aside out of the capital and income of the Plan such moneys as shall be required to meet the obligations of the Trustee under this Deed;
- (o) determining and paying Benefits including increasing the amount of Benefits payable to a Member or a Dependant of a Member under Relevant Law;
- (p) borrowing:
 - (i) for any of the purposes;
 - (ii) to the extent; and
 - (iii) for the term,
permitted under Relevant Law, and giving security for any such borrowing or in any of the Assets of the Plan;
- (q) opening Bank accounts, Building Society accounts and operating on those accounts;
- (r) settling, compromising or submitting to arbitration any claims, matters or things relating to this Deed;
- (s) preparing or causing to be prepared or sending or causing to be sent such reports, statements, notices and other documents to such persons as may be required or permitted under this Deed or Relevant Law, and generally doing all things necessary or expedient for the performance of the Trustee's covenants under this Deed;
- (t) electing to be bound by any legislation, including the Act;
- (u) retaining the services of professional or other advisers in relation to the management and administration of the Plan and paying out of the Plan all expenses of and incidental to the management and administration of the Plan including the payment of fees to the advisers;
- (v) paying out of the Plan all expenses of and incidental to the engagement by Members of advisers to provide advice in relation to the Member's investment in the Plan;
- (w) paying any levies imposed under the *Superannuation (Financial Assistance Funding) Levy Act 1993* (Cth);
- (x) where the Plan has a liability to pay a pension or annuity to any person, segregating such of the Assets of the Plan as it determines from time to time as being held in respect of the aggregate liability of the Plan for all such pensions and annuities;
- (y) determining the amount of the Required Cash Holding to be maintained by each Member in their Member Account; and

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- (z) doing such other things as may appear to the Trustee to be incidental to any or all of the above powers.

The powers, authorities and discretions conferred on the Trustee by this Deed are in addition to any powers, authorities and discretions conferred by any statute upon the Trustee, and nothing in this Deed limits any such powers, authorities and discretions.

10.6 Delegation of Trustee Powers

- (a) The Trustee may delegate any functions, authorities, discretions or powers exercisable by the Trustee (including a power which the Trustee has a duty to exercise) to any person upon such terms and conditions as it determines.
- (b) The Trustee may:
 - (i) revoke any delegation; or
 - (ii) exercise any delegated function, authority, discretion or power itself concurrently with or to the permanent or temporary exclusion of a delegate.
- (c) The Trustee will remain liable for any act or omission of any such delegate as if such act or omission were the Trustee's own act or omission.
- (d) The Trustee is responsible for payment of the fees and expenses of any delegate appointed under clause 10.6(a).

10.7 Arrangements with Investment Managers

- (a) The Trustee may appoint a body corporate as an Investment Manager of the Plan, whether exclusively or as one of a number of Investment Managers of the Plan.
- (b) A body corporate cannot be appointed as an Investment Manager to manage the underlying Investments of an Investment Option of the Plan if the body corporate is a Disqualified Person.
- (c) An Investment Manager must be appointed in writing.
- (d) The terms and conditions of the appointment of an Investment Manager must:
 - (i) identify the matters to which the Investment Manager will be required to attend;
 - (ii) contain adequate provision to enable the Trustee to require the Investment Manager from time to time:
 - (A) to provide appropriate information as to the making of, and return on, the investments under management; and
 - (B) to provide such information as is necessary to enable the Trustee to assess the capability of the Investment Manager to manage the investments under management;
 - (iii) provide that the appointment is subject to the following terms and conditions:

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- (A) the only investments which can be made on behalf of the Plan are those which are Authorised Investments;
 - (B) any investment shall be subject to the restrictions set out in clause 5;
 - (C) the Investment Manager must assume such of those rights and obligations contained and imposed on the Trustee pursuant to clause 5 as are delegated to the Investment Manager by the Trustee;
 - (D) no Investment can be made by the Investment Manager unless the Trustee or the Custodian is registered as the holder of, or the Investment Manager holds as the nominee of the Trustee, all cash and assets deposited, lodged or placed with the Investment Manager and any investments made from the proceeds of such cash or assets;
 - (E) the Investment Manager's discretion is subject always to the terms and conditions of its appointment;
- (iv) not purport to exempt the Investment Manager from liability for negligence, or to limit that liability;
 - (v) confirm the fee which the Investment Manager is to receive in respect of the provision of its services;
 - (vi) confirm the term of the appointment.
- (e) Subject always to the covenants made by the Trustee set out in clause 8.3, nothing in this Deed prohibits the Trustee from accepting the advice of an Investment Manager to invest the Assets of the Plan in Investments of which the Investment Manager is the manager or the trustee.
 - (f) The fees of any Investment Manager must be agreed to by the Trustee and may be payable out of the Assets of the Plan.

10.8 Arrangements with Administrators

- (a) The Trustee may appoint an entity to administer the Plan.
- (b) The Administrator of the Plan must be appointed in writing.
- (c) The terms and conditions of the appointment of the Administrator must:
 - (i) identify the matters to which the Administrator will be required to attend;
 - (ii) confirm the fee which the Administrator is to receive in respect of the provision of its services;
 - (iii) confirm the term of appointment.
- (d) The fees of any Administrator must be fixed by the Trustee. Where an Administrator is appointed to perform any of the roles or functions previously carried out by the Trustee pursuant to this Deed or to perform any of the roles or

functions previously carried out by the Trustee as manager to the Plan and for which the Trustee is remunerated the Trustee is liable to pay the fee due to the Administrator pursuant to its appointment out of the remuneration received by the Trustee and the fee is not an Expense of the Plan. Where this is not the case, the fees shall be payable out of the Assets of the Plan.

- (e) An Employer of a Member must provide to the Administrator such information as is required by the Administrator for it to properly discharge its functions.

10.9 Arrangements with Custodian

- (a) The Trustee may appoint a Custodian of the Plan to receive, hold and retain registration of the Investments of the Plan in the name of the Trustee or, with the approval of the Trustee, in the name of the Custodian as nominee for the Trustee.
- (b) The Custodian appointed must be a body corporate which:
 - (i) is independent of the Trustee;
 - (ii) carries on in any jurisdiction in which it is to be appointed so to act as its principal business the business of banking or the provision of trustee services;
 - (iii) agrees irrevocably to submit to the non-exclusive jurisdiction of the courts of competent jurisdiction in the State of Victoria in respect of all matters relating to its appointment; and
 - (iv) is eligible for appointment under Relevant Law.
- (c) The Custodian of the Trustee must be appointed in writing.
- (d) The Custodian may be appointed to perform the following actions in the name of the Trustee or at the direction of the Trustee in its own name or in a name nominated by the Custodian and approved by the Trustee as nominee for the Trustee:
 - (i) purchase or sell in a country in which the Custodian is resident at the direction of the Trustee, Authorised Investments and execute all transfers and assurances necessary for such purpose;
 - (ii) receive and hold on behalf of the Trustee, any Authorised Investments, any interest, dividend or other interest accruing in respect of it and any document of title in safe custody in the country of purchase;
 - (iii) procure registration of such Authorised Investments in registrable form;
 - (iv) procure safe custody of such Authorised Investments in bearer form by a recognised clearing system nominated by the Custodian;
 - (v) receive hold and disburse moneys in the name of the Trustee at the direction of the Trustee; and
 - (vi) to perform all actions incidental to any of the foregoing powers.

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- (e) The Trustee may by the terms of any appointment of a Custodian insert such provisions for the protection and convenience of those dealing with any such Custodian as it thinks fit provided that notwithstanding any such appointment the Trustee shall remain liable for any act or omission of such Custodian undertaken in respect of the Plan as if any such act or omission was an act or omission of the Trustee.
 - (f) The Trustee is responsible for the payment of the fees and expenses of such Custodian but is entitled to be reimbursed in respect of any such fees and expenses as an expense of the Plan.
 - (g) The Custodian may by the terms of such appointment insert provisions to allow any such Custodian to appoint and remove agents or sub-custodians to carry out such of the Custodian's duties as the Custodian may from time to time determine, provided however that no such appointment shall relieve the Custodian of its responsibilities or liabilities.

10.10 Insurance

- (a) The Trustee may:
 - (i) effect any policy or policies of insurance it considers necessary or desirable to provide for all or any part of the Benefits payable from the Plan, on such terms and conditions and for such periods as the Trustee determines;
 - (ii) accept an assignment of a policy of insurance on such terms as the Trustee determines;
 - (iii) discontinue or surrender a policy of insurance at any time,and must insure and keep insured or cause to be insured and kept insured in the name of the Trustee on a replacement or reinstatement basis or for such amounts as may from time to time be determined by the Trustee with such insurance company (which may not be an insurance company related to the Trustee) as may be determined by the Trustee, the Investments which are of a nature or kind capable of being insured against fire and such other risk (including loss of rents for not less than one year) as the Trustee may deem prudent.
- (b) The Trustee may effect or acquire a policy of insurance which relates to more than one Member.
- (c) For the purposes of effecting, increasing or otherwise varying any policy of insurance the Trustee may from time to time request a Member or any applicant for insurance to:
 - (i) be medically examined;
 - (ii) submit other evidence of health, habits or pastimes;
 - (iii) provide proof of age to the satisfaction of the Insurer; or
 - (iv) take such other steps as may be required by the Trustee or the Insurer for the purposes of insurance.

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- (d) If any Member:
- (i) fails to undergo a medical examination reasonably required by the Trustee or the Insurer;
 - (ii) fails to supply information to the Insurer or the Trustee; or
 - (iii) fails to undertake any other step which is reasonably required by the Trustee or the Insurer for the purposes of insurance,

with the result that the policy is or might be avoided or the policy proceeds or any part of the policy proceeds do not or might not become payable, the Trustee may adjust the benefits to be provided for or in respect of the Member to reflect that result.

- (e) Where the Insurer refuses to underwrite a Member's Insured Benefit for the amount the Trustee requests or refuses to do so on terms acceptable to the Trustee as to premiums or otherwise, the Trustee may modify the level of Benefits payable in respect of that Member to reflect the extent to which the level of insurance requested is not available unless the Member or the Member's Employer, agrees to pay any additional premiums required to insure the amount the Trustee requested.
- (f) Where the Insurer, having underwritten a Member's Insured Benefit for the amount the Trustee requests, refuses to pay any part of the Insured Benefit on the Member becoming entitled to a Benefit under this Deed for which the insurance was taken out, the Trustee may reduce the amount of the Benefit payable to or in respect of the Member to reflect the amount the insurance company refuses to pay.
- (g) The Trustee may modify the Benefits payable from the Plan in respect of a Member on the Member's death or Total and Permanent Disablement if any part of that Member's Insured Benefit is not effected at first class rates of premium, to the extent necessary to reflect the higher premium rate.
- (h) The Trustee must notify a Member of any adjustment, reduction or modification of the Member's Insured Benefit under this clause 10.10.
- (i) Subject to Relevant Law, the Trustee may determine to provide different Insured Benefits in respect of different classes or groups of Members.

10.11 Transfer of Taxation Liability

Should the Trustee act in respect of the Plan which is a Regulated Superannuation Fund, the Trustee may, in respect of any Financial Year give notice to the trustee of a Pooled Superannuation Trust or Life Insurance Company of its intention to give a notice to the Commissioner of Taxation in accordance with the Tax Act stating the amount to be included in the assessable income of the Pooled Superannuation Trust or Life Insurance Company in respect of the Financial Year concerned, and where the trustee of the Pooled Superannuation Trust or the Life Insurance Company gives its consent to the same, give a notice to the Commissioner of Taxation to that effect.

11 Trustee's Indemnities

11.1 Effect of Indemnities

- (a) The indemnities given to the Trustee in this clause 11:
 - (i) are without prejudice to any indemnity allowed by law or elsewhere in this Deed given to the Trustee;
 - (ii) must be read and construed and take effect subject to the covenants in this Deed on the parts of the Trustee and in particular in clause 8.3; and
 - (iii) must each be read and construed and take effect subject to the provisions of clause 11.5.
- (b) The indemnities given to the Trustee in this clause 11 only take effect subject to the limitations in clause 11.6.

11.2 Indemnity

The Trustee shall be indemnified out of the Assets of the Plan in respect of which it acts against all liabilities incurred by it in the execution or attempted execution of the trusts, authorities and powers and discretions contained in this Deed in respect of the Plan.

11.3 Examples of Indemnity

Without limiting the purpose of clause 11.2 and only for the purpose of confirming the same:

- (a) The Trustee will be indemnified out of the Assets of the Plan from and against any expense and liability that may be incurred in prosecuting, defending or intervening in any action or suit in respect of the provisions of this Deed in respect of the Plan.
- (b) The Trustee will not incur any liability to anyone in respect of doing or performing or failing to do or perform 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 or any ordinance, rule, regulation or by-law made pursuant to them or of any decree, order or judgment of any court of competent jurisdiction the Trustee is required to do or perform or is hindered prevented or forbidden from doing or performing.
- (c) The Trustee will not incur any liability to anyone in consequence of the Trustee relying in good faith on information provided to the Trustee by any Member or any other person on behalf of a Member which proves to be incorrect.
- (d) The Trustee is not liable to account to Members or their Dependants or the Legal Personal Representative of a Member for any payments made by the Trustee in good faith to any duly empowered fiscal authority for Taxes and Charges made upon or in respect of the Plan or with respect to any transaction, notwithstanding that any such payment ought or need not have been made.
- (e) The Trustee may act upon the opinion, advice of or information obtained from barristers or solicitors being persons independent of the Trustee and instructed by the Trustee and upon any statement of or information obtained from any bankers, accountants or other persons appointed by the Trustee being persons independent

of the Trustee and believed by the Trustee in good faith to be expert in relation to the matters upon which they are consulted and the Trustee is not liable for anything done or suffered by it in good faith in reliance upon any such opinion advice statement or information.

- (f) The Trustee is not responsible for any misconduct, mistake, oversight, error of judgment, forgetfulness or want of prudence on the part of any Auditor, Actuary, Approved Valuer, Investment Manager, Custodian, Administrator, attorney, banker, receiver, receiver and manager, barrister, solicitor, agent or other person acting as agent or adviser of the Trustee.
- (g) The Trustee is not liable for any action taken or thing suffered by the Trustee in reliance upon any notice, resolution, direction, consent, certificate, receipt, affidavit, statement, holding out certificate for stock, plan of re-organisation, application or other paper or document reasonably believed by the Trustee to be genuine and to have been possessed, produced, passed, signed or endorsed by the proper parties where liability but for this indemnity would attach by reason solely that such paper or document was not genuine or so possessed, produced, passed, signed or endorsed.
- (h) In no event will the Trustee be bound to make any payment to Members or their Dependants or the Legal Personal Representatives of Members except out of the Assets of the Plan to which those Members have been admitted or be liable to Members or their Legal Personal Representatives to any greater extent than the Assets of the Plan in respect of the Member vested in or received by the Trustee in accordance with this Deed.
- (i) Should the Trustee purchase or otherwise acquire any Authorised Investment in regard to which there is a liability, the Trustee has a right of indemnity out of the Assets of the Plan in respect of that liability.
- (j) In the event of the liquidation or dissolution of any Corporation, or if for any other reason, it becomes impossible or impractical to carry out the provisions of this Deed in respect of such Corporation or otherwise, the Trustee shall not be under any liability or incur any liability by reason of any error of law or any matter or thing done or suffered or omitted to be done by it in good faith.
- (k) The Trustee is not required to effect any transaction or deal with any part of the Investments on behalf of or for the benefit or at the request of any Member unless such Member shall first have paid in cash or otherwise provided to the Trustee's satisfaction for all duties, Taxes and Charges, governmental charges, brokerage, transfer fees, registration fees and other charges (whether similar to the foregoing or not and including, without limitation, all financial institutions duties, debits taxes, land taxes and income and capital gains taxes) and whether in respect of the relative part of the Investments or otherwise (called collectively "duties and charges") which may have become or may be payable in respect of or prior to or upon the occasion of such transaction or dealing provided always that the Trustee shall be entitled if it so thinks fit to pay and discharge all or any of such duties and charges on behalf of the Member and to retain the amount so paid out of any moneys or property to which such Member may be or become entitled.

11.4 Trustee's Indemnity to be from the Plan

In the event that the Trustee has incurred a liability as Trustee and the Trustee is entitled under the terms of this Deed or otherwise as allowed by law to be indemnified in respect of

such liability out of the Assets of the Plan, the Trustee may claim such indemnity from the Assets of the Plan but the Trustee is not entitled to be indemnified in respect of that liability by any Member unless by a separate agreement with that Member.

11.5 Trustee's Duties, Remedies etc Not Limited

Nothing in this Deed limits the Trustee's covenants stated in clause 8.3 or restricts or prevents any determination as to whether there has been a breach of trust or affects the exclusive operation of the provisions of any statute prescribing the circumstances under which the Trustee may obtain relief from a breach of trust.

11.6 Indemnities Limited

- (a) Nothing in this Deed and in particular this clause 11.6 exempts the Trustee from liability for or indemnifies the Trustee against:
 - (i) a breach of trust in respect of the Plan where the Trustee:
 - (A) failed to act honestly in a matter concerning the Plan; or
 - (B) intentionally or recklessly failed to exercise in relation to a matter affecting the Plan, the degree of care and diligence that the Trustee was required to exercise; or
 - (ii) a monetary penalty under a Civil Penalty Order.
- (b) References in this clause 11.6 to the Trustee include directors of the Trustee acting in that capacity.

12 Remuneration and Expenses

12.1 Remuneration of Trustee

- (a) The Trustee may pay itself out of the Assets of the Plan by way of remuneration for its services as trustee of the Plan a fee of an amount of up to 3% per annum of the Net Value of the Assets of the Plan, calculated and payable on the last Business Day of each Month or at such other times as determined by the Trustee.
- (b) Notwithstanding clause 12.1(a), if in any Financial Year the total remuneration retained out of the Assets of the Plan calculated as provided in clause 12.1(a) is less than \$1,500.00, the Trustee shall be entitled to receive for the period ending 30 June for that Financial Year the difference between the remuneration already paid to the Trustee in that Financial Year out of the income of the Plan and \$1,500.00.

12.2 Reimbursement of Expenses

In addition to the remuneration of the Trustee and the rights to indemnification or reimbursement conferred under any other provision of this Deed or by law, the Trustee shall be entitled to be reimbursed out of each Expense Reserve Account maintained in respect of the Plan (or if this be insufficient, out of any trust moneys in its hands held on account of the Plan), provided that in the event there is insufficient cash available to the Trustee to discharge the Expenses of the Plan and payment is required to be made, the

Trustee shall be entitled to sell or realise out of the Plan such Investments as it considers necessary to enable the Trustee to meet the said Expenses of the Plan and make payment and to apply the proceeds of sale or realisation in meeting such Expenses of the Plan and making payment.

12.3 Increase in fees and charges

- (a) The percentages and dollar amounts referred to in this clause 12 may be increased without the consent of the Members by such amount not exceeding any increase in the average all employees weekly total earnings as published from time to time by the Australian Bureau of Statistics which has been produced since the later of the date of commencement of the Plan or the date of any previous increase made pursuant to this clause provided that:
 - (i) one Month's notice in writing shall be given by the Trustee to each Member prior to the increase taking effect; and
 - (ii) any such increase will only take effect after disclosure required by Relevant Law or determined by the Trustee to be desirable is made.
- (b) The fees and charges referred to in this clause 12 must not be altered or increased otherwise than as described in clause 12.3(a) without the prior approval of Members by an Ordinary Resolution.

12.4 Payment where Required Cash Holding becomes negative

- (a) If a payment made to or in respect of a Member causes or would cause the Member's Required Cash Holding to be a negative amount, the Trustee may at its discretion:
 - (i) sell such Assets that the Trustee holds for or on behalf of the Member as necessary to realise sufficient cash to transfer an amount of cash from a reserve account to the Member's Member Account in order to fund the payment; or
 - (ii) refuse to make the payment.
- (b) If the Trustee transfers an amount of cash from a reserve account pursuant to clause 12.4(a)(i) in order to fund a payment to or on behalf of a Member, the Trustee may deduct such costs or charges as it reasonably determines from:
 - (i) a Benefit payable to the Member;
 - (ii) the Member's Member Account; or
 - (iii) realisation of Assets that the Trustee holds for or on behalf of the Member,in order to compensate the Plan for the use of the cash required to pay the amount to or on behalf of the Member.

12.5 Goods and Services Tax

- (a) For the purposes of this clause 12.5:

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- (i) **GST Act** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
 - (ii) **GST Amount** means the net amount of GST payable by the Trustee on a Supply after:
 - (A) the consideration for the Supply has been properly adjusted in accordance with the GST Act, the CCA and any applicable rules, determinations or guidelines made under the GST Act or the CCA; and
 - (B) due account is taken of any input tax credit that the Trustee is entitled to claim in connection with the Supply.
 - (iii) **Supply** means any supply of trustee services made by the Trustee pursuant to the terms of this deed.
 - (iv) **CCA** means the *Competition and Consumer Act 2010* (Cth).
 - (v) Terms defined in the GST Act or the CCA have the same meaning in this deed unless provided otherwise.
- (b) This clause 12.5 will only apply:
 - (i) to a Supply that is a taxable supply; and
 - (ii) where the consideration payable to the Trustee for the Supply is expressed as a GST exclusive amount.
 - (c) Subject to the terms of this clause 12.5, the Trustee will be entitled to be paid out of the Assets of the Plan (as applicable) an amount equivalent to the GST Amount within 14 days after the Trustee has served a valid tax invoice on the Plan in relation to the Supply on which the GST Amount is payable.
 - (d) Despite anything else in this clause 12.5, the Trustee will not be entitled to payment of any GST Amount unless:
 - (i) the Trustee has served a valid tax invoice on the Plan in respect of the Supply within seven days of the date on which the Supply is made; and
 - (ii) the Trustee is registered at the time of that Supply for Australian Business Number purposes.

13 Transfers and Terminations

13.1 Transfer from Approved Benefit Arrangements

Where a Member is or was a member of or is or was the beneficiary under any other Approved Benefit Arrangement, the Trustee may by resolution take over or acquire by transfer from the trustee of the other Approved Benefit Arrangement the whole or any part of the assets of such Approved Benefit Arrangement or the interest of any member of that Approved Benefit Arrangement the Trustee may hold any such amounts transferred as part of the Plan and reflect such equivalent rights, entitlements and interests in the particular Member's Nominated Account as existed in the other Approved Benefit Arrangement and,

if the Trustee so determines, the Member will be deemed to have become a Member of the Plan on the date the Member became a member of the Approved Benefit Arrangement from which the Benefit was transferred.

13.2 Transfers to Approved Benefit Arrangements

- (a) Where a Member joins or is eligible to join any Approved Benefit Arrangement and requests the transfer of the whole or part of his or her entitlement in the Plan, or if the Trustee wishes to transfer the whole or part of the entitlement held on behalf of a Member to an Approved Benefit Arrangement where the Member is not at the time of the transfer a member in that Approved Benefit Arrangement, and Relevant Law enables such a transfer to take place, then the Trustee may transfer the whole or any part of the amount in the Plan representing the Member's Benefit to the trustee of the Approved Benefit Arrangement PROVIDED THAT a transfer may only be made pursuant to this clause where the Trustee is satisfied that:
- (i) the transfer is permitted under, and is made in accordance with, Relevant Law; and
 - (ii) the rights of the Member, or the beneficiaries of the Member to receive the Benefits arising from the amount transferred are fully secured.
- (b) The Trustee may transfer the whole or part of any amount held in the Plan in respect of a Member without the Member's consent where Relevant Law permits (including to a successor fund). Where the Trustee makes such a transfer:
- (i) the Trustee may make such enquiries as it considers appropriate to satisfy itself that the superannuation fund or benefit arrangement complies with the requirement of Relevant Law (or in the case of a retirement savings account, the *Retirement Savings Account Act 1997* (Cth)) and that any preserved benefits will continue to be preserved in accordance with the requirements of Relevant Law; and
 - (ii) a transfer of an amount under this clause 13.2 is a complete discharge to the Trustee in relation to any liability to the Member or any person claiming through the Member in relation to the amount transferred.
- (c)
- (i) The receipt of the transferred amount by the proper officer of the Approved Benefit Arrangement shall be a complete discharge to the Trustee of all liabilities in respect of the transferred amount and the Trustee shall have no responsibility to see to the application of the transferred amount.
 - (ii) Upon the completion of a payment or transfer in respect of a Member or beneficiary under this clause, all the rights and interest of that Member or beneficiary under this Deed (and all the rights and interest of any person otherwise entitled to claim in respect of the Member or beneficiary or on the occurrence of any event or circumstances affecting the Member, beneficiary) in respect of the transferred amount shall be entirely extinguished.
- (d) Where a Member or former Member or other beneficiary wishes to effect a Roll Over Payment in respect of all or any of the entitlement of the Member in the Plan, the Member or former Member or other beneficiary must:

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- (i) make a request to the Trustee in writing nominating the Approved Benefit Arrangement to which the Roll Over Payment is to be made and the amount to be applied as the Roll Over Payment or the percentage of the Member Account to be applied as the Roll Over Payment; and
 - (ii) complete and execute a notification of the Roll Over Payment or such other documentation as required by the Tax Act or other Relevant Law to enable the Roll Over Payment to be made to the Approved Benefit Arrangement in accordance with Relevant Law.
- (e) The Trustee may in accordance with the Relevant Law and, where required by the Relevant Law the Trustee must, transfer a Member's Benefit to an Eligible Rollover Fund and shall provide any information to the Trustee of the Eligible Rollover Fund at such time and in such manner as required by Relevant Law.
- (f) Where a Member or former Member has preserved Benefits in the Plan which form part of the amount transferred or rolled over to an Approved Benefit Arrangement, the Trustee shall ensure that the governing rules of the Approved Benefit Arrangement provide that, if the Member wishes to leave the Approved Benefit Arrangement, the amount of the preserved Benefit must be preserved and vested in accordance with Relevant Law.

13.3 Termination of Membership

A Member ceases to be a Member upon the:

- (a) payment of the full amount of the Member's Benefit;
- (b) transfer of the whole of the Member's Benefit pursuant to clause 13.2; or
- (c) the Trustee dealing with the Member's Benefit pursuant to Rule 6 of the Plan.

13.4 Transfer of Assets

Where on the termination of a Member's participation:

- (a) the Trustee determines that it is not reasonably practicable to realise any Assets of the Plan acquired for the purpose of implementing an investment strategy nominated by the Member within a reasonable time after the Member's termination; or
- (b) the Member requests the Trustee to transfer Assets of the Plan to the Member in satisfaction of the Member's entitlement on termination;

the Trustee may transfer any of the Assets of the Plan to the Member in part or full satisfaction of the Member's entitlement on termination.

13.5 Costs on transfer of Assets

The value of any Assets of the Plan transferred pursuant to clause 13.4 shall be calculated at market value and the costs of any brokerage, stamp duty, transfer fees and other charges incurred in transferring such assets shall be borne by the Member. In directing the transfer of any Assets of the Plan, the Trustee may make or receive cash payments or otherwise adjust the value of the amount transferred and may settle any question arising in relation to the transfer in any manner which appears to it to be just.

13.6 Information on Termination

The Trustee shall give to any Member whose participation terminates such information as Relevant Law requires to be given to that Member, within the Prescribed Period.

13.7 Cashing Restriction

Where the termination of a Member is to be effected pursuant to this clause and there is an amount in question in respect of the Member which is subject to a Cashing Restriction, the amount can only be dealt with as prescribed by clause 3.5(b).

14 Appointment of Auditor, Actuary and Valuers

14.1 Appointment

The Trustee may from time to time:

- (a) appoint an Auditor or Auditors of the Plan to perform the functions of the Auditor required by this Deed or by Relevant Law;
- (b) appoint an Actuary to perform the functions of the Actuary required by this Deed (if any);
- (c) appoint a person or firm who is experienced in relation to the valuation of assets or investments of the kind required to be valued.

14.2 Remuneration

The remuneration of any Auditor, Actuary or Approved Valuer must be fixed by the Trustee and is payable out of the Assets of the Plan in respect of which the Auditor, Actuary or Approved Valuer has been appointed.

14.3 Retirement

Each of any Auditor, Actuary or Approved Valuer appointed may retire upon the expiration of three Months' notice to the Trustee or such shorter period as the Trustee may agree to.

14.4 Removal

Any person appointed pursuant to this clause may at any time be removed from office in respect of the Plan or any of them:

- (a) by the Trustee; or
- (b) by an Extraordinary Resolution of the Members of the Plan.

14.5 Replacement

Any vacancy in the office of Auditor, Actuary or Approved Valuer must be filled by the Trustee appointing an Auditor, Actuary or Approved Valuer.

15 Accounts and Audit

15.1 Records to be kept

The Trustee must keep or cause to be kept such accounting records as:

- (a) correctly record and explain the transactions and financial position of the Plan;
- (b) enable the preparation from time to time of true and fair Accounts of the Plan as required by Relevant Law;
- (c) enable the returns of the Plan to be prepared in accordance with Relevant Law; and
- (d) enable the Accounts, statements and returns of the Plan to be conveniently and properly audited in accordance with Relevant Law.

15.2 Accounting Records

The accounting records must be:

- (a) kept at the registered office of the Trustee or at such other place as the Trustee may from time to time determine;
- (b) retained for at least the Prescribed Period after the end of the Financial Year to which the transactions relate;
- (c) kept in Australia; and
- (d) kept in writing in the English language or in a form in which they are readily accessible and readily convertible into writing in the English language.

15.3 Inspection of Accounting Records

The accounting records of the Trustee are open to the inspection of the Auditor at all reasonable times. The Auditor is entitled to require from the Trustee and to be given such information accounts and explanations as may be necessary for the performance of the duty of the Auditor.

15.4 Yearly Accounts

- (a) At the end of each Financial Year, the Trustee must, within the Prescribed Period:
 - (i) prepare or cause to be prepared the Accounts relating to the Plan; and
 - (ii) where the Trustee determines it appropriate, or Relevant Law requires it, prepare or cause to be prepared the Accounts relating to a sub-plan.
- (b) The Accounts of the Plan must be prepared in accordance with the requirements of:
 - (i) Relevant Law; and
 - (ii) the Australian Accounting Standards.

15.5 Auditor's Report on Accounts

At the time of preparation of the Accounts, the accounting records prepared in accordance with this clause 15 must be audited by the Auditor.

15.6 Auditor to Report on Certain Matters

The Trustee must use its best endeavours to ensure that the Auditor executes any audit certificate relating to the Accounts in the form prescribed in Relevant Law within the Prescribed Period.

15.7 Provision of Information to Members

The Trustee will send or cause to be sent information in relation to the Accounts and any other matters as Relevant Law requires at the time and in the manner required or permitted by Relevant Law from time to time.

16 Meetings

16.1 Trustee may Convene Meetings

The Trustee may convene a meeting of Members of the Plan at any time.

16.2 Members may Requisition Meeting

The Trustee must on the requisition of not less than 50 or one-tenth in number, whichever is the less, of the Members convene a meeting of the Members.

The requisition must state the objects of the meeting and the terms of any resolution proposed to be submitted to the meeting. The requisition be signed by the requisitionists and deposited at the registered office of the Trustee and may consist of several documents in like form each signed by one or more requisitionists. The Trustee must make available all information in its possession in connection with the same. If the Trustee does not within 21 days from the date of the requisition being so deposited duly proceed to convene a meeting of the Members of the Plan, the requisitionists or a majority of them in number may themselves convene the meeting but any meeting so convened shall not be held after three Months from the date of such deposit. Any meeting convened under this clause shall be convened in the same manner as nearly as possible as that in which meetings are to be convened by the Trustee except that the requisitionists shall give the like notice to the Trustee. The omission to give such notice to or the non-receipt of such notice by the Trustee invalidates the meeting but the Trustee may waive such omission or non-receipt.

16.3 Notice of Meeting

- (a) At least ten Business Days' notice of a meeting specifying the place day and hour of the meeting is to be given to Members.
- (b) The Trustee will ensure that any notice of meeting contains adequate notice of:
 - (i) any matters to be considered at the meeting of which it is aware;
 - (ii) any resolutions to be put to the meeting of which it is aware; and

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- (iii) a summary of information relating to those matters and resolutions that is relevant to the decision of a Member on how to vote at the meeting.
 - (c) The accidental omission to give such notice to or the non-receipt of such notice by any Member shall not invalidate the meeting.

16.4 Right of Audience

The Auditor and the representatives of the Trustee are entitled to attend any meeting of Members of the Plan with or without their respective solicitors and/or counsel and all such persons shall have the right to be heard.

16.5 Chairman

At a meeting convened by the Trustee, a person nominated by it (whether a Member or not) shall preside as chairman. If no such person is present or is present but unwilling to act within 15 minutes after the time appointed for holding the meeting, the Members present shall choose one of their number to preside as chairman.

16.6 Quorum

No business shall be transacted at any such meeting unless a quorum is present when the meeting proceeds to business. The quorum shall be 50 or at least 10% of the number of Members whichever is the lesser number or 50 or at least 10% of the number of Members of the particular Division (whichever is the lesser number). If within 15 minutes from the time appointed for any meeting a quorum is not present the meeting shall:

- (a) if called for the purpose of passing an Ordinary Resolution, stand adjourned to the same day in the next week at the same time and the same place;
- (b) if called for the purpose of passing an Extraordinary Resolution, stand adjourned for such period as the chairman shall direct,

provided notice of the proposed Ordinary or Extraordinary Resolution as the case may be and of the fact that those present in person or by proxy will constitute a quorum at an adjourned meeting and the place day and hour of such adjourned meeting have been given to the Members by the Trustee.

At an adjourned meeting convened pursuant to clause 16.6(a), the Members present in person or by proxy shall form a quorum and shall have power to pass the resolutions to be proposed at that meeting.

16.7 Method of Voting

- (a) Every question submitted to a meeting of Members shall be decided in the first instance by a show of hands provided that a poll shall be taken in any case where it is required by this Deed or by law that the question be decided by a majority which is measured by a percentage of the votes cast by those present or where a poll be properly demanded as provided in clause 16.8.
- (b) On a show of hands every Member who is present in person or by proxy shall have one vote.

16.8 Poll

At any meeting of Member unless a poll is demanded by the chairman or at least 10 Members holding or representing by proxy at least 10% of the total voting rights of all Members or at least 10 Members of the particular division holding or representing by proxy at least 10% of the total voting rights of Members of that division), a declaration by the chairman that a resolution has been carried or carried by any particular majority or lost or not carried by any particular majority shall be conclusive evidence of the fact. A poll may be demanded either before or immediately after any question is put to a show of hands.

16.9 Manner of Poll

If at any meeting a poll is demanded as provided in clause 16.8, it shall be taken in such manner and either at once or after an adjournment as the chairman directs and the result of such poll shall be deemed to be the resolution of the meeting at which the poll was demanded. The demand for a poll may be withdrawn. Any poll demanded at any meeting of Members of the Plan on the election of the chairman or any question of adjournment shall be taken at the meeting without adjournment. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded.

16.10 Effect of Resolution

A resolution (whether Ordinary or Extraordinary) passed at a meeting of Members of the Plan duly convened and held in accordance with this clause 16 shall be binding upon all the Members or the Members of the particular division whether present or not present at such meeting and each of the Members and the Trustee are bound to give it effect.

16.11 Objection to Qualification of Voter

Subject to clause 16.12, no objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairman of the meeting and his decision shall be final and conclusive.

16.12 Proxies

Votes may be given by proxy, subject to the following conditions:

- (a) On a show of hands, and on a poll, votes may be given either personally or by proxy and a proxy shall have the same right of audience as a Member.
- (b) The instrument appointing a proxy shall be in writing under the hand of the appointor or of the appointor's attorney duly authorised in writing or if the appointor is a corporation either under its common seal or under the hand of an officer or attorney duly authorised.
- (c) Any person may act as a proxy whether or not the person is a Member.
- (d) The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a notarially certified copy of that power or authority or a legible facsimile transmission copy of the instrument appointing a proxy where that instrument is signed under the hand of the Member must be deposited at the registered office of the Trustee or at such other place as is specified for that

purpose in the notice of meeting not less than 24 hours before the time appointed for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote. In default the instrument shall not be treated as valid. No instrument appointing a proxy shall be valid after the expiration of 12 Months from the date named in it as the date of its execution.

- (e) An instrument appointing a proxy may be in the following form or in any form which the Trustee shall approve:

"Bendigo Superannuation Plan

'I, _____ of _____ b
eing a registered Member of the Plan
appoint _____ of _____
_____ or, in his/her absence the chairman of the meeting to vote for me
and on my behalf at the meeting of the Members of the Plan to be held
on _____ 20____ and at any adjournment
thereof.

Signed _____

Dated this _____ day
of _____ 20____

I direct my proxy to vote for/against the proposed resolution. (In the absence of direction the proxy may vote as he/she thinks fit or abstain from voting.)'

- (f) A vote given in accordance with the terms of an instrument of proxy or of a power of attorney is valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed provided that no intimation in writing of such death, insanity or revocation shall have been received by the Trustee before the commencement of the meeting or adjourned meeting at which the proxy is used.

16.13 Adjournment of Meeting

The chairman may with the consent of any meeting of Members adjourn the same from time to time and from place to place.

16.14 Minutes

Minutes of all resolutions passed and proceedings at every meeting of Members must be made and duly entered in a book to be provided for that purpose by the Trustee and any such minutes if purporting to be signed by the chairman of the meeting at which such resolutions were passed or proceedings had or by the chairman of the next succeeding meeting (if any) of Members will be conclusive evidence of the matters stated in them and until the contrary is proved every such meeting in respect of the proceedings of which

minutes have been made will be deemed to have been duly held and convened and all resolutions and proceedings to have been duly passed and had.

16.15 Short Notice

Unless a specified period of notice of a meeting is required by law, a meeting, notwithstanding that it is convened by notice shorter than is required by clause 16.3, will have been duly convened if it is so agreed

- (a) in the case of a meeting convened in accordance with a requisition of Members- by all the Members entitled to attend and vote at the meeting; or
- (b) in the case of any other meeting - by 75% in number of the Members having a right to attend and vote at the meeting.

16.16 Telephone and Electronic Links

- (a) For the purposes of this clause a Member will be regarded as being present at a meeting of Members if the meeting is so conducted by telephone or other electronic means and the Member has confirmed that they are able to hear the proceedings of the entire meeting and to be heard by all others attending the meeting.
- (b) A meeting conducted in accordance with clause 16.16(a) will be treated as having been held at such place as is agreed upon by the Members, provided that at least one of the Members present at the meeting was at that place for the duration of that meeting.

16.17 Meeting by Notice

Except as required by any applicable law, in lieu of holding a meeting of Members, the Trustee may send to the Members entitled to receive notice of a meeting or to vote, a notice which contains:

- (a) the resolutions to be considered and voted on by the Members;
- (b) a summary of information relating to the resolutions which the Trustee considers relevant to the decision as to how to vote on the resolutions;
- (c) an address to return the notice to;
- (d) a date by which the notice is to be returned if the Member's vote on the resolutions is to be counted.

If the number of Members who return a notice would constitute a quorum of a meeting to pass the resolutions had a meeting been convened and those Members attended and voted, a meeting is deemed to have been held with the Members who returned the notices present and votes cast as set out in the returned notices received by the date set out in the notices. The resolutions will be deemed to have been passed had a meeting been held and the votes cast as set out in the returned notices received by the date set out in the notices.

16.18 Meetings Power to Sanction Amendments

Without limiting the provisions of clause 16, or the rights and discretions conferred in this Deed, a meeting of Members has, subject to Relevant Law, the power by Extraordinary Resolution to sanction or assent to any alteration, addition, modification or cancellation proposed by the Trustee of or to any of the covenants or provisions of this Deed and to authorise the Trustee to concur in and execute any deed making any such alteration, addition, modification or cancellation.

17 Variation of Deed and Rules

17.1 Power to Amend

Subject to any restrictions on amendment of trust deeds in Relevant Law and in clause 17.4, the Trustee may by deed supplemental to this Deed alter, modify, add or delete any of the provisions of this Deed, including this clause if such alteration, modification, addition or deletion:

- (a) is in the opinion of the Trustee or a barrister or solicitor instructed by the Trustee necessary or expedient to comply with the provisions of any statute, ordinance or with the requirement of any statutory authority; or
- (b) is in the opinion of the Trustee made to correct a manifest error or is of a formal, technical or administrative nature only (including without limitation any change of the name of the Plan); or
- (c) is in the opinion of the Trustee required by or in consequence of or consistent with any amendment to Relevant Law and is in the opinion of the Trustee not prejudicial to the interests of Members; or
- (d) is considered by the Trustee not to be or to be likely to become prejudicial to the interests of Members; or
- (e) is to amend clause 12 provided that the Trustee is satisfied that owing to changed economic circumstances any increase proposed is reasonable and that any such increase only will take effect after 30 days' notice to Members or other notice required by Relevant Law, whichever time is later; or
- (f) is approved by an Extraordinary Resolution of Members where in the opinion of the Trustee the rights of those Members may be adversely affected.

17.2 Date of Effect

An amendment made pursuant to this clause 17 may take effect from a date before or after it is made.

17.3 Notification of Amendment

The Trustee must give to Members, within the Prescribed Period, the information required by Relevant Law concerning the changes effected by the amendment. The failure to so notify the Members does not invalidate the amendment in any way.

17.4 Restriction on Amendment

- (a) An amendment must not impose any increase in liability on any Employer or Member to contribute to the Plan without the consent of the Employer or Member.
- (b) An amendment must not permit an individual to be eligible for appointment as Trustee of the Plan which is a Regulated Superannuation Plan unless the provisions of this Deed regulating the operation of the Plan is amended to provide, and will continue to provide after the amendment is made, that the Plan has as its sole or primary purpose the provision of old-age pensions.

17.5 Purpose of Restrictions

The purpose of clause 17.4 is to comply with restrictions on amendments of trust deeds imposed on Regulated Superannuation Funds. If those restrictions are amended, then the restriction in clause 17.4 shall be construed and applied in a corresponding manner.

18 Termination of the Plan

18.1 Period of Trusts

The perpetuity period applicable to the trusts and dispositions of the Plan contained in this Deed shall be the period of 80 years commencing on 11 August 1986.

18.2 Plan Termination

The Plan shall terminate prior to the expiration of the perpetuity period in the following circumstances:

- (a) if any legislation is enacted having the effect in the opinion of the Trustee:
 - (i) of materially diminishing the amount of income of the Plan (available for distribution to Members);
 - (ii) that the Assets of the Plan are to be invested or held otherwise than in accordance with the directions given to the Trustee in this Deed; or
 - (iii) that it is in the best interests of the Members of the Plan to terminate the Plan,

and the Trustee determines that the Plan shall be wound up on a date determined by the Trustee;

- (b) if the office of the trustee of the Plan becomes vacant and a new Trustee is not duly appointed within one Month of the vacancy occurring the Plan;
- (c) if the Trustee determines that the Plan is to be terminated.

18.3 Procedure on Termination of the Plan

Upon the termination of the Plan, the Trustee shall hold the Assets of the Plan upon trust for the Members and the Plan shall be wound up.

18.4 Detailed Procedure

In the event of the termination of the Plan, the Trustee shall:

- (a) give notice in writing to all Members that the Plan shall commence to be wound up on a specified date (**Closure Date**);
- (b) immediately make a call for any arrears of Contributions in respect of the Plan;
- (c) not, except in the case of Contributions received in response to a call, accept further Contributions to the Plan;
- (d) credit and/or debit, as the case may be, to each Member's Member Account in a manner determined by the Trustee as being in its opinion fair and equitable, the balance of any reserve accounts or other unallocated amounts maintained in respect of the Plan after payment of all expenses associated with the termination of the Plan;
- (e) subject to clause 18.7, sell, call in and realise the Investments of the Plan. So far as reasonably practicable, the sale is to be completed within 180 days after the termination of the Plan;
- (f) retain for so long as it thinks fit such part of the Investments of the Plan as in the Trustee's opinion may be required to meet any outgoing or liabilities (actual or contingent) in respect of the Plan or any Investments thereof;
- (g) retain out of any moneys in the Trustee's hands full provision for and to pay all costs, charges, expenses, liabilities (whether actual or contingent), claims and demands incurred made or apprehended by the Trustee in connection with the Plan or arising out of the termination of the Plan including the fees of any agents solicitors bankers accountants or other persons whom the Trustee may employ in connection with the termination of the Plan.

18.5 Distribution of Assets

The Trustee must on completion of the matters referred to in clause 18.4 pay the balance in each Member Account in the same manner as if each Member's membership had terminated pursuant to clause 13.3.

18.6 Receipt for Distribution

Each of those distributions shall be made only against delivery to the Trustee of such form of receipt and discharge as may be required by the Trustee.

18.7 Postponement

The Trustee may postpone the sale, calling in and conversion of any part of the Assets of the Plan for such time as it thinks is desirable so to do in the interests of the Members and will not be responsible for any loss attributable to such postponement.

19 Resolution of Disputes

19.1 Trustee's Decision is Binding

Subject to clause 19.2, if any doubt or dispute arises as to the interpretation of any provision of this Deed or as to the rights or obligations of a Member or any other person (except to the extent otherwise expressly provided in this Deed or by Relevant Law) the decision of the Trustee shall be final and binding.

19.2 Resolution of Disputes

The Trustee must (unless Relevant Law does not require) ensure that there are arrangements in force:

- (a) under which:
 - (i) a Member or any other person with a beneficial interest in the Plan which is a Regulated Superannuation Fund may inquire into, or complain about, the operation or management of the Plan in relation to that Member or that other person;
 - (ii) inquiries or complaints will be considered and properly dealt with within 90 days after they were made or such other period required by Relevant Law; or
- (b) which otherwise comply with Relevant Law in relation to the conciliation, arbitration and review of enquiries made by Members.

20 Miscellaneous

20.1 Payments

Any money payable by the Trustee to a Member under the provisions of this Deed may be paid:

- (a) by crossed "not negotiable" cheque or order made payable to the Member and sent through the post to the registered address of such Member or otherwise dispatched, delivered or made available to be collected as the Member may from time to time specify, in which case such payment shall be deemed to be made when the cheque or order is so sent or otherwise delivered, dispatched or made available; or
- (b) by payment (whether by electronic or other means) to an account of the Member with a Bank or Building Society nominated by the Member; or
- (c) in any other manner specified by the Member and agreed to by the Trustee, in which case such payments shall be deemed to be made when the Trustee has done everything necessarily to be done on its part to effect payment in that manner.

20.2 Retention of Documents

The Trustee must:

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- (a) keep, and retain so long as they are relevant and in any event for at least ten years or any such longer period required by Relevant Law, copies of:
 - (i) all reports that were given in the same form (apart from differences relating to the names and addresses of the persons to whom the notices were given) to all Members;
 - (ii) such other material as is required by Relevant Law; and
 - (b) make those copies available for inspection by a member of the staff of the Commissioner or its successor in law if requested to do so by a member of the staff.

20.3 Inspection of Deed

A copy of this Deed must at all times during usual business hours be made available by the Trustee at its registered office for inspection by Members who are entitled to receive from the Trustee a copy of this Deed.

20.4 Proper Law

The rights, liabilities and obligations of the Trustee and Members shall be governed by the law of the State of Victoria and any proceedings to enforce such rights, liabilities or obligations may be taken in the courts of that State.

20.5 Family Law

- (a) Subject to the following provisions of this clause, despite any other provisions of this Deed, the Trustee is empowered to undertake and complete any actions in relation to the Plan or the Benefits of any Member or beneficiary required in accordance with the *Family Law Act 1975* (Cth), regulations made under that Act and any other provisions of the Relevant Law which govern superannuation and family law including to:
 - (i) establish a new interest in the Plan;
 - (ii) transfer the interest of a Spouse to an Approved Benefit Arrangement; or
 - (iii) upon satisfaction of a condition of release, pay moneys from the Plan to the spouse.
- (b) The Trustee may at any time, and from time to time, elect under this clause 20.5(b) for the purposes of the Relevant Law that this Deed will not have operation to permit the Trustee to establish a new interest in the Plan from the interest of a Member or beneficiary upon the request by the Spouse of the Member or Beneficiary under the Relevant Law. The Trustee may at any time, and from time to time, determine to revoke any such election.

20.6 Privacy Law

In accordance with Relevant Law, the Trustee will hold, and treat as confidential, all records and information it may hold, receive or become aware of in its capacity as Trustee in relation to Employers, Members or Beneficiaries and shall not disclose or make known any such records or information to any third party except as may be required in relation to the administration of the Plan or to facilitate the provision of services or Benefits to

Members or as may be required by Relevant Law or as it may otherwise be lawfully required to do except that a Member may authorise the Trustee to release information pertaining to that Member to a third party.

20.7 Notices Members

- (a) Any notice required to be given to Members under this Deed is deemed to have been duly given if it is in writing and:
 - (i) delivered or sent by ordinary post, courier or airmail in a properly pre-paid or franked envelope addressed to the Member at the address appearing in the Register of Members; or
 - (ii) sent by facsimile transmission to the facsimile number of the Member notified to the Trustee by the Member;
 - (iii) sent by email or other electronic means notified to the Trustee by the Member and permitted by law.
- (b) Any notice sent by post is deemed to have been served on the seventh Business Day following the day when it was posted and in proving such service it is sufficient to prove that the letter containing the notice was properly addressed and posted by pre-paid or franked ordinary post or airmail, and a statement signed by the Trustee that it was so posted and when shall be conclusive of those facts.
- (c) A document sent by way of facsimile transmission is deemed to be received on production of a transmission report by the machine from which the facsimile was sent, which indicates that the facsimile was sent in its entirety to the facsimile number of the Member notified to the Trustee, and if produced before 5:00pm on the day of receipt is deemed to have been received on that day but otherwise on the next day. A statement signed by the Trustee that a notice was sent by facsimile transmission and a transmission report was produced by the machine by which it was sent which indicated that the facsimile was sent in its entirety shall be conclusive evidence of those facts.
- (d) Where Relevant Law requires that a report, statement or notice be sent to a Member and:
 - (i) a copy of a report, statement or notice previously sent to the Member was posted with correct pre-paid or franked postage to the Member at the Member's last known address and was returned undelivered to the Trustee; and
 - (ii) the Trustee has not been informed of another address of the place of residence or business of the Member,the Trustee is deemed to have complied with the requirements to send a copy of the report, statement or notice to the Member.
- (e) Where permitted by Relevant Law, the Trustee may serve a notice on a Member by electronic mail at the electronic mail address last notified to the Trustee by the Member.

20.8 Limitation of Liability

- (a) A Member will not by virtue of having been admitted to the Plan or having paid Contributions to the Plan have any liability to make any further payment, other than Contributions, to the Plan or payments to the Trustee in respect of the Plan.
- (b) No Member by reason alone of being a Member or by reason alone of the relationship created under this Deed with the Trustee will be under any obligation personally to indemnify the Trustee or any creditor of the Trustee in respect of any of the liabilities (actual, contingent or otherwise and whether due to any deficiency or not) of the Trustee in relation to, arising from or in connection with the Plan. Any such liability is expressly excluded. The only rights, if any, of indemnity of the Trustee and their respective creditors will be limited to having recourse to Assets of the Plan.

20.9 Continuancy Effect

Subject to Relevant Law, despite the termination of the Plan the provisions of this Deed continue in effect to the extent that they are required to regulate any remaining rights or duties of the parties.

Schedule 1 - Rules of the Plan

1 Definitions and Purpose

1.1 Definitions

For the purposes of this Schedule:

Allot has the meaning given to that expression in the Regulations.

Concessional Contributions has the meaning attributed to it in the Tax Act.

Maximum Splittable Amount has the meaning given to that expression in the Regulations.

Non-concessional Contributions has the meaning attributed to it in the Tax Act.

Regular Pension Payment has the meaning given to that expression in Rule 5.5(a)(i).

Regular Pension Payment Interval has the meaning given to that expression in Rule 5.5(a)(ii).

Regular Pension Request has the meaning given to that expression in Rule 5.5(a).

Salary Continuance Benefit means the amount arranged by the Trustee to be paid to the Member in the event of the Member's Ill-Health, in accordance with Rule 6.4(e).

Splittable Contribution has the meaning given to that expression in the Regulations.

Splitting Applicant means an Eligible Person, or Member who makes a contributions splitting application under Rule 3.3.

Taxed Splittable Contribution has the meaning given to that expression in the Regulations.

Untaxed Splittable Contribution has the meaning given to that expression in the Regulations.

Vested Benefit Entitlement means in respect of a person in respect of whom a Benefit is payable such amount as is vested in the person, at the date of calculation, and being as a minimum that amount vested in the person pursuant to Relevant Law.

1.2 Purpose of the Plan

The Plan will be maintained solely for one or more of the core or ancillary purposes identified in the Act as the purposes for which a Regulated Superannuation Plan must be solely maintained.

2 Rules relating to the admission of eligible persons wishing to obtain benefits for themselves

2.1 Form of Application

Every applicant who is an Eligible Person and wishes to be admitted to the Plan for the purpose of obtaining retirement and other approved ancillary benefits for themselves may apply to the Trustee to become a Member. The applicant:

- (a) may complete an Investment Option Nomination;
- (b) must lodge, or arrange to be lodged, any statement or notification required to accompany a Contribution, including a Contribution which is a Directed Termination Payment or Superannuation Lump Sum under Relevant Law;
- (c) must lodge, or arrange to be lodged, any statement or notification required to accompany a Roll Over Payment or benefit transferred from another Approved Benefit Arrangement;
- (d) must provide other application information required by the Trustee or by Relevant Law including to correct any defective application.

2.2 Pre-Conditions to Acceptance

The Trustee must not:

- (a) accept an application by an Eligible Person for admission as a Member unless the applicant has:
 - (i) completed the application;
 - (ii) in the case of an applicant who wishes to receive their Benefit in pension form, completed the Regular Pension Request;
 - (iii) agreed in writing to be bound by and comply with the Deed and these Rules;
 - (iv) where the applicant is required to make an Investment Option Nomination the applicant has done so;
 - (v) received from the Trustee in writing and in a clear and effective manner such information, statements and reports in relation to the operation, management and performance of Plan as Relevant Law requires to be given; or
- (b) approve the terms of a Regular Pension Request unless its terms and conditions meet the requirements of Relevant Law.

2.3 Defective Application

Where within 5 Business Days of the admission of an applicant as a Member the Trustee determines that:

- (a) the applicant was not an Eligible Person;

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- (b) the application was incorrectly executed or executed without power or authority; or
 - (c) the application was defective and accepted in error,

the Trustee may cancel the registration of the applicant in the Register of Members and refund the contribution to the applicant.

3 Contributions

3.1 Restrictions on Contributions

The Trustee must not accept a Contribution by or for a Member where Relevant Law prohibits acceptance of that Contribution and must refund any such Contribution (net of any investment losses, Taxes and Charges and Expenses of the Plan) that it has accepted within any time limits prescribed by Relevant Law after determining that acceptance of the Contribution would breach Relevant Law.

3.2 Reduction or Suspension of Contributions

Any adjustment in the level of Benefits must apply only to Benefits accruing after the date of reduction or suspension of the Contributions and must not, unless the Member or the Commissioner consents to the same, reduce the amount of the Member's Benefit or Vested Benefit Entitlement to that date.

3.3 Contributions Splitting

- (a) This Rule 3.3 applies to a Benefit which represents an accumulation interest and does not apply to a Benefit:
 - (i) that is subject to a payment split; or
 - (ii) on which a payment flag (within the meaning of Part VIII B of the *Family Law Act 1975* (Cth)) is operating; andis subject always to Relevant Law.
- (b) For the purposes of this Rule 3.3, Spouse means a spouse within the meaning of paragraph (b) of the definition of 'Spouse' in clause 1.1.
- (c) A Splitting Applicant may, in a Financial Year, apply to the Trustee in writing in such form (if any) as the Trustee may require, to roll over or transfer to or Allot an amount of any Contributions, for the benefit of the Splitting Applicant's Spouse, that is equal to an amount of the Splittable Contributions made by, for, or on behalf of, the Splitting Applicant in:
 - (i) the previous Financial Year; or
 - (ii) the Financial Year in which the application is made provided that the entire Benefit of the Splitting Applicant is to be rolled over or transferred in the same Financial Year.
- (d) Subject to the Regulations, an application under Rule 3.3(c) is invalid:

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- (i) if in the Financial Year in which it is made the Splitting Applicant has already made an application in relation to the same Spouse and the Trustee is:
 - (A) considering the application; or
 - (B) has given effect to the application; or
 - (ii) if the amount of any Contributions to which the application relates exceeds the Maximum Splittable Amount; or
 - (iii) subject to Rule 3.3(e), the Splitting Applicant's Spouse is aged:
 - (A) 65 or more; or
 - (B) between the relevant preservation age and 65 years and satisfies item 101 in Schedule 1 of the Regulations when the application is made.
 - (e) Notwithstanding Rule 3.3(d)(iii), an application may be made if it includes a statement by the Spouse that the Spouse is aged:
 - (i) between the relevant preservation age and 65 years, but does not satisfy item 101 in Schedule 1 of the Regulations; or
 - (ii) less than the relevant preservation age.
 - (f) The Splitting Applicant must specify, in the application, the amount of:
 - (i) Taxed Splittable Contributions; or
 - (ii) Untaxed Splittable Contributions; or
 - (iii) both,that the Splitting Applicant seeks to split for the benefit of the Splitting Applicant's Spouse.
 - (g) The Trustee may at its discretion accept and give effect to an application under Rule 3.3(c) if:
 - (i) the application complies with Rules 3.3(a) to 3.3(f); and
 - (ii) the Trustee has no reason to believe that the statement referred to in Rule 3.3(e) is untrue; and
 - (iii) the amount to which the application relates does not exceed the Maximum Splittable Amount for the relevant Financial Year.
 - (h) Where the Trustee accepts an application under this Rule 3.3, the Trustee must as soon as practicable, and in any case within the Prescribed Period after receiving the application roll over or transfer to an Approved Benefit Arrangement or Allot the amount of the Splittable Contribution which is the subject of the application for the benefit of the Splitting Applicant's Spouse.

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- (i) A Spouse, who is not a Member of the Plan but wishes to retain the amount Allotted for him or her in the Plan, must apply (and be accepted) to participate in the Plan.
 - (j) If a Splitting Applicant requests a split of:
 - (i) his or her Untaxed Splittable Contributions, the Trustee can only give effect to the application where the amount specified in the application is less than or equal to the Non-concessional Contributions that would have formed part of any Superannuation Lump Sum that would have been payable if the Splitting Applicant had withdrawn his or her entire Benefits on or before 5 April 2007; or
 - (ii) his or her Taxed Splittable Contributions, the Trustee can only give effect to the application where the amount specified in the application is less than or equal to the Concessional Contributions that may be split under the Relevant Law that would form part of any Superannuation Lump Sum that would be payable if the Splitting Applicant withdrew his or her entire Benefits at the time the Trustee gave effect to the application.
 - (k) To the extent permitted by the Relevant Law, the Trustee may charge fees to Splitting Applicants or their Spouses with respect to any action carried out in accordance with this Rule 3.3. Fees may be charged at such times and in such manner as the Trustee determines including by deduction from the entitlements of Splitting Applicants and their Spouses.

4 Special provisions in relation to members

4.1 Member Accounts

The Trustee may maintain sub-accounts within the Member Accounts.

5 Types of Benefit Payable

5.1 Lump Sum or Pension

The Benefit of a Member may be paid as a lump sum or Pension or combination of them.

5.2 Purchase of Annuity

A Benefit to be paid in pension form may be paid as a Pension from the Plan or purchased by the Trustee in the form of an Annuity in the name of the Trustee or the Member.

5.3 Commutation of Pension Benefit

A Member or Reversionary Dependant entitled to or in receipt of a Pension Benefit may request, subject to any limits or conditions prescribed by Relevant Law, the commutation of any amount of the capital value of the Pension to a lump sum payment. Following the commutation of any Pension Benefit the Trustee may reduce the Regular Pension Payment paid or payable annually to the Member or Reversionary Dependant.

5.4 Payment of Lump Sum Benefit in Pension Form

A Member entitled to a lump sum Benefit other than on the death of the Member may request that any part or all of the lump sum Benefit be paid as a Pension. In these circumstances the Trustee with the agreement of the Member, must determine:

- (a) the level, terms and conditions pertaining to the payment of the Pension;
- (b) whether the Pension will be paid as a Pension from the Plan or purchased by the Trustee in the form of an Annuity in the name of the Trustee or the Member.

5.5 Pension Benefits

- (a) Where a Benefit becoming payable in respect of a Member is to be paid in pension form then the person to whom the Pension is to be paid must:
 - (i) nominate to the Trustee the dollar amount which the person wishes to draw on a regular basis (**Regular Pension Payment**);
 - (ii) specify the intervals at which the Regular Pension Payment is to be paid (**Regular Pension Payment Interval**),

such nomination and specification being defined in these Rules as the "Regular Pension Request".

6 Benefits for Members

6.1 Application of Rule 6

The provisions in this Rule 6 apply in respect of Benefits payable to and in respect of Members.

6.2 When Benefit Payable

A Benefit becomes payable when the Member:

- (a) attains an age in such circumstances that Relevant Law permits a Benefit to be paid or commence to be paid and the Member has requested that the Benefit be paid;
- (b) attains an age in such circumstances that Relevant Law requires that the Member be paid or commence to be paid a Benefit;
- (c) dies;
- (d) suffers Total and Permanent Disablement;
- (e) ceases gainful employment due to Ill-Health;
- (f) otherwise ceases Service; or
- (g) satisfies any other circumstances where Relevant Law permits a Benefit to be paid or commence to be paid to the Member.

6.3 Deferral of Benefit Payable

- (a) A Member may apply to the Trustee in writing to defer payment of a Benefit which has become payable under Rule 6.2. The Trustee may agree to defer payment of the Benefit unless Relevant Law requires that the Benefit be paid.
- (b) Where payment of a Benefit is deferred under Rule 6.3(a), the Trustee may:
 - (i) accept Contributions for the Member where the Relevant Law permits the acceptance of the Contributions; or
 - (ii) notify the Member that no Contributions will be accepted by or on behalf of the Member.
- (c) The Trustee must pay or commence to pay the Benefit in full where Relevant Law requires that the Benefit be paid to the Member or the Member dies.

6.4 Amount of Benefit

- (a) The amount of a Member's Benefit is calculated subject to the following provisions of this Rule 6.4.
- (b) The amount of the Benefit payable must not be less than the amount of the person's Vested Benefit Entitlement.
- (c) The amount of a Benefit must not be greater than the aggregate of:
 - (i) the balance standing to the credit of the Member's Member Account; and
 - (ii) the proceeds of any policy of insurance paid in respect of the Member.
 - (iii) Under no circumstances shall the Trustee be at liberty to call upon the Investments of the Plan held in respect of any other Member to make good any shortfall in Benefits payable in respect of the Member.
- (d) Upon the death of the Member, the Trustee must have regard to:
 - (i) any benefit specification made by the Member and the Trustee;
 - (ii) such other matters as the Trustee in its absolute discretion determines as relevant; and
 - (iii) Relevant Law generally,

determine whether any Benefit or Benefits payable to a person or persons in accordance with Rule 6.6(b)(ii) will be paid as a lump sum or Pension or combination of them.

Where the Trustee determines to pay any Benefit as a lump sum, the Benefit will be the proportion of the balance standing to the credit of the Member's Member Account that is specified in respect of the Benefit recipient in a Binding Death Benefit Notice.

Where the Trustee determines to pay the whole or part of any Benefit as a Reversionary Pension to a Reversionary Dependant, the Trustee must, with the

consent of the Reversionary Dependant, determine the value of and the terms and conditions pertaining to the payment of the Reversionary Pension PROVIDED THAT the amount available to commence the Pension must be no greater than the balance standing to the credit of the Member's Member Account.

- (e) Upon a Member suffering Ill-Health which causes the Member's cessation of gainful employment prior to the Member otherwise becoming entitled to a Benefit under these Rules, the Member is entitled to receive a Salary Continuance Benefit. The amount of Salary Continuance Benefit payable and the terms on which the Salary Continuance Benefit is paid (including cessation) shall be in accordance with this Deed and the terms of the insurance policy pursuant to which the Salary Continuance Benefit is paid.
- (f) A Member in receipt of a Salary Continuance Benefit remains a Member and is not deemed to have ceased Service.
- (g) Subject to Relevant Law, the Trustee may direct the Insurer to pay an Insured Benefit directly to the particular Member.

6.5 To whom Benefit Payable

Upon determination of the type of Benefit to be paid and the terms and conditions of the Benefit, the Trustee will pay an amount equal to the Member's Benefit in the manner set out in these Rules.

6.6 Payment of Benefit to Person Entitled

A Benefit will be applied in the following manner:

- (a) upon the occurrence of an event described in Rule 6.2 other than Rule 6.2(c) pay the Benefit to the Member;
- (b) upon the Member's death or where the retirement of the Member is taken to have occurred for the purposes of the Relevant Law but the Member has died before receiving the whole of the Benefit, and the Trustee has determined that:
 - (i) the Member is a Pensioner Member, subject to Rule 6.9 and the Relevant Law, continue the Pension to the Reversionary;
 - (ii) a valid Binding Death Benefit Notice exists in relation to the deceased Member, subject to clause 2.12 (c), Rule 6.6(b)(iv) below and Rule 6.9, pay the death benefit to the person or persons specified in the Binding Death Benefit Notice a lump sum or Pension or combination of them; or
 - (iii) the member has nominated a Reversionary Dependant in accordance with clause 2.12, the Trustee may pay the Benefit as a Reversionary Pension to the Reversionary Dependant in accordance with Rule 6.4(d); or
 - (iv) no valid Binding Death Benefit Notice exists in relation to the deceased Member, or the death benefit cannot for any reason (whether wholly or in part) be paid in accordance with Binding Death Benefit Notice which exists in relation to the deceased Member, pay the death benefit as a lump sum to the Legal Personal Representative of the deceased Member or where the Trustee is unable to establish that the deceased Member has a Legal Personal Representative after making such enquiries as the Trustee in its

absolute discretion considers reasonable, pay the death benefit in such manner and to such person or persons as the Trustee may determine and as may be permitted under Relevant Law.

6.7 Death of Reversionary Dependant to whom Reversionary Pension is Payable

- (a) Upon the death of a Reversionary Dependant in respect of whom a Reversionary Pension is being paid, the Trustee shall pay the balance of the amount standing to the credit of the Member's Member Account, to the Legal Personal Representative of the Reversionary Dependant.
- (b) In the event that the Trustee is unable to establish that the deceased Reversionary Dependant has a Legal Personal Representative after making such enquiries as the Trustee in its absolute discretion considers reasonable, the Trustee may pay the balance of the amount standing to the credit of the Member's Member Account, in such manner and to such person or persons as the Trustee may determine and as may be permitted under Relevant Law.

6.8 Payment on Authorisation of Member

Notwithstanding Rule 6.6(a), where:

- (a) a Member is entitled to be paid a Benefit under Rule 6.6(a); and
- (b) Rule 8 does not apply,

the Trustee may pay the Benefit to the Member by paying the Benefit to another person (**Third Person**) where:

- (c) the Trustee reasonably believes, on the basis of written evidence submitted by the Member, that the Third Person has been properly authorised to receive the Member's Benefit on the Member's behalf; and
- (d) to do so is in accordance with Relevant Law.

6.9 Payment to Others on behalf of certain Dependants

When any Reversionary Dependant or person specified in a valid Binding Death Benefit Notice is entitled to a Benefit under Rule 6.6(b) (**Intended Dependant**) is under the age of 18 years or is under any legal disability or when in the opinion of the Trustee it would be in the best interests of the Intended Dependant, the Trustee may pay all or part of any Benefit in such one or more of the following ways as the Trustee shall determine:

- (a) to or towards the maintenance, education, advancement, support or benefit of the Intended Dependant in such manner and on such terms and conditions as the Trustee shall determine; or
- (b) to any other person who appears to the Trustee to be a trustee for the Intended Dependant or Spouse, child, parent or guardian or a person having custody of the Intended Dependant for application on behalf of the Intended Dependant,

and the receipt by the person to whom the Benefit is paid shall be a complete discharge of the Trustee for the payment in respect of the Intended Dependant and the Trustee shall not be bound or concerned to see to the application of the Benefit so paid.

7 Payment of Regular Pension Payments

7.1 Payment of Pension Benefit

The Trustee shall, subject to the provisions of Rule 7.3 pay any Regular Pension Payment within 14 days of the end of each Regular Pension Interval.

7.2 Regular sale of Assets to Retain Liquidity of Investments

At the end of each Financial Year and at such other times as the Trustee determines is necessary the Trustee shall realise sufficient of the Investments of the Plan so as to ensure that the Investments of the Plan will comprise sufficient cash from time to time to meet the amount of the Regular Pension Payment.

7.3 Sale of Investments to Pay Regular Pension Payment

In the event that the Plan's Investments comprise insufficient cash which can be withdrawn to meet the amount of the Regular Pension Payment then the Trustee shall having regard to the current conditions of the person's Investment Option Nomination and the provisions of clause 5 generally realise some or all of the Plan's non-cash Investments and pay the Regular Pension Payment to the person from the proceeds.

7.4 Variation of Regular Pension Payment

A Member may, subject to Relevant Law and in particular to the Cashing Restrictions and to the Trustee's consent to the same, vary from time to time the Member's Regular Pension Payment or Regular Pension Interval by giving notice in writing of at least 21 days to the Trustee in the form from time to time prescribed by the Trustee.

8 Payment of benefit where Member under legal disability

Subject to Relevant Law, where a Benefit has become payable to a Member under a legal disability:

- (a) the Trustee may pay the Benefit to:
 - (i) the Member's Legal Personal Representative; or
 - (ii) any other person the Trustee considers responsible for managing the Member's affairs, if Relevant Law so permits or the Commissioner agrees;
- (b) payment of the Benefit in accordance with Rule 8(a) is complete discharge to the Trustee as against the Member (even if the Member subsequently ceases to be under a legal disability) and any other person claiming an interest in the Member's Benefit.