

**TIDSWELL MASTER
SUPERANNUATION PLAN**

**AMENDING DEED
(CONSOLIDATED TRUST DEED AND RULES)**

**TIDSWELL FINANCIAL SERVICES LTD
(ABN 55 010 810 607)
(Trustee)**

AMENDING DEED

(CONSOLIDATED TRUST DEED AND RULES)

BY

TIDSWELL FINANCIAL SERVICES LTD (ABN 55 010 810 607) of 50 Hindmarsh Square, Adelaide, South Australia 5000 (**Trustee**)

INTRODUCTION

- A. The Tidswell Master Superannuation Plan (ABN 34 300 938 877) (**Plan**) was established by a deed dated 17 June 1988 (**Original Deed**). The Original Deed has been amended from time to time, including by deeds made on 31 October 1991, 3 June 1992, 26 October 1992, 28 July 1994, 19 December 1994, 12 September 2000, 29 June 2006, 20 December 2012, 10 September 2013, 27 July 2016, 10 November 2016, 15 December 2016, 6 November 2017, 15 December 2017 and 20 March 2019. The Original Deed, as amended from time to time, is referred to in this deed as the **Trust Deed**.
- B. The Trustee is the current trustee of the Plan.
- C. The Trustee has power under Part 18 of the Trust Deed to amend the Trust Deed as follows:

PART 18 – VARIATION OF DEED AND RULES

18.1 Power to amend

Subject to any restrictions on amendment of trust deeds in the Operational Standards and in Clause 18.3, the Trustee may so long as it is reasonably satisfied that the alteration, modification, addition or deletion will not adversely affect the interests or entitlements of the Participants or Members of any Division by deed supplemental to this Deed alter, modify, add to or delete any of the provisions of this Deed, including this Clause.

18.2 Date of effect

An amendment made pursuant to this Part 18 may take effect from a date before or after it is made.

18.3 Prohibition on amendment

An amendment will be void if the effect of the amendment is to breach an Operational Standard.

18.4 Notification of amendment

The Trustee must give to a Participant or Member, within the Prescribed Period, the information required by the Operational Standards concerning the changes effected by the amendment. The failure to so notify a Participant does not invalidate the amendment in any way.

18.5 Amendment because of legislation

The Trustee shall (without limiting the provisions of Clause 18.1) take all reasonable steps necessary to cause this Deed to be amended from time to time to satisfy the requirement of any statute, ordinance, rule, regulation or by-law or with the requirement of any statutory authority but

if the Trustee is of the opinion that as a result of such requirements the Assets of a Division or any part thereof are to be invested or deposited otherwise than freely in accordance with the discretions given to the Trustee hereunder or if as a result of any such law it appears to the Trustee to be in the interests of the Participants or Member [sic.] so to do, then the Trustee may resolve that the Division is to terminate and thereupon the Division shall terminate and be wound up, subject to Clause 19.

- D. The Operational Standards, as defined by clause 1.1 of the Trust Deed, include relevant restrictions on the power of amendment under section 60 of the *Superannuation Industry (Supervision) Act 1993* (Cth) (**SIS Act**) and regulation 13.16 of the *Superannuation Industry (Supervision) Regulations 1994* (Cth).
- E. The Trustee is satisfied that the amendments set out in this deed are permitted under the terms of Part 18 of the Trust Deed and the relevant Operational Standards.

OPERATIVE CLAUSES

1. **Introduction**

The Introduction is correct and forms part of this deed.

2. **Amendments**

With effect from the date of execution of this deed, the operative provisions of the Trust Deed (including the First to Twelfth Schedules) are deleted and replaced in their entirety with the replacement provisions (including the First to Thirteenth Schedules, cover page and index) set out in the Annexure to this deed.

3. **Governing law**

This deed is governed by the law of South Australia.

EXECUTED as a deed on

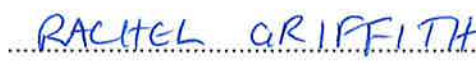
9 September 2019

Executed by **TIDSWELL FINANCIAL SERVICES LTD** by its attorneys under power of attorney dated 23 January 2018:


Attorney


Name (please print)


Attorney


Name (please print)

Annexure

TIDSWELL MASTER SUPERANNUATION PLAN

CONSOLIDATED TRUST DEED AND RULES

This is the Annexure referred to in the Amending
Deed dated 9 September 2019 and contains the consolidated trust
deed and rules of the Tidswell Master Superannuation Plan.

**Consolidated Trust Deed and
Rules for the Tidswell Master Superannuation
Plan**

Incorporating amendments to
9 September 2019

**TIDSWELL MASTER
SUPERANNUATION PLAN

TRUST DEED AND RULES**

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PART 1 – DEFINITIONS AND INTERPRETATION

1.1 Definitions

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

“Accounts” in relation to a Division means a statement of financial position, an operating statement and such other accounts and statements as are required to be prepared in respect of the Division for a particular period pursuant to the Operational Standards.

“Act” means the *Superannuation Industry (Supervision) Act 1993*.

“Actuary” means a person who may, for the time being, be appointed pursuant to Clause 15.1(b) to act in relation to the Divisions or any of them.

“Administration Charge” means the charge calculated pursuant to Clause 13.4.

“Administrator” means an administrator appointed by the Trustee pursuant to Clause 11.8.

“AFSL” means an Australian financial services licence as that term is defined under Chapter 7 of the *Corporations Act 2001*.

“Annuity” has the meaning assigned to that expression in Section 10 of the Act.

“Applicant” means:

- (a) in respect of each Division other than Division VII – a person who makes an application to become a Participant in accordance with Clause 3.1 or a Member in accordance with Clause 3.2; and
- (b) in respect of Division VII – a person who applies or is taken to apply to become a Member of the Australian Expatriate Superannuation Fund.

“Application” means:

- (a) an application for participation made pursuant to Clause 3.1.1; and
- (b) an application for membership made pursuant to Clause 3.2.1.

“Approved Auditor” has the meaning assigned to that expression in Section 10 of the Act.

“Approved Country” means any of Australia, United States of America, United Kingdom, Japan, Hong Kong, Singapore, Malaysia, Taiwan, South Korea, Canada, New Zealand, Italy, France, Switzerland, Germany, Holland and Belgium and such other jurisdictions as the Trustee from time to time determines.

“Approved Deposit Fund” has the meaning assigned to that expression in Section 10 of the Act.

“Approved Valuer” means in respect of a Division any person who is independent of the Trustee, experienced in relation to the valuation of Assets of the kind required to be valued, licensed or registered as a valuer in those jurisdictions which require it and is appointed, for the time being, by the Trustee to act in relation to the Division under this Deed.

“APRA Prudential Standards” means prudential standards for Regulated

Superannuation Funds made by the Regulator pursuant to the Act.

“Assets of a Division” means all the Cash and Investments, including Contributions received, held by the Trustee upon the trusts of a Division and without limiting the generality of the foregoing includes:

- (a) the first Contribution;
- (b) amounts owing to the Division by debtors (excluding any bad debts);
- (c) income accruing from Investments of the Division to the extent not included in the preceding paragraph of this definition;
- (d) the proceeds of sale of any Investments;
- (e) any pre-payment of expenditure; and
- (f) all additions or accretions (if any) to the Division which arise by way of dividend interest premium or distribution or which are otherwise received and for the time being retained.

“Associated Employer” means any corporation or partnership or person which or who may be nominated in writing by a Division I Participant to the Trustee as a party entitled to make contributions to Division I in respect of certain of its Employees.

“Auditor” means in respect of a Division, any person who is an Approved Auditor and is appointed, for the time being, by the Trustee to act in relation to the Division pursuant to Clause 15.1(a).

“Australian Accounting Standards” means the standards published from time to time by the Australian Accounting Research Foundation on behalf of the Australian Society of Certified Practising Accountants and the Institute of Chartered Accountants in Australia.

“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(1)(a) of the *Corporations Act 2001*.

“Authorised Investments” means all or any of the following:

- (a) Trustee Securities;
- (b) Public Securities;
- (c) Equities;
- (d) Commodities;
- (e) Derivatives;
- (f) Futures Contracts;
- (g) Debentures;
- (h) the acquisition of any security, deposit or loan guaranteed or supported by an irrevocable letter of credit expiring not less than 7 days after the relevant security, deposit or loan matures established or confirmed by a Bank which has stakeholders’ funds on a consolidated basis (as

at the date of its most recently publicised audited consolidated financial statements being not more than 2 years old) in excess of the equivalent (at that date) of twenty million dollars (\$20,000,000.00);

- (i) bills of exchange, promissory notes or other negotiable instruments whether purchased or discounted and which have been either drawn, issued, endorsed or accepted by a Bank or any public statutory body constituted under a law of the Commonwealth of Australia, any State or Territory thereof or of any Approved Country;
- (j) the purchase, leasing or other acquisition of any Land and any improvements, fixtures and fittings erected or installed or to be erected or installed thereon or rights conferring options, rights of first refusal or otherwise relating to the acquisition of Land;
- (k) 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 therein;
- (l) deposits with an Authorised Dealer;
- (m) deposits with or the acquisition of certificates of deposit or any other security issued by a Bank;
- (n) any investment of shares in, loans to or deposits with any Building Society;
- (o) Insurance Investments;
- (p) units or sub-units (or the equivalent rights or interests) in any Investment Fund;
- (q) any investment in a Pooled Superannuation Trust including and without limitation in respect of investments to be made in respect of Division I, II, III or IV- Division V;
- (r) holding deposits for Authorised Investments which it is proposed to purchase on behalf of a Division;
- (s) Call Options and Put Options in respect of any Investment provided that the aggregate of all costs and expenses incurred in entering into such Call and Put Options together with:
 - (i) in the case of a Put Option, the excess (if any) of the Value of the Investment the subject of the Put Option over the exercise price receivable under the Put Option; or
 - (ii) in the case of a Call Option, the excess (if any) of the exercise price payable under the option over the value of the Authorised Investment the subject of the Call Option,

shall at no time exceed five per centum (5%) of the Value of the Assets of the Division in respect of which the Call Option or Put Option is being taken (or such other limitation from time to time as the Trustee shall from time to time determine) provided that:

- (iii) where the Trustee holds a Put Option and a Call Option over identical property and each is exercisable on or before the same date, the excess (if any) in respect of such options calculated in accordance with paragraphs (i) and (ii) above shall be disregarded to the extent that the unrealised loss under either option is matched by an off-setting gain under the other option;

- (iv) any excess calculable in accordance with paragraphs (i) or (ii) above shall be disregarded for the purposes of this sub-Clause where the option in respect of which such excess is calculable is an option which need not be exercised by the Trustee (such non-exercise attracting no penalty or sanction whatsoever) and in respect of which no off-set has been calculated in accordance with paragraph (iii) above; and
- (v) where the Authorised Investment the subject of the option is denominated by a currency other than Australian dollars, the value of such Authorised Investments shall be calculated by converting its value to Australian dollars by such conversion method as the Trustee may agree with the Auditor;
- (t) any investment of money on security (whether by way of a first registered mortgage taken severally or otherwise) of any Land for a term not exceeding five (5) years or such longer term not exceeding thirty (30) years where the interest rate is not fixed for a period in excess of five (5) years at any time and in an amount which when added to moneys owing on any charge ranking prior to or pari passu with the security to be taken by the Trustee does not exceed:
 - (i) seven-tenths; or
 - (ii) if repayment of the whole of the principal and interest under any mortgage is insured under a mortgage guarantee insurance policy acceptable to the Trustee, nine-tenths, of the value of the property as determined by an Approved Valuer.

“Badged Division” has the meaning assigned to that expression by Clause 2.11.1.

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

“Benefit” means the amount that a Participant or Member or Dependant of that Participant or Member is entitled to receive or request payment or part payment from a Division pursuant to the Rules of the Division that the Participant or Member has joined. The term “Benefit” shall be deemed to include an amount payable in the form of a pension.

“Benefit Specification” means in relation to a Participant or Member (as the case may be) the details prescribed in relation to:

- (a) the basis of funding for and payment of any Benefit to be provided in respect of the Participants’ participation in a Division; and
- (b) the extent to which Members can make an Option Nomination in lieu of the Participant; and
- (c) a Pension payable by the Trustee which details shall prescribe the terms and conditions applicable to the Pension.

“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 South Australia.

“Call Option” means a call option contract whether or not regularly quoted and traded on a Securities Exchange under which a taker has the right in accordance with that contract or, where applicable, with such articles, rules, by-laws or regulations of a relevant Securities Exchange to purchase a fixed quantity of an Authorised Investment from a writer upon lodgement of an exercise notice in

accordance with that contract or with such articles, rules, by-laws or regulations, being a contract which specifies a price and date (or last date) for delivery in the future.

“**Cash**” includes cheques Bank and Building Society cheques and payment orders.

“**Cashing Restriction**” means in relation to a Benefit, a requirement under the Operational Standards that the Benefit may only be cashed on or after the satisfaction by the recipient of a Condition of Release.

“**Child**” in relation to a person, includes an adopted or step-child or ex-nuptial child of the person.

“**Civil Penalty Order**” has the meaning assigned to that expression in Section 10 of the Act.

“**Clause**” means a Clause of this Deed.

“**Commissioner**” means the person appointed to act as the Australian Prudential Regulation Authority (or such other relevant regulator) under the *Australian and Prudential Regulation Authority Act 1998*.

“**Commodity**” means any tangible personal property, currency, interest rate, financial index or indices (including any share index) or such other tangible or intangible thing determined by the Trustee for the purposes of this definition.

“**Compulsory Cashing Date**” means in respect of a Participant or Member the date on which the Operational Standards require that the Participant’s or Member’s Benefit must be paid or commence to be paid to or in respect of the Participant or Member.

“**Condition of Release**” has the meaning assigned to that expression in the Regulations.

“**Constitutional Corporation**” has the meaning assigned to that expression in Section 10 of the Act.

“**Consumer Price Index**” means the Australian consumer price index weighted average for all Australian capital cities published by the Australian Bureau of Statistics from time to time.

“**Contribution**” or “**Contributions**” means:

- (a) any or all of any deposits, payments or contributions, including Eligible Termination Payments, made to a Division by, for, in respect of or on behalf of a Participant or Member and shall include contributions made in respect of a Member
 - or Participant by the Government whether in the nature of what are known as superannuation co-contributions or otherwise;
- (b) but does not include anything within paragraph (a) above which would breach the QROPS Rules.

“**Contribution Charge**” means the charge calculated pursuant to Clause 13.5.

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

“**Current Pension Liability**” has the meaning given to that expression by Part IX of the Tax Act.

“**Custodian**” means any custodian appointed by the Trustee pursuant to Clause 11.9.

“**Dealer**” has the meaning given to that expression by Section 9 of the *Corporations Act 2001*.

“**Dealers Licence**” has the meaning given to that expression by Section 9 of the *Corporations Act 2001*.

“**Debentures**” means debentures, debenture stock, bonds, notes and any other documents evidencing or acknowledging indebtedness (including bills of exchange, promissory notes and certificates of deposit), whether constituting a charge on property or not and rights or options to purchase any of them.

“**Deed**” or “**this Deed**” means this trust deed as originally executed and as it may from time to time be amended in accordance with its provisions, including the Schedules hereto.

“**Deferred Annuity**” has the meaning assigned to that expression in Regulation 5.01.

“**Dependant**” in relation to a Participant or Member means a dependant within the meaning of the Operational Standards.

“**Derivative**” means any financial instrument or arrangement other than a Futures Contract, Put Option or Call Option that relates to an Authorised Investment or Commodity and includes (without limitation) any interest exchange or hedge, forward rate agreement, swap, cap, floor or collar.

“**Disclosure Document**” means any document issued by the Trustee offering participation or membership of a Division in accordance with the requirements of the Operational Standards.

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

“**Distribution Date**” means as the case may require, the last Business Day of an Income Entitlement Period or a Financial Year.

“**Division**” means any Division constituted pursuant to Part 2.

“**Division I**” means the superannuation trust fund regulated pursuant to this Deed. “**Division I Participant**” means an Employer or one or more Eligible Persons who has made application and been accepted to participate in Division I.

“**Division II**” means the superannuation trust fund regulated pursuant to this Deed.

“**Division II Participant**” means any Eligible Person who has made application and been accepted to participate in Division II.

“**Division III**” means the superannuation trust fund regulated pursuant to this Deed.

“**Division III Participant**” means any Eligible Person who has made application and been accepted to participate in Division III.

“**Division IV**” means the superannuation trust regulated pursuant to this Deed.

“**Division IV Participant**” means an Employer or one or more Eligible Persons who has made application and been accepted for participation in Division IV.

“Division V” means the pooled superannuation trust regulated pursuant to this Deed.

“Division V Participant” means any person who is an Eligible Investor who has made application and been accepted to participate in Division V.

“Division VI” means the superannuation trust fund known as the ‘Executive Choice Plan’ regulated pursuant to this Deed.

“Division VI Charge” means the fees and charges referred to under Clause 13.5A.

“Division VI Participant” means a person who is an Eligible Person who has been admitted to participate in Division VI.

“Division VII” means the superannuation trust known as the ‘Australian Expatriate Superannuation Fund’ governed by Division VII.

“Division VII Participant” means a person who is an Eligible Person who has been admitted to participate in Division VII.

“Division VIII” means the Division VIII constituted under this Deed.

“Division IX” means the Division IX constituted under this Deed.

“Division X” means the Division X constituted under this Deed.

“Division XI” means the Division XI constituted under this Deed.

“Division XII” means the Division XII constituted under this Deed.

“Division XIII” means the Division XIII constituted under this Deed.

“Drawdown” means the amount payable in respect of a Participant or Member pursuant to a Drawdown Request.

“Drawdown Request” means the request by a person to drawdown a part of the person’s interest in the Assets of a Division.

“Eligible Investor” means an entity whose assets are of the kind which the Regulations provide can invest in a Pooled Superannuation Trust including assets of:

- (a) a Regulated Superannuation Trust;
- (b) an Approved Deposit Fund;
- (c) another Pooled Superannuation Trust;
- (d) a Life Insurance Company that are assets of a tax-advantaged insurance fund (within the meaning of Section 116GC of the Tax Act);
- (e) a Registered Organisation solely for the tax-advantaged business (within the meaning of Division 8 of Part II of the Tax Act) of the organisation;

- (f) an exempt entity within the meaning of sub-paragraph (a), (c) or (d) of the definition of exempt entity in Section 102M of the Tax Act.

“Eligible Investor Statement” means in respect of an Eligible Investor a statement which:

- (a) confirms that an Applicant or Participant is an Eligible Investor;
- (b) is accompanied by the notices, certificates and documents prescribed by the Trustee; and
- (c) is made, executed and delivered in the manner prescribed by the Trustee.

“Eligible Investor Statement Request” or **“Request”** means the request for an Eligible Investor Statement delivered by the Trustee pursuant to Rule 3.1 of Division V.

“Eligible Person” means any person eligible under the Operational Standards to join and remain a member of a Superannuation Fund and shall include a Non-Member Spouse.

“Eligible Rollover Fund” has the meaning assigned to that expression in Section 242 of the Act.

“Eligible Termination Payment” means a payment which constitutes the whole or part of an eligible termination payment within the meaning assigned to that expression by Section 27A(1) of the Tax 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 assigned to that expression in Section 10 of the Act.

“Equities” means shares (as defined in the Corporations Act) and convertible notes (as defined in Division 3A of Part III of the 1936 Tax Act) and options or rights to purchase any such shares (whether issued or not) or convertible notes and shares or any other form of security listed on a foreign stock exchange or securities market.

“Expenses of the Division” means the costs referred to in paragraphs (a) to (bb) of Clause 5.1.3.

“Expense Reserve Account” means the account established in respect of each Division pursuant to Clause 5.1.

“Extraordinary Resolution” means a resolution passed at a meeting of Participants or meeting of Participants of a particular Division duly convened and held in accordance with the provisions of this Deed by a majority consisting of not less than three-fourths of the persons voting thereat upon a show of hands and if a poll is demanded then by a majority consisting of not less than three-fourths of the votes given on such poll.

“Financial Year” means in respect of each Division each successive period of twelve (12) Months commencing on the First day of July and ending on the Thirtieth day of June except that the first Financial Year will be the period commencing on the commencement of the Division in accordance

with Clause 2.2 and ending on the Thirtieth 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 Division and commencing on the First day of July preceding the date of termination.

“First Contribution” has the meaning assigned to that expression by Clause 2.3.

“Fund” means:

- (a) for the purposes of Part 6 a Division or Sub-Plan in respect of which the Trustee has determined pursuant to Clause 6.2 to settle a particular investment strategy or strategies; and
- (b) for the purposes of Part 10 a Division or Sub-Plan.

“Futures Contract” has the meaning given to that expression by Section 9 of the *Corporations Act 2001*.

“Futures Exchange” means the exchange conducted by the Future Exchange Limited or any market or exchange elsewhere in an Approved Country for the trading of Futures Contracts and which is established and operated in accordance with the rules and regulations of the Approved Country.

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

“General Fees Rules” means the requirements set out under Part 11A of the Act.

“Group of Standard Employer-Sponsored Members” means at least that number of Members as the Regulations provide constitute a group by reason of the fact that they have the same Employer or an Employer who is an Associated Employer of the Employer of other Members of the group.

“GST” has the same meaning it does in Section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999*.

“Half Yearly Period” means in respect of each Division each successive period of six (6) Months ending on the Thirtieth day of June and the Thirty-first day of December so that the first Half Yearly Period shall commence on the date of commencement of the Division in accordance with Clause 2.2 and end on the next ensuing Half Yearly day abovementioned and the last Half yearly Period shall be the broken period (if that be the case) ending on the date of termination of the Division and commencing on the First day of July or January immediately preceding the date of termination.

“Income Entitlement” means the amount calculated in respect of a Participant pursuant to Clause 7.7.2.

“Income Entitlement Period” means a Financial Year or such other period of time commencing on the day following the last day of the preceding Income Entitlement Period as the Trustee determines.

“Insurance Investment” means any investment offered by a Life Insurance Company, whether the same involves a deposit, a loan, payment of premiums, acquisition of a right or interest in or arising out of insurance or life policies, or in a statutory fund or any similar investment.

“Insured Benefit” means the proceeds of any Benefit arranged in respect of a Participant or Member at the request of the Participant or Member by the Trustee pursuant to Clause 11.10.1(a).

“Interest Entitlement” means the amount to be calculated in respect of a Member pursuant to:

- (a) Rule 5.3.1(a) of Division I; or
- (b) Rule 5.3.1(a) of Division IV.

“Interim Interest Entitlement” means the amount calculated in respect of a Member pursuant to:

- (a) Rule 5.3.1(b) of Division I; or
- (b) Rule 5.3.1(b) of Division IV.

“Investment” means any Authorised Investment purchased or to be purchased by the Trustee on account of a Division.

“Investment Charge” means the charge calculated pursuant to Clause 13.3.

“Investment Fund” means any collective investment structure, unit trust or similar entity which is managed and controlled in any Approved Country.

“Investment Manager” means any investment manager appointed by the Trustee pursuant to Clause 11.7.

“Investment Option” means an investment strategy settled by the Trustee in respect of a Fund pursuant to Clause 6.3.

“Investment Pool” means the pool of Authorised Investments which the Trustee determines to invest the Assets of an Investment Option in pursuant to Clause 6.5.

“Land” includes, without limitation, tenements and hereditaments wheresoever situated and whether corporeal or incorporeal and every estate and interest therein, whether vested or contingent freehold or leasehold, whether at law or in equity, in severably or otherwise.

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

“Liabilities of a Division” means:

- (a) any amounts borrowed for the purpose of the Division and remaining owing together with interest thereon;
- (b) unpaid administrative costs and expenses of the Division including the fees of the Trustee determined in respect of that Division pursuant to Clause 13.1;
- (c) accrued charges owing in respect of or in relation to any of the Investments of the Division;
- (d) deposits or margin calls required to be paid under any Futures Contract and any Put Option or Call Option;
- (e) any provisions for Tax 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 Division 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) in respect of each Division other than Division VII – an Applicant who has been accepted for Membership in the Division; and
- (b) in respect of Division VII – Member within the meaning of Division VII.

“Member’s Nominated Accounts” means the accounts established on the direction of a Division I Participant in respect of a Member pursuant to Rule 5.1.1 of Division I or in respect of a Member of Division VI means an Account as defined under Division VI.

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

“Net Value of the Assets of a Division” means the Value of the Assets of the Division less the Liabilities of the Division.

“Nominated Person” means a person or persons nominated in a Nominated Person Notice.

“Nominated Persons Notice” means the notice given by an Applicant, Participant or Member (as the case may be) pursuant to Clause 3.5.

“Nominated Reversionary Dependant” means a Dependant nominated in respect of a Participant or Member in a Nominated Reversionary Dependant Notice.

“Nominated Reversionary Dependant Notice” means the notice given by an Applicant, Participant or Member pursuant to Clause 3.6.

“Nomination” has the meaning given to the term under Clause 3.5.

“Operational Standards” means:

- (a) the Act;
- (b) the Regulations;
- (c) the Tax Act;
- (d) the *Superannuation (Resolution of Complaints) Act 1993*;
- (e) APRA Prudential Standards;
- (f) such other circulars, rulings and 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 a Division;

- (g) any other present or future law of the Commonwealth of Australia or any State or Territory which the Trustee determines to be an Operational Standard for the purposes of this Deed; and
- (h) the *Family Law Act 1975*.

“Option Nomination” means the nomination made by an Applicant pursuant to Clause 6.9.2 or any variation thereof made pursuant to Clause 6.9.2 or Clause 6.12.

“Ordinary Resolution” means a resolution passed at a meeting of Participants or meeting of Participants of a particular Division duly convened and held in accordance with the provisions of this Deed by, unless the Deed specifically provides for a poll, a majority of the persons voting thereat upon a show of hands and if a poll is demanded, then by a majority of votes given on such poll.

“Participant” means:

- (a) in respect of each Division other than Division VII – any Applicant pursuant to Clause 3.1 to be admitted to participation in a Division and who has been admitted to participate in that Division but does not include a Member; and
- (b) in respect of Division VII – means a Member of the Australian Expatriate Superannuation Fund.

“Participants Account” means the account established in respect of each Participant pursuant to Clause 5.2.

“Pension” means a pension within the meaning of the Operational Standards PROVIDED THAT the Disclosure Document applicable to the Plan authorises the particular style of pension to be paid and in the event a pension becomes payable the terms and conditions applicable to the Pension shall be reduced to writing in a Benefit Specification which Benefit Specification shall be deemed to be included in the governing rules of the Plan for the purposes of the Operational Standards.

“Pensioner” means a Participant or a Member who is entitled to receive or has applied to receive Benefits payable to the Participant/Member as a Pension and includes a Reversionary Beneficiary in receipt of a Pension;

“person” includes a corporation, firm or body of persons.

“Plan” means and is the name given to the group of Divisions constituted pursuant to Part 2 of this Deed.

“Policy Committee” means a committee established in respect of a Group of Standard Employer-Sponsored Members of a Division or a Sub-Plan in accordance with Clause 10.1.

“Pooled Superannuation Trust” has the meaning assigned 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 the Operational Standards.

“Public Securities” means any stock, bonds, notes or other securities issued by, or any securities, deposits or loans secured or guaranteed by:

- (a) the Government of the Commonwealth;
- (b) the Government of any State or Territory of the Commonwealth;
- (c) any statutory body constituted by or under any act of the Parliament of the Commonwealth or any legislation of a State or Territory of the Commonwealth; or
- (d) any government of an Approved Country.

“Put Option” means a put option contract whether or not regularly quoted and traded on a Securities Exchange under which a taker has the right, in accordance with that contract or, where applicable, with the articles, rules, by-laws or regulations of a relevant Securities Exchange to require a writer to purchase a fixed quantity of an Authorised Investment from him upon lodgement of an exercise notice in accordance with that contract or with such articles, rules, by-laws or regulations, being a contract which specifies a price and date (or last date) for delivery in the future.

“QROPS Rules” means the rules and protocols as described by Clause 1.6 of the Deed.

“Register of Members” means the Register of Members maintained by the Trustee pursuant to Clause 8.2.1.

“Register of Participants” means the Register of Participants maintained by the Trustee pursuant to Clause 8.1.1.

“Registered Organisation” has the meaning given to that expression in Section 10 of the Act.

“Registers” means the Register of Participants and Register of Members.

“Regulated Superannuation Fund” has the meaning assigned to that expression in Section 19 of the Act.

“Regulation” or **“the Regulations”** means, unless the contrary intention appears, the regulations issued from time to time pursuant to the Act as amended from time to time.

“Regulator” means the Australian Prudential Regulation Authority established under the *Australian Prudential Regulation Authority Act 1998* or any successor body appointed pursuant to Commonwealth legislation as the prudential regulator of Regulated Superannuation Funds.

“Reversionary Beneficiary” means a Dependant nominated by a Pensioner who is eligible to receive a Pension upon the death of a Pensioner pursuant to Clause 3.6;

“Reversionary Pension” means a Pension paid to a Reversionary Beneficiary pursuant to Clause 3.6;

“RSE Licensee” means RSE Licensee within the meaning of Section 10 of the Act.

“Rules” or **“Rule”** means the rules set out in the Schedules hereto or any of them and any amendment thereof for the time being in force and without limiting the generality of the foregoing:

- (a) the Rules applicable to Division I are set out in the First Schedule;
- (b) the Rules applicable to Division II are set out in the Second Schedule;
- (c) the Rules applicable to Division III are set out in the Third Schedule;
- (d) the Rules applicable to Division IV are set out in the Fourth Schedule;
- (e) the Rules applicable to Division V are set out in the Fifth Schedule;
- (f) the Rules applicable to Division VI are set out in the Sixth Schedule;
- (g) the Rules applicable to Division VII are set out in the Seventh Schedule;
- (h) the Rules applicable to Division VIII are set out in the Eighth Schedule;
- (i) the Rules applicable to Division IX are set out in the Ninth Schedule;
- (j) the Rules applicable to Division X are set out in the Tenth Schedule;
- (k) the Rules applicable to Division XI are set out in the Eleventh Schedule;
- (l) the Rules applicable to Division XII are set out in the Twelfth Schedule; and
- (m) the Rules applicable to Division XIII are set out in the Thirteenth Schedule.

“Salary Continuance Benefit” means the Benefit determined by the Trustee in respect of a Participant or Member on or after the Participant’s or Member’s cessation of gainful employment on account of ill-health (whether physical or mental) taking into consideration the level of such Benefit specified in the relevant Benefit Specification provided that, unless the Trustee and the Participant otherwise agree, the Salary Continuance Benefit in respect of a Participant or Member shall be no greater than the Insured Benefit arranged in respect thereof and provided further that the Salary Continuance Benefit in respect of a Participant or Member ceases to be payable upon the earlier of:

- (a) the Participant’s or Member’s death;
- (b) a Total and Permanent Disablement Benefit otherwise becoming payable in respect of the Participant or Member;
- (c) the Participant’s or Member’s retirement; or
- (d) the Participant’s or Member’s recovery.

The question as to whether the Participant’s or Member’s circumstances constitute ill-health in respect of an Insured Benefit shall be decided by the insurance company underwriting the Insured Benefit.

“Securities Exchange” means:

- (a) a securities exchange specified in Regulation 3.6.03 of the Corporations Regulations;

- (b) The Amsterdam Stock Exchange, The Frankfurt Stock Exchange, The Hong Kong Stock Exchange, The Kuala Lumpur Stock Exchange, The Singapore Stock Exchange, The Tokyo Stock Exchange and The Zurich Stock Exchange; and
- (c) any other securities exchange, whether situated in Australia or not, determined by the Trustee.

“Service” means 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 and such other categories of service as a Participant may from time to time specify in writing to the Trustee in respect of a Member.

The following periods shall, at the Participant’s discretion with the approval in writing of the Trustee, be included in an Employee’s Service:

- (a) any period during which the Employee is employed by any other person directly or indirectly allied or associated with an Employer;
- (b) 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;
- (c) any period of absence from duty with an Employer which by operation of any statute is deemed to be employment with that Employer;
- (d) any period of absence from duty with an Employer not exceeding six (6) 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
- (e) 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 hereof, and

“Service” means in respect of a Gainfully Employed Person such periods of gainful employment as may be permitted under the Operational Standards for the purpose of determining Benefits.

“Significant Adverse Effect” has the meaning assigned to that expression in respect of an event in Section 106(2) of the Act.

“Sponsor” has the meaning assigned to that expression by Clause 2.11.1.

“Spouse” in relation to a person, includes another person who, although not legally married to the person, lives with the person on a genuine domestic basis as the husband or wife of the person.

“Spouse Contributions” means contributions made by a Spouse in respect of a Member being eligible spouse contributions within the meaning of the Tax Act.

“Standard Employer-Sponsored Member” has the meaning assigned to that expression in Section 16(5) of the Act.

“Sub-Plan” has the meaning assigned to that expression in Clause 3.7.1.

“Successor Fund Transfer” has the meaning given to that expression in the Regulations.

“Superannuation Entity” means a superannuation entity within the meaning of the Act.

“Superannuation Fund” has the meaning given to that expression in Section 10 of the Act.

“Surcharge” means the tax imposed by the *Superannuation Contributions Tax Imposition Act 1997*.

“Surchargeable Contributions” means surchargeable contributions within the meaning of the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*.

“Tax”:

- (a) includes income tax (including without limitation any tax on the disposal of investments), capital gains tax, withholding tax, stamp duty, financial institutions duty, registration and other duties, bank accounts debits tax and other taxes, levies, imposts, deductions and charges whatsoever (including in respect of any duty imposed on receipts or liabilities of financial institutions, any amounts paid in respect of them to another financial institution) together with interest on them and penalties with respect to them (if any) and charges, fees or other amounts made on or in respect of them; and
- (b) includes anything in paragraph (a) above imposed by a law other than Australian law.

“Tax Act” or **“the Tax Act”** means the *Income Tax Assessment Act 1936* and the *Income Tax Assessment Act 1997*.

“Termination Date” means as the circumstances require:

- (a) the date on which a Participant has requested pursuant to a Termination Request that the Participant’s participation in a Division be terminated; or
- (b) the date on which the Trustee proposes pursuant to a Termination Notice that a Participant’s participation in a Division be terminated.

“Termination Notice” means the written notice given by the Trustee to a Participant pursuant to Clause 14.1.3 or Clause 14.1.4 notifying the Participant of the termination of the Participant’s participation in a Division.

“Termination Request” means the written request given by a Participant to the Trustee pursuant to Clause 14.1.1 requesting the termination of the Participant’s participation in a Division.

“Total and Permanent Disablement” means either:

- (a) suffering the permanent loss of use of two limbs or the sight of both eyes or the loss of use of one limb and the sight of one eye (where “limb” means the whole hand or the whole foot); or
- (b) having been absent from gainful employment through injury or illness for six (6) consecutive Months and having become incapacitated to such an extent as to render

the Participant or Member unlikely ever to resume work or attend any gainful profession or occupation for which he is reasonably qualified by education, training or experience,

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

The question as to whether the Participant's or Member's circumstances constitute Total and Permanent Disablement where there is no Insured Benefit in respect of that Participant or Member, shall be determined by the Trustee provided that every question of Total and Permanent Disablement for determination where there is no Insured Benefit in respect of the Participant or Member shall only be determined by the Trustee after the receipt of a report by a qualified medical practitioner and such other information as the Trustee deems fit and the decision of the Trustee is conclusive and binding on all parties concerned.

The question as to whether the Participant's or Member's circumstances constitute Total and Permanent Disablement in respect of an Insured Benefit shall be decided by the insurance company underwriting the Insured Benefit.

"Trustee" means the Trustee or Trustees for the time being of the Divisions or any of them and includes, where applicable, any delegate or nominee of the Trustee appointed under the provisions of this Deed.

"Trustee Securities" means 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.

"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 below:

- (a) in respect of any Equities listed on a Securities Exchange which is a securities exchange specified in Regulation 3.6.03 of the Corporations Regulations, the value is the last sale price recorded in the official list thereof during the period of one (1) Month ended on the last Business Day prior to the day upon which such value is to be ascertained or if no sale is so recorded or the Trustee otherwise thinks fit, the value determined by an Approved Valuer;
- (b) in respect of any Equities listed on a Securities Exchange which is not specified in Regulation 3.6.03 of the Corporations Regulations, the value is the value determined by the Trustee, after receipt of a valuation of an Approved Valuer, as a fair and reasonable valuation;
- (c) in respect of any loan securities not listed on a Securities Exchange for a term of one (1) year or less, the value is the face value together with interest accrued thereon but unpaid or if the Trustee otherwise thinks fit the value determined by an Approved Valuer;
- (d) in respect of Land and improvements thereon, the value is the cost price including acquisition costs thereof during the period of three (3) years from the date of such acquisition and thereafter the value is the value thereof as shown in a valuation by an Approved Valuer on "a continuing business basis" made not more than three (3) years previously and at such other times as the Trustee may require;
- (e) in respect of any investment of shares in, deposits with or loans to any Building Society, the value thereof is the face value together with dividends or interest accrued but unpaid thereon;
- (f) in respect of bills of exchange and promissory notes, the value thereof is their likely realisable value in the relevant bill or promissory note market on the date of valuation;

- (g) in respect of a Futures Contract, the value thereof is the net profit or loss (after allowing for deposits, margin calls, costs and other disbursements in respect of the acquisition or disposal of the Futures Contract as estimated by the Trustee) which would have been realised in respect of that Futures Contract by executing on the day of valuation a transaction at the official closing quotation of the Securities Exchange on which Futures Contracts of the specification of the Futures Contract are traded, being valued so as to eliminate the interests held under the Futures Contract from the investment of the relevant Division in accordance with the business rules of the relevant Securities Exchange, or if the Trustee otherwise thinks fit, the value determined by an Approved Valuer;
- (h) in respect of any units in an Investment Fund which is an unlisted Investment Fund, the price at which the manager of that Investment Fund is for the time being required to repurchase that unit (or a unit of the same class in that trust) under the trust deed relating to that Investment Fund less any fee, cost, charge or expense properly deductible from the price payable on repurchase;
- (i) in any other case, the value is the value from time to time determined by an Approved Valuer at intervals of not more than three (3) years or as otherwise determined by the Trustee.

“Value of the Assets of a Division” means in respect of the Division the total Value on a particular day of the Assets of the Division.

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 Operational Standards

The Trustee must comply with any requirement of an Operational Standard notwithstanding that:

- (a) compliance with the requirement conflicts with an express provision of this Deed; and
- (b) the requirement is not required to be included in this Deed.

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 the Operational Standards.

Where the Trustee must comply with a requirement of the Operational Standards within a Prescribed Period, the Trustee does not commit a breach of trust merely by failing to comply with the Operational Standard within the Prescribed Period.

1.4 Discretions

Notwithstanding any other provision of this Deed any provision of this Deed which permits a discretion to be exercised by a person other than the Trustee shall be deemed to include a requirement to obtain the approval of the Trustee to the exercise of such discretion where such consent is required by the Operational Standards.

1.5 Severance

1.5.1 Reading down of certain provisions

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.

1.5.2 Severance of certain provisions

If, notwithstanding Clause 1.5.1, a provision of this Deed is void or voidable or unenforceable or illegal:

- (a) 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 hereby severed; and
- (b) in any other case, the whole provision is hereby severed, and the remainder of this Deed have full force and effect.

1.6 QROPS Rules

The following Rules hereinafter described as the “QROPS Rules” are hereby prescribed for the purposes of Division VII and the Plan generally:

1.6.1 the Benefit payable to a Member or Participant to the extent the Benefit is comprised of a relevant transfer amount (within the meaning of section 34 of the *Finance Act 2004 (UK)*) is payable no earlier than would be the case if pension rule 1 in section 165 of the *Finance Act 2004 (UK)* applied.

1.6.2 to ensure that a Benefit is not paid in breach of Clause 1.6.1 there is an absolute prohibition, subject only to Clause 1.6.6, against a direct or indirect transfer or rollover into the Plan in respect of a person below the age of 55 of:

- (a) a Member’s UK Tax-Relieved fund as defined in section 34 of the *Finance Act 2004 (UK)*; and
- (b) sums or assets held by a UK registered pension scheme for the purposes of or representing accrued rights under the pension scheme (within the meaning of section 169(1) of the *Finance Act 2004 (UK)*).

1.6.3 the Trustee shall make all necessary checks and request sight of all necessary documents to satisfy itself of the age of any person so that the QROPS Rules are complied with.

1.6.4 the QROPS Rules shall apply in priority to any other provision of this Deed or Division VII.

1.6.5 the QROPS Rules shall apply notwithstanding any changes to the references to UK law referred to in this Clause 1.6.

1.6.6 the limitation on transfers and rollovers to the Plan prescribed by Clause 1.6.2 shall not apply if that is not a requirement of the *Finance Act 2004 (UK)*, other applicable UK requirements or the Operational Standards.

PART 2 – CONSTITUTION OF THE DIVISIONS

2.1 The Plan

The Plan is constituted by nine (9) separate and distinct Divisions each of which are to be separately invested and accounted for as provided in this Deed and identified as follows:

Division I – Tidswell Superannuation Fund

Division II – Tidswell Personal Superannuation Fund

Division III – Tidswell Personal Pension Plan

Division IV – Tidswell Retirement Fund

Division V – Tidswell Pooled Superannuation Trust

Division VI – Executive Choice Plan

Division VII – Australian Expatriate Superannuation Fund

Division VIII – mobiSuper

Division IX – Spaceship

Division X – Student Super Professional Super

Division XI – Superestate

Division XII – PPS Mutual

Division XIII – NEOS Super Plan 2

The specific rights of the Participants and Members of a Division as well as the specific powers and duties of the Trustee relating to the Division and the specific limitations or restrictions applicable to the Division shall be governed, in addition to the provisions set out elsewhere in this Deed, by the provisions relating to the Division set out in the Rules relating to the Division.

2.2 Commencement

Each of the Divisions shall commence or be deemed to have commenced in accordance with Clause 2.3.

2.3 Constitution of a Division

Divisions I, II, III, IV and V have commenced operation. Divisions VI, VII, VIII, IX, X and XI commenced operation and effect from the respective dates declared by the Trustee. Upon the lodgement with or vesting in the Trustee of a Contribution in relation to a Division in accordance with the terms and conditions of this Deed and the Rules relating to that Division (“**the First Contribution**”) there will be constituted a trust fund to be held in the name of the Trustee on behalf of the Division for the duration of the Division and in accordance with the terms and conditions of this Deed.

2.4 Appointment of Trustee

The Trustee is the trustee of each Division and shall retain and hold the Assets of the Divisions and every part thereof upon trust for the benefit of Participants and Members in accordance with their respective interests from time to time.

2.5 Constitution of Divisions

2.5.1 Division to consist of Assets of the Division

Each Division will consist of the Assets of the Division for the time being held by the Trustee upon the trusts hereof.

2.5.2 Transfer to Trustee of contributions, cash etc

The Trustee will accept Contributions, Cash or Authorised Investments to be held upon the trusts hereof.

2.6 Name

The name of the Plan is “**The Tidswell Master Superannuation Plan**” or such other name as determined from time to time by the Trustee.

2.7 Beneficial interest

Each Participant and Member will be entitled as provided in this Deed to a beneficial interest in the Division to which the Participant or Member has been admitted but such interest will not:

- (a) entitle the Participant or Member other than as provided in this Deed or permitted by law:
 - (i) to interfere with the rights or powers of the Trustee in its dealings with that Division or any part thereof;
 - (ii) to exercise any rights powers or privileges in respect of any Authorised Investments of that Division; or
 - (iii) to require the transfer to the Participant or Member of any of the Assets of that Division or any other Division;
- (b) confer other than as provided in this Deed any interest in any particular part or Asset of that Division.

2.8 Further Divisions

Subject to the provisions of Clause 18.1, the Trustee may at any time and from time to time constitute a further Division or Divisions whereupon the Trustee shall execute a deed supplemental to this Deed which shall provide for: (a) a statement of the Rules of the Division;

- (a) a means of identification of each such Division;
- (b) a declaration that upon the payment to and acceptance by the Trustee of a Contribution to such Division in accordance with the terms and conditions of that Division, there shall be constituted a trust fund to be held under and in accordance with the terms and conditions of this Deed and the Rules.

2.9 Assets to be kept separate

The Trustee must keep the Assets of one Division separate from another Division. The investment of the Assets of one Division in another Division is not a breach of this Clause.

2.10 Assets and Liabilities of Division

The Assets of a Division are not available to meet any Liabilities of a Division other than the Division of which those Assets form a part.

The Liabilities of a Division are not to be aggregated with the Liabilities of any other Division or offset against the Assets of any Division other than the Division of which those Liabilities form part.

2.11 Badged Divisions

2.11.1 Offer of Participation in Badged Division

The Trustee may enter into arrangements with third parties (“**Sponsors**”) for the offer by the Sponsor of participation in a Division (“**the Badged Division**”).

2.11.2 Disclosure Document may carry Sponsor’s Name

The Disclosure Document in respect of a Badged Division may, with the approval of the Trustee, carry the name of the Sponsor or name chosen by the Sponsor and approved by the Trustee for the Badged Division other than the name given to the relevant Division by this Deed.

2.11.3 Application of Deed to Badged Division

The provisions of this Deed apply to a Badged Division in the same manner as they apply to any other Division established under this Deed, unless the Rules relating to that Division expressly provide otherwise.

2.12 Participants and Members bound by Deed

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

2.13 Information

2.13.1 Every Participant and Member when requested by the Trustee shall promptly furnish any information the Trustee shall deem necessary for the purposes of any investigation or otherwise in connection with a Division and shall if and when required by the Trustee submit to any medical examinations by a registered medical practitioner nominated by the Trustee. Every Participant and Member shall without being requested by the Trustee so to do give prompt notification to the Trustee in writing if any circumstance occurs which may affect its membership or eligibility to contribute to a Division.

2.13.2 Every Participant and Member when requested by the Trustee shall properly furnish any information, provide any documents in their possession, seek any further information and documents as requested by the Trustee, and if asked by the Trustee give general consent to the Trustee to seek information and documents for third parties, to enable the Trustee:

- (a) to comply with the QROPS Rules;
- (b) to comply with the reporting obligations as described in the Reporting Obligations definition contained in Sub-division E of Division VII;
- (c) to investigate when any particular action is or would be an Unauthorised Payment or in breach of the Taxable Property Provisions in accordance with Division VII;
- (d) to investigate whether any particular action incurs Member Payment Charges in accordance with Division VII.

PART 3 – PARTICIPATION AND MEMBERSHIP

3.1 Participation

3.1.1 Application for Participation

- (a) Every applicant for participation in a Division must make application to the Trustee in the form prescribed by the Trustee from time to time.
- (b) Notwithstanding sub clause 3.1.1(a) the Trustee may admit a person to participate in a Division without the person making an application to the Trustee if the person is to be transferred to the Plan pursuant to a Successor Fund Transfer.

3.1.2 Lodgement of Application

An Applicant must lodge or cause to be lodged with the Trustee either at its registered office or at such other place or places as the Trustee may from time to time determine, the completed and signed Application including the Benefit Specification (if any).

3.1.3 Application Moneys to be held on trust

- (a) All application moneys and other assets received by or deposited with the Trustee in respect of an Applicant (“**Application Moneys**”) must be held by the Trustee upon

a bare trust for the Applicant paying or transferring the same until the Trustee determines to admit the Applicant to participation.

- (b) Where Application Moneys are received by the Trustee without a completed Application the Trustee will:
 - (i) as soon as practicable return the Application Moneys to the Applicant; or
 - (ii) attempt to obtain the Application from the Applicant.
- (c) Where Application Moneys are received by the Trustee without a completed Application and:
 - (i) the Application is later received within 30 days of receipt of the Application Moneys the Trustee covenants that it will apply the moneys and any interest accrued as additional Application Moneys as soon as practicable after being advised, but not later than the close of business on the next Business Day after being advised; and
 - (ii) the Application is not later received within 30 days of receipt of the Application Moneys return the Application Moneys and any interest to the Applicant as soon as practicable.

3.1.4 Trustee may reject Application for Participation

The Trustee may in its absolute discretion reject or accept an Application without assigning any reason therefor provided always that the Trustee shall not accept an Application for participation in a Division unless the relevant pre-requisites to acceptance prescribed in the Rules of that Division have been satisfied. The Trustee shall be under an obligation to exercise its discretion in respect of the acceptance or otherwise of the Application within one (1) Month of receipt of such Application and any Application not accepted within such period shall be deemed to be rejected.

3.1.5 Information to be given to Applicants

The Trustee must not accept an Application for participation by an Eligible Person, unless the Trustee has given the Applicant such information, statements and reports as are required by the Operational Standards to be given to the Applicant.

3.1.6 Notice of Acceptance of Participation

Upon acceptance of an Application for participation in a Division, the Trustee must forthwith:

- (a) give the Applicant a participation number and enter the name of the Applicant as a Participant and the participation number upon the Register of Participants;
- (b) establish a Participants Account in respect of the Participant which Account shall be numbered with the Participant's participation number;
- (c) establish an Investment Register in respect of the Participant which Participant's Investment Register shall be numbered with the Participant's participation number; and
- (d) within the Prescribed Period notify the Participant in writing of the Participant's admission to the Division advising:
 - (i) the date of acceptance;
 - (ii) the Participant's participation number;

- (iii) in the case of a Participant, such details of the operation, management and performance of the Division as the Operational Standards require in the circumstances; and
- (iv) such other details as the Trustee considers appropriate.

3.2 Membership

3.2.1 Application for Membership

- (a) Every Employee upon being nominated for membership by an Employer shall make application to the Trustee (“**the Employee’s Application**”) in such form and manner (if any) as the Trustee may prescribe from time to time.
- (b) Notwithstanding sub clause 3.2.1(a) the Trustee may admit a person to membership of the Plan without the person making an application to the Trustee if the person is to be transferred to the Plan pursuant to a Successor Fund Transfer.

3.2.2 Lodgement of Application

The Employer referred to in Clause 3.2.1 shall provide the completed and signed Employee’s Application to the Trustee on such terms and conditions as the Trustee may prescribe from time to time.

3.2.3 Commencement of Membership

Any Employee nominated for membership in accordance with this Clause 3.2 shall be admitted as a Member in relation to the Plan (subject at all times to Clause 3.2.4) as and from the later to occur of:

- (a) receipt by the Trustee of any Contributions made by the Employer in respect of the Employee; and
- (b) receipt by the Trustee of the Employee’s Application;

and for the avoidance of all doubt, the Employee’s admission to the Plan as a Member shall be conditional upon the occurrence of both events referred to in paragraphs (a) and (b) above.

3.2.4 Receipt of Employee’s Application

The Trustee shall not be deemed to have taken receipt of an Employee’s Application for the purposes of Clause 3.2.3 unless and until the relevant prerequisites to acceptance prescribed by the Rules of the relevant Division have been satisfied.

3.2.5 Receipt of Employer Contributions

Notwithstanding that an Employee shall become a Member in accordance with Clause 3.2.3 upon the Trustee accepting Contributions in respect of the Employee the Trustee may in its absolute discretion make provision in the relevant Benefit Specification:

- (a) that insurance will not be effected in respect of the Member until such information as the Trustee may require has been provided by the Employer/Employee; and

- (b) that the Member's membership may be terminated in the Trustee's absolute discretion at any time if any information required or requested by the Trustee is not provided which termination may be effected by the Trustee making a payment on transfer of the Member's Benefit in accordance with Clause 14.4.1 as if a direction had been made by the relevant Participant pursuant to clause 14.1.

3.3 Transfer Arrangements with Participants and Members

3.3.1 Arrangements for transfer

The Trustee may make arrangements with:

- (a) any Participant;
- (b) any Member;
- (c) any previous employer of the Participant or Member;
- (d) the trustee or administrator of any Regulated Superannuation Fund or Approved Deposit Fund of which the Participant or Member was or is a member;
- (e) any Life Insurance Company or Registered Organisation which has issued a policy of insurance in respect of the Participant or Member or which is or was paying an annuity to the Participant or Member,

in relation to the transfer or rollover to a Division of any entitlement or benefit payable in respect of the Participant or Member or any other matter that the Trustee considers incidental to or consequent on the Participant's participation or Member's membership of a Division.

3.3.2 Consent to transfer in

The Trustee must not give effect to an arrangement made with a person referred to in Clause 3.3.1 in relation to the transfer or rollover to a Division of an entitlement or benefit payable in respect of the Participant or Member, unless it is satisfied that the Participant or Member gave written consent to the transfer or rollover of the entitlement or benefit or that the Participant's or Member's written consent is not required under the Operational Standards.

3.3.3 Value of transfer

Subject to any arrangement made pursuant to Clause 3.3.1, the Trustee must determine the value of any payment, assignment or transfer of assets for the benefit of the Participant or Member and record the value so determined to provide additional benefits for that Participant or Member on a basis agreed between the Participant or Member, the Employer and the Trustee.

The Trustee must credit such amount to the Participant's Participants Account and in the case of a Member to such other Member's Nominated Account as directed by the relevant Participant and any amount so credited and the proceeds on realisation of such policies shall be used to provide Benefits for that Participant or Member provided that any assignment or transfer of an amount subject to a Cashing Restriction shall remain subject to that Cashing Restriction.

3.4 Cooling off period

- (a) If in accordance with the Operational Standards a Participant or Member elects during the cooling off period specified by the Operational Standards to cease to be a Participant or Member of the Plan the Trustee must in the manner and to the extent required by the Operational Standards refund or otherwise deal with the balance of the Participant's Participants Account or Member's Nominated Accounts (as the case may be).
- (b) Prior to refunding or otherwise dealing with a Participant's Participants Account or Member's Nominated Accounts (as the case may be) under this Clause 3.4, the Trustee may deduct reasonable administration and transaction costs and other amounts unless prohibited by the Operational Standards.
- (c) Upon the Trustee having refunded or dealt with a Participant's Participants Account or Member's Nominated Accounts (as the case may be) under this Clause 3.4 and in the manner required by the Operational Standards, the person ceases to be a Participant or Member (as the case may be).

3.5 Nomination of Beneficiaries

- (a) An Applicant may, upon admission and from time to time thereafter notify the Trustee, by way of nomination ("**Nomination**") of any one or more of the Member's Dependents and/or Legal Personal Representatives ("**Nominated Person**") to whom the person (whether a Member or Participant) wishes the Trustee to pay the person's benefit on their death.
- (b) The Trustee may prescribe such terms and conditions for the making of Nominations as it may determine in its absolute discretion subject at all times to the requirements of the Operational Standards.
- (c) A Nomination may be revoked, renewed or amended from time to time in a manner approved by the Trustee in the discretion of the Member or the Participant as the case may be.
- (d) A Nomination may be binding upon the Trustee subject to the requirements of the Operational Standards and the expressed intention of the Member/Participant (as the case may be) in the Nomination except that a Nomination in accordance with the Operational Standards may lapse on the third anniversary of the date of the said Nomination and subject to the Nomination not having lapsed and otherwise remaining valid the Trustee shall pay or apply the Benefit in accordance with the Nomination.
- (e) A Nomination shall not be binding upon the Trustee, unless expressed as a binding nomination and if the Nomination is not binding, the Trustee may consider the Nomination when exercising its discretion under any of Rules 7.4.2, 7.5.2, 7.5.3, 8.4.2, 8.4.3 of Divisions I or IV, or of Rules 5.4.2, 5.5.2 and 5.5.3 of Divisions II or III, or Rule 8 of Sub-division B of Division VI in respect of the person.
- (f) Notwithstanding any other sub clause of this Clause 3.5 or any other provision of this Deed a Member/Participant (as the case may be) may provide a Nomination which directs the Trustee to pay the Member's/Participant's (as the case may be) Benefit on or after the death of the person to one or more of the Dependents and/or Legal Personal Representatives ("**Nominated Person**") of the person which Nomination shall not necessarily lapse by the effluxion of time. A Nomination in accordance with this sub clause 3.5(f) shall only be valid and shall only take

effect subject to the Trustee's consent which shall be evidenced by the Trustee acknowledging its consent to the Nomination in writing.

3.6 Reversionary Pension

- (a) A Member/Participant whose Benefit is paid in whole or in part as a Pension may, upon the commencement of the Pension or at anytime thereafter, in a manner approved by the Trustee notify the Trustee of any Dependant (subject to the requirements of the Operational Standards) to whom the person wishes a Reversionary Pension to be paid upon the person's death.
- (b) Subject to any rules prescribed for the Pension by the Trustee under the Benefit Specification or otherwise where a Member/Participant (as the case may be) has notified the Trustee of a person to receive a Reversionary Pension in accordance with sub clause 3.6(a) the Trustee shall pay a Reversionary Pension to the person so nominated subject to that person surviving the said Member/Participant. If the person so nominated by the Member/Participant does not survive the Member/Participant then on the death of the Member/Participant the Benefit referable to the Pension shall be paid in accordance with the Benefit Specification except that if the Benefit Specification does not provide for that then the applicable Rules, as they apply on the death of a Member shall be applied.

3.7 Sub-Plans

3.7.1 Trustee can make Sub-Plans

The Trustee may in respect of any Division which is a Regulated Superannuation Fund determine to make a Sub-Plan for the Division ("**Sub-Plan**").

3.7.2 Regard to Common Factors

In determining whether to make a Sub-Plan, the Trustee must have regard to all relevant matters, including whether there is a common factor in a segment of the Division (for example, where there is a group of Members of the Division who have the same Employer).

PART 4 – PAYMENTS AND BENEFITS

4.1 Contributions

Each Participant, Member or other person eligible to contribute to a Division under the Operational Standards shall contribute from time to time to a Division in the manner prescribed by the Rules of that Division.

4.2 Minimum Contributions

The minimum First Contribution to be made by or in respect of a Participant and the minimum of each additional Contribution must be of an amount at least equal to the minimum amount nominated in the current Disclosure Document or such other amount as may be nominated from time to time.

4.3 Contributions to Trustee

All Contributions paid to a Division must be either paid to the Trustee and held by the Trustee as part of that Division (or paid where the Operational Standards require the same to the Custodian and held by the Custodian as part of that Division). Any Contribution may, subject to the Operational Standards, 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 Participant or Member paying the same shall be 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 6.8 shall apply to any such assignment or transfer.

4.4 Benefits and Drawdowns payable

4.4.1 Benefits and Drawdowns payable in accordance with Rules

Subject to the terms of this Deed, Benefits and Drawdowns of any kind payable under this Deed to any Participant or Member shall be determined and payable according to the Rules of the Division to which the Participant or Member has been admitted.

4.4.2 Benefits and Drawdowns subject to Cashing Restriction

Notwithstanding anything in this Deed any Benefit or Drawdown or part thereof which is subject to a Cashing Restriction can only be paid, unless the provisions of Clause 4.7 apply, on satisfaction of the relevant Condition of Release. Where a Benefit or Drawdown is subject to a Cashing Restriction but Clause 4.7 applies this restriction does not apply.

4.4.3 Payment of Assets in lieu of Cash Benefits

Where any Benefit or part thereof is payable in respect of a Participant or Member and:

- (a) the Trustee determines that it is necessary to realise any of the Investments of the Division to pay the same and for whatever reason the said Investments are not realised; or
- (b) the Participant has requested the Trustee to appropriate specific Investments out of the relevant Division and to transfer Investments to the Participant in satisfaction of the Participant's entitlement; or
- (c) the Participant has requested the Trustee to appropriate specific Investments out of the relevant Division and to transfer such Investments to a Member admitted in respect of the Participant in satisfaction of the Member's entitlement,

then the Trustee may, having regard to the Participant's or Member's Option Nomination, and subject to any restrictions in the Operational Standards,

- (d) in the case of paragraphs (a) and (b), with the consent of the Participant; and
- (e) in the case of paragraph (c), with the consent of the Member

transfer such Investments where appropriate to the Participant or Member or as directed by the Participant or Member to such other Regulated Superannuation Fund, Division, Approved Deposit Fund or Pooled Superannuation Trust or apply the same in the purchase of an Annuity provided always that an appropriation of specific Investments pursuant to this Clause can only be made where the Investments are of a similar nature and condition to the Investments made by the Trustee on behalf of the Participant or the Member.

4.4.4 Sale of Investments to pay Drawdown

In the event that the Investments of the Division to which a Participant or Member has been admitted comprise insufficient Cash which can be withdrawn to meet the Drawdown requested by the Participant or Member then the Trustee must having regard to the current Conditions of the Participant's or Member's Option Nomination and the provisions of Clause 6 realise some or all of the non-Cash Investments of the Division and pay the Drawdown to the Participant or Member.

Unless the Drawdown Request otherwise provides, the non-Cash Investments to be realised shall be realised as close as is practical pro rata to the proportions in which various classes of Investments are held on behalf of the Participant or Member.

4.5 Payment by Trustee

4.5.1 Complete discharge

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

4.5.2 Benefits and Drawdowns to be paid in accordance with Rules

No Benefit or Drawdown shall be payable until the Trustee has ascertained that it may be paid in accordance with the applicable Rules.

4.5.3 Proof of qualification for Benefits

Any person appearing, purporting or claiming to be qualified or entitled to any Benefit or Drawdown 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.

4.5.4 Payment in Good Faith

Subject to clause 12.17 and the Operational Standards any payment or Drawdown (including payment of a Pension instalment) in good faith to a person believed by the Trustee to be entitled to receive it shall be deemed to be payment to the person entitled to receive it and shall be a full and valid discharge to the Trustee of its obligations in respect of the payment, Drawdown or Pension instalment as the case may be.

4.5.5 Determination of questions of fact

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

4.6 Deduction of Tax From Benefits and Drawdowns Payable

4.6.1 Power to deduct Tax payable

The Trustee may deduct or require to be deducted from any Benefit or Drawdown payable to or to be applied in respect of a Participant or Member any amount on account of income or other Tax payable for any reason which is referable to the Participant or Member.

4.6.2 Payment of Tax deducted

Amounts deducted under Clause 4.6.1 must be:

- (a) paid to the relevant authority or person entitled thereto; or
- (b) reimbursed to the Trustee for any corresponding amount paid from its own funds,

and to the extent not required for the purpose of sub-paragraphs (a) and (b) hereof, paid to the Participant or Member.

4.6.3 Payment of net amount to Participant or Member

The Participant or Member is entitled only to receive the net Benefit or Drawdown after the deduction of Tax payable.

4.6.4 No prejudice to Trustee's other rights

Nothing in this Clause 4.6 shall prejudice any other rights which the Trustee has to deduct income or other tax in respect of a Participant or Member.

4.7 Unclaimed Benefits

4.7.1 Unclaimed Benefits to be dealt with in accordance with Operational Standards

Where a Benefit is payable to or in respect of a Participant or Member and:

- (i) the Participant or Member has reached the eligibility age for an age pension;
- (ii) the Participant or Member has not applied to the Trustee to have the Benefit paid to the Member; and
- (iii) the Trustee is unable to pay the Benefit to the Participant or Member because the Trustee is unable to find the Participant or Member after having made reasonable efforts to do so,

the Trustee must deal with the Participant or Member's Benefit in the manner prescribed in the Operational Standards.

4.7.2 Transfer of Unclaimed Benefits to an Eligible Rollover Fund

Subject to the Operational Standards, where a Benefit is payable to or in respect of a Member and:

- (i) a period of 90 days has elapsed since the Benefit became payable and the Benefit has not been paid, the Trustee may pay the Benefit to an Eligible Rollover Fund;
- (ii) a period of 90 days has elapsed since the Benefit became payable and:
 - (A) the Benefit has not been paid; and
 - (B) the Trustee is satisfied that the Member did not receive at least 2 consecutive reports sent to Members to comply with the Operational Standards (the second report only being taken to have been sent if it was sent less than the Prescribed Period after the first of the reports was sent to the Member),

the Trustee must pay the Benefit to an Eligible Rollover Fund provided that where the Operational Standards do not permit the Eligible Rollover Fund to accept the same then the Trustee must deal with the Benefit as otherwise prescribed by the Operational Standards.

4.7.3 Notice to Participants and Members

The Trustee must provide to Participants or Members such details of its powers under this Clause 4.7 as the Operational Standards require.

PART 5 – ESTABLISHMENT OF ACCOUNTS

5.1 Expense Reserve Accounts

5.1.1 Credits to Expense Reserve Account

The Trustee will keep an Expense Reserve Account in respect of each Division. Where any of the Assets of a Division (“**the Relevant Division**”) are invested in Division V, the Trustee will record the following credits to the extent that they may apply to those Assets to the Expense Reserve Account established in respect of Division V in all other cases record the following credits to the Expense Reserve Account established in respect of the Relevant Division (“**the Relevant Expense Reserve Account**”):

- (a) the Contribution Charges levied in respect of the Participants of the Relevant Division (“**the Relevant Participants**”);
- (b) the Investment Charges levied in respect of the Relevant Participants;
- (c) the Administration Charges levied in respect of the Relevant Participants;
- (d) 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 Relevant Division or otherwise in respect of the Relevant Division generally;
- (e) the amount of any tax, GST or charge debited in respect of the Relevant Participants pursuant to Clause 5.2(r);
- (f) all interest dividends and other income earned from the investment of the amount standing to the credit of the Expense Reserve Account from time to time;
- (g) in respect of Division VI – other actual or provisional fees, charges and costs levied in respect of the Participants of Division VI.

5.1.2 Debit to Expense Reserve Account of Trustee’s remuneration

The Trustee will record as and when incurred as a debit against the Expense Reserve Account of a Division the Trustee’s fees calculated and paid to the Trustee in respect of the Relevant Division pursuant to Clause 13.1.1.

5.1.3 Other debits to Expense Reserve Account

The Trustee may pay for such of the costs, charges and expenses described in this Clause 5.1.3 as the Trustee determines may have been reasonably and properly incurred in or about the administration or operation of a Division out of its own moneys and seek reimbursement pursuant to Clause 13.1.2.

Where the Trustee does not pay for any of those costs, charges and expenses out of its own moneys the Trustee can record such costs, charges and expenses as and when incurred in respect of the Division as debits against the Expense Reserve Account maintained in respect of the Division 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. In this case the Trustee must pay for such costs, charges and expenses out of its own moneys and seek reimbursement pursuant to Clause 13.1.2. The costs, charges and expenses referred to in this Clause 5.1.3 are as follows:

- (a) 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;
- (b) the costs of preparing, printing and issuing offers to participate in the Plan including the costs of preparation, approval and registration of 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;
- (c) the costs of maintaining and auditing the books of account, Accounts and the Registers in accordance with this Deed and the law generally;
- (d) the costs of establishing and maintaining the Register of Members, Register of Participants and Investment Register;
- (e) disbursements in connection with the acquisition, sale, collection, distribution of or other dealing with any Investment of the Relevant Division including legal fees, stamp duties, brokerage and commission, survey and valuation fees, registration fees and consultants fees;
- (f) the costs of acquiring establishing and developing computer hardware and software systems required for the administration of the Relevant Division;
- (g) 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 Relevant Division;
- (h) the Auditor's reasonable fees and expenses in connection with the auditing of the Accounts of the Relevant Division, the preparation of taxation returns in relation to the Relevant Division and all other functions of the Auditor performed in respect of the Relevant Division pursuant to this Deed;
- (i) 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;
- (j) advertising expenses relating to the sale of Investments;
- (k) 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;
- (l) stamp duties on cheques payment orders Bank and Building Society account debits taxes and other similar imposts;

- (m) stamp duties, financial institutions duties and similar imposts;
- (n) any amounts paid in respect of taxes and charges assessed charged or imposed by or under any Federal or State law upon the taxable income of the Relevant Division (including capital gains realised or unrealised in respect of the Relevant Division);
- (o) costs of preparing, printing and issuing of the information required to be given pursuant to Clause 9.3.7, confirmations, accounts, other statements cheques and payment orders required to be circulated amongst the Participants and Members;
- (p) costs of postage of all cheques payment orders accounts notices and other documents posted to all or any Participants or other persons in accordance with the provisions of this Deed;
- (q) disbursements incurred in convening or holding any meetings of Participants 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;
- (r) 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 of Participants convened to remove or approve the appointment of a new trustee of the Relevant Division;
- (s) 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 thereto) against the Trustee arising howsoever from any breach or default by the other under this Deed;
- (t) 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 and any costs and expenses reasonably incurred by the Trustee in convening any separate meetings of Participants to obtain their approval for the amendments modifications or additions;
- (u) all rates, taxes, charges, assessments and impositions whatsoever (whether parliamentary municipal or otherwise and whether assessed charged or imposed by or under Federal or State law or by Federal State or Local Authorities 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 Relevant Division or any part thereof;
- (v) 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;
- (w) any fees incurred in respect of obtaining any determinations or valuations required by an Actuary or Approved Valuer under this Deed;
- (x) any commission or brokerage paid other than in respect of an application or agreement to procure applications for participation in the Relevant Division;

- (y) any fees and expenses payable to any Investment Manager appointed in respect of the Relevant Division;
- (z) subject to Clause 11.8.4, any fees or expenses payable to any Administrator appointed in respect of the Relevant Division;
- (aa) any fees and expenses paid to any Custodian or sub-Custodian of the Relevant Division;
- (bb) any other disbursement reasonably and properly incurred by the Trustee for or on behalf of the Relevant Division or in the administration of the Relevant Division or in the observance or performance of any right, power, duty, obligation or covenant herein contained or in complying with the requirements of or under any law.

5.2 Participants Account

The Trustee will keep a Participants Account in respect of each Participant and shall record the following credits to that account:

- (a) any amounts received pursuant to Clause 3.3.1;
- (b) any Contributions paid by or in respect of the Participant;
- (c) any reimbursement received from the Participant in respect of any expense paid by the Trustee in respect of the Division to which the Participant has been admitted (“**the Relevant Division**”);
- (d) the distribution of any surplus in the Expense Reserve Account maintained in respect of the Relevant Division determined pursuant to Clause 5.3.1;
- (e) any Income Entitlement determined in respect of the Participant;
- (f) the proceeds of any Insured Benefit arranged in respect of the Participant and any Member admitted in respect of the Participant;
- (g) any amount transferred to the credit of the Participant pursuant to Rule 6 of Division V;
- (h) any other moneys received by the Trustee in respect of the Participant,
- (ha) the payment split amount in respect of a Non-Member Spouse upon being admitted as an Ex-Spouse Participant in accordance with Rule 5.5.2 of Division I;

and subject to the provisos in respect of payment of Benefits in the Rules will record the following debits against that account:

- (i) any Benefits paid or payable in respect of the Participant or any Member admitted in respect of the Participant;
- (j) any Drawdown Amounts paid or payable in respect of the Participant or any Member admitted in respect of the Participant;
- (k) any Regular Pension Payment paid or payable in respect of the Participant or any Member admitted in respect of the Participant;

- (l) any Contribution Charge levied in respect of the Participant and any Member admitted in respect of the Participant;
- (m) any Administration Charge levied in respect of the Participant;
- (n) any Investment Charge levied in respect of the Participant;
- (o) the cost of the Insured Benefit arranged in respect of the Participant or any Member admitted in respect of the Participant;
- (p) any disbursements in connection with the acquisition, sale, collection, distribution of or dealing with any Investment made on the Participant's behalf;
- (q) the amount of any Tax, whether assessed charged or imposed by or under any Federal or State law, which the Trustee determines may be or is assessed upon the taxable income of the Relevant Division and is attributable to the Participant including:
 - (i) capital gains realised or unrealised from the investments made in respect of the Participant or otherwise from time to time; and
 - (ii) any amount deemed to be included in the assessable income of Division V in respect of the Division V Participant pursuant to Section 275(2) of the Tax Act;
- (r) any amount transferred to the credit of another Participant pursuant to Rule 6 of Division V;
- (s) where the terms of the Participant's Benefit Specification or the Operational Standards require the production of an actuarial certificate, report or valuation to be performed in respect of the participation of the Participant, the cost of any such actuarial certificate, report or valuation;
- (t) any levies paid under the *Superannuation (Financial Assistance Funding) Levy Act* which are in the opinion of the Trustee attributable to the Participant;
- (u) the costs of the kind described in Clause 10.7 and incurred in respect of any Policy Committee established in respect of the Participant;
- (v) any other payment made in respect of the Participant or any Member admitted in respect of the Participant pursuant to the provisions of this Deed;
- (w) in the case of a Participant (being an Eligible Person) becoming subject to a payment split, the payment split amount in respect of that Participant.

5.3 Distribution of Expense Reserve Accounts

5.3.1 Determination of reserve available for distribution

The Trustee shall on each Distribution Date determine the portion of the amount standing to the credit of the Expense Reserve Account maintained in respect of each Division ("**the Relevant Division**") after the deduction of the Expenses of the Relevant Division available to be credited to the Participants Account maintained in respect of each Participant of the Relevant Division ("**the Relevant Account**").

5.3.2 Crediting to Participants Accounts

The Trustee will determine the amount to be credited to the Relevant Account pursuant to Clause 5.3.1 having regard to:

- (a) the amount standing to the credit of the Relevant Account on the later of the date of entry of the Participant or the immediately preceding Distribution Date of the Relevant Account;
- (b) the credits and debits from time to time to the Relevant Account since the date referred to in paragraph (a) hereof;
- (c) the nature of the Investments made by the Trustee on behalf of the Participant;
- (d) the extent to which the Participant's participation of the Relevant Division has specifically affected the liability of the Relevant Division to Tax;
- (e) such further details as determined by the Trustee.

5.4 Further Accounts

In addition to the Participants' Accounts to be maintained in respect of a Participant the Trustee may keep any further accounts prescribed in the Rules.

PART 6 – INVESTMENT

6.1 Investment policy

The Trustee must formulate an investment policy for the Plan which identifies:

- (a) the investment strategies which the Trustee will adopt for the Plan; and
- (b) amongst other things the extent to which Participants will be permitted to:
 - (i) make Option Nominations; and
 - (ii) elect to give their Employees who are admitted as Members the right in lieu of the Participant to make Option Nominations.

6.2 Identification of investment strategies required

Having settled the investment policy of the Plan the Trustee must from time to time identify the Divisions and Sub-Plans in respect of which a particular investment strategy or strategies are required (each such Division or Sub-Plan being hereinafter in this Part 6 referred to as a "**Fund**").

6.3 Settlement of investment strategies

6.3.1 Trustee's discretion

The Trustee may determine to offer a choice of investment strategies to the Participants of a Fund or alternatively to select the investment strategies of a Fund.

6.3.2 Offer of choice

In the event that the Trustee determines to offer a choice of investment strategies to the Participants of a Fund then the Trustee must settle a minimum of two investment strategies for each Fund. Each investment strategy must meet the minimum standards set out in Clause 6.8 and be distinct from the other in respect of its risk and return profile and identifiable from the other by such means as the Trustee otherwise determines. Each investment strategy will be known as an “**Investment Option**”.

6.3.3 No offer of choice

In the event that the Trustee determines not to offer a choice of investment strategies to the Participants of a Fund then:

- (a) the provisions of Clauses 6.4 to 6.8 and 6.12 to 6.13 shall apply in respect of the investment strategies selected by the Trustee as if they were Option Nominations;
- (b) Clause 6.13(b) shall be deemed to read:

“(b) notify the Member of the purpose and effect of the alteration;” and

- (c) Clause 6.13(c) shall be deemed to be deleted.

6.4 Identification of asset allocation of each Investment Option

The Trustee must settle the intended asset allocation of each Investment Option having regard to its particular risk and return profile.

6.5 Identification of Underlying Investments of each Investment Option

The Trustee must settle the Authorised Investment or Authorised Investments to be made in respect of each Investment Option. In the event that the Trustee has settled a pool of Authorised Investments in respect of an Investment Option each such pool of Authorised Investments settled in respect of an Investment Option will be known as an “**Investment Pool**”.

6.6 Identification of manner in which Investment Pool will be valued

The Trustee must at the time an Investment Pool is settled determine the manner in which the Trustee proposes to value the Investment Pool and its underlying Investments including the accounting of the income and capital gains and losses realised and unrealised in respect of the Investment Pool.

6.7 Recording of Investment Options

The Trustee must record in writing the settled Investment Options of each Fund. The information recorded must detail sufficient particulars in respect of each Investment Option so that a person reading the information would have all the information the person would reasonably need for the purpose of:

- (a) understanding the objectives and purpose of each Investment Option;
- (b) making an informed judgment about the effect of and any risk involved in each of the Investment Options;
- (c) making an informed comparison of the objectives, effect of and risk involved in each of the Investment Options; and

The information recorded must also set out:

- (a) the details of any Investment Pool settled in respect of the Investment Option;
- (b) understanding the manner in which the Trustee proposes to value each Investment Pool including the accounting of the income and capital gains and losses realised and unrealised in respect of the Investment Pool; and
- (c) the information required by the Operational Standards in the circumstances.

6.8 Absolute matters to have regard to in settling Investment Options

In settling the Investment Options of each Fund the Trustee must ensure that the following standards are met:

- (a) The Trustee must only invest in Authorised Investments.
- (b) The Trustee must only invest in Land where a valuation made by an Approved Valuer not more than three (3) Months prior to the date of investment supports the price proposed to be paid.
- (c) The Trustee must not invest money of the Fund 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.
- (d) The Trustee must not lend Assets of the Fund to a Participant or Member or a relative of a Participant or Member or give any other financial assistance using the resources of the Fund to a Participant or Member or a relative of a Participant or Member.
- (e) The Trustee must not invest in any Authorised Investment where the nature, terms and conditions or identity of the vendor of the Investment would contravene the Operational Standards.
- (f) The Trustee must not borrow money or maintain an existing borrowing of money except as permitted by the Operational Standards.

6.9 Publication in Disclosure Document

6.9.1 General content

Each Disclosure Document issued in respect of a Fund must detail the information recorded to meet the requirements of Clause 6.7.

6.9.2 Participant choice

Subject to Clause 6.3.3, each Disclosure Document issued to Applicants for participation must also:

- (a) give an Applicant a choice of two or more of the settled Investment Options from which an Investment Option or combination of Options may be chosen ("**Option Nomination**");
- (b) where an Investment Pool has been settled in respect of an Investment Option set out the details of the Investment Pool; and

- (c) clearly set out the range of directions that can be given and the circumstances in which directions given can be altered.

The Trustee may permit a Participant to change their Option Nomination from time to time in such form and in such manner as is prescribed by the Trustee. The Trustee may provide for a default Investment Option to be applied in respect of a Participant to the extent that the Participant does not have an Option Nomination in place for all or part of their interests or entitlements of any Division,

6.10 Trustee to make Investments

The Trustee must, subject to all proper enquiries and legal steps deemed by it necessary, implement and give effect to:

- (a) any investment strategies settled by it for the Fund; and
- (b) any Option Nomination given to it in respect of the Fund.

In giving effect to an Option Nomination the Trustee may have regard to any preference indicated by an Applicant or Participant or Member with respect to the nature or identity of the Investments to be made in respect of the Option Nomination.

For the purposes of giving effect to any investment strategy settled by the Trustee or to any Option Nomination the Trustee shall have all the powers contained in Clause 11.5 including the power to purchase, sell, vary or replace any Investment.

6.11 Investments in Division V to mirror Option Nomination and Investment Authority

The Trustee must ensure that where the Assets of a Fund are invested in Division V the Assets of Division V which represent the Assets of the Fund will be:

- (a) invested to mirror the Investment Options and Investment Authorities given in respect of the Fund; and
- (b) recorded and accounted for so as to enable the Trustee to properly identify the earnings and expenses of those Investments.

6.12 Variation of Investment Options

The Trustee must from time to time consider whether the terms of an Investment Option or Investment Pool are appropriate or require amendment. Where the Trustee determines that amendment is necessary, the Trustee must resettle the terms of the Investment Option. At this time and at any other time that the Trustee elects the Trustee may:

- (a) change the Investment Option's objective;
- (b) change the Investment Option's asset allocation;
- (c) where the Trustee has settled an Investment Pool in respect of the Investment Option change the Authorised Investments to be made in respect of the Investment Option.

6.13 Publication of Variation of Investment Option

Where any alteration to an Investment Option made by the Trustee pursuant to Clause 6.12 is materially significant the Trustee must:

- (a) amend the current Disclosure Document to reflect the amendment;
- (b) notify the Participants who have nominated investment in the Investment Option pursuant to their Option Nomination of the purpose and effect of the alteration; and
- (c) give those Participants the option of amending their Option Nomination.

6.14 Record of Investments

6.14.1 Record of Investment Pool

The Trustee must record in respect of each Investment Pool such details in respect of the Investments made and held in respect of the Investment Pool as will enable the Trustee to identify the Investments held in respect of the Investment Pool including:

- (a) a description of each Investment;
- (b) the date of acquisition of each Investment by the Trustee;
- (c) the cost of each Investment;
- (d) the date of maturity of each Investment (if any);
- (e) the redemption price of each Investment (if any);
- (f) such information as is necessary to enable any capital gains tax liability which may arise upon disposal of the Investments to be calculated.

6.14.2 Record of Investments held on account of Participants

The Trustee must record in respect of each Participant:

- (a) the Participant's Option Nomination; and
- (b) where the Participant has made an Investment Authority, details of the Participant's Investment Authority and such details in respect of the Investments held in respect of the Participant as will enable the Trustee to identify the Investments held in respect of the Participant including:
 - (i) a description of each Investment;
 - (ii) the date of acquisition of each Investment by the Trustee;
 - (iii) the cost of each Investment;
 - (iv) the date of maturity of each Investment (if any);
 - (v) the redemption price of each Investment (if any);

- (vi) such information as is necessary to enable any capital gains tax liability which may arise upon disposal of the Investment to be calculated.

6.15 Special arrangements in respect of Division I and Division IV Participants

Where a Division I or Division IV Participant has been admitted for the purpose of providing retirement and other ancillary benefits for its Employees or a group of Eligible Persons and the Participant has elected in its Benefit Specification that its Employees who are admitted as Members or the Eligible Persons will be entitled to make Option Nominations:

- (a) the references to “Participant” in the following Clauses shall accordingly be deemed to be a reference to “Member”:
 - (i) Clause 6.13; and
 - (ii) Clause 6.14; and
- (b) the references to “Participant” in the definition of “Option Nomination” in Clause 1.1 shall accordingly be deemed to be a reference to “Member”,

with the intention that wherever these terms are used in this Deed they will be interpreted accordingly.

6.16 Calls

Calls on partly paid shares or units held on behalf of a Participant or Member must be paid out of the funds held on behalf of the Participant or Member and must be debited to the Participant’s Participants Account or Member’s Nominated Accounts as the case may be and 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 Participant’s or Member’s Option Nomination.

6.17 To deal at Value

The Trustee will in all acquisitions and sales, subject to this Part 6, 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.

6.18 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.

PART 7 – VALUATION AND INVESTMENT INCOME

7.1 Trustee to value

The Trustee must value or cause to be valued the Investments of each Investment Pool, such Investments to be valued on the last Business Day of each Half Yearly Period and at such other times as in the opinion of the Trustee it is necessary or desirable to do so.

7.2 Valuation to be in accordance with Deed

The Investments of each Investment Pool must be valued in accordance with the procedure for valuation set out in the definition of “Value” in Clause 1.1 and generally in accordance with the manner settled for valuing the Investment Pool.

7.3 **Change to valuation principles**

Where the Trustee is of the opinion that the application of the principles of valuation set out in Clause 7.2 are inappropriate and fail to properly reflect the realisable value of an Investment, that Investment is to be valued in accordance with another principle determined by the Trustee.

7.4 **Postponement of valuation**

Without in any way limiting the foregoing, if the Trustee determines that due to circumstances prevailing in any market or effecting any Investment it is not practicable to value any Investment at any particular time or that any valuation obtained would not properly reflect the realisable value of the Investment, then the Trustee may postpone the valuation or revaluation of any Investment so effected for the purposes of Clause 7.1

7.5 **Valuation of Investments denominated in foreign currency**

Where an Investment required to be taken into account is denominated in a foreign currency, the value of the same shall be calculated by converting its value into Australian dollars by such conversion method as the Trustee may agree upon with the Auditor.

7.6 **Gross receipts payable to Trustee**

Unless otherwise expressly provided in this Deed, all moneys and property of every description payable to or receivable in respect of a Division shall be held by the Trustee.

7.7 **Income Entitlement**

7.7.1 **Participant's Income Entitlement**

The Trustee must on each Distribution Date, determine the Income Entitlement of each Participant in respect of the relevant Income Entitlement Period.

7.7.2 **Determination of Income Entitlement**

The Income Entitlement of a Participant must be:

$Y - E$

Where:

“Y”=the total of all interest received or accrued from any source, all dividends and rent and all earnings and other gains received or receivable during the Income Entitlement Period in respect of the Authorised Investments made in respect of the Participant (“**the Participant's Investments**”) and realised gains and losses and unrealised gains and losses on the Participant's Investments (calculated having regard to the valuations made pursuant to Clause 7.1); and

“E”= the amount of any of the Expenses of the Division to which the Participant has been admitted incurred during the Income Entitlement Period which in the opinion of the Trustee should be deducted and/or any other charges not credited to the Expense Reserve Account maintained in respect of the relevant Division including without limiting the generality of the foregoing:

- (a) all costs and expenses incurred in repairing and maintaining the Participant's Investments;
- (b) if the Trustee so determines, depreciation of the Participant's Investments at rates to be determined by the Trustee;
- (c) any amount considered necessary to provide for the amortisation of the cost of any Participant's Investment which is leasehold property;
- (d) all costs, charges, expenses, duties outgoings and disbursements properly incurred in connection with the Participant's Investments or the administration thereof for the particular distribution period and chargeable against income; and
- (e) such other contingencies as in the opinion of the Trustee are necessary to be brought to account in order that the income for the particular distribution period may fairly represent the results of the Participant's Investments for that period.

Provided that where the money standing to the credit from time to time of a Participant's Participant Account is invested in an Investment Pool, then the Income Entitlement of the Participant will be calculated by the Trustee in accordance with the valuation procedure settled in respect of the Investment Pool.

7.8 Income or capital

If any question shall arise as to whether any money or property constitutes income or not or whether any expenditure is chargeable against income or not, such question shall be determined by the Auditor having regard to the terms of this Deed, to current accounting practice and any other matters the Auditor considers relevant and every such determination expressed in writing shall be final.

7.9 Crediting or debiting of Income Entitlement

The Income Entitlement determined in respect of a Participant must as soon as practicable after its determination be credited to that Participant's Participants Account.

PART 8 – REGISTERS

8.1 Register of Participants

8.1.1 Trustee to keep Register of Participants

The Trustee will keep and maintain a Register of Participants.

8.1.2 Details to be entered on Register of Participants

The Trustee will enter in the Register of Participants:

- (a) The name, current residential address and business address (where applicable) and date of birth (where applicable) of each Participant as notified by the relevant Participant together with the Participant's participation number;
- (b) The Division to which the Participant has been admitted;
- (c) The date on which the name of every person was entered in the Register as a Participant;

- (d) The balance standing from time to time to the credit of the Participant's Participants Account;
- (e) The date on which any person ceased to be a Participant;
- (f) The date on which the Participant's beneficial interest in the Division was paid out;
- (g) The amount of any sums transferred pursuant to Clause 3.3.1;
- (h) Such further information as the Trustee thinks fit;

Provided that for such purposes as aforesaid the Trustee shall have power to correct any manifest error in the Register.

8.1.3 Change of name or address to be notified

Any change of name or address of any Participant shall be forthwith notified to the Trustee in writing or in a manner acceptable to the Trustee who must upon proof thereof to the satisfaction of the Trustee alter the Register of Participants accordingly.

8.1.4 Audit at twelve monthly intervals

The Trustee must cause the Register of Participants to be audited by the Auditor at intervals of not more than twelve (12) Months.

8.2 Trustee's Register of Members

8.2.1 Trustee to keep Register of Members

The Trustee will keep and maintain in respect of each Participant whose Employees have been admitted to a Division a register of Members ("the Register of Members").

8.2.2 Details to be entered on Register of Members

The Trustee will enter in each Register of Members maintained by the Trustee:

- (a) the name, current residential address and date of birth of each Member;
- (b) The date on which the name of the Member was entered in the Register as a Member;
- (c) The balance standing from time to time to the credit of the Member's Nominated Accounts;
- (d) The date on which the Member's beneficial interest in the relevant Division was paid out;
- (e) The date on which the Member ceased to be employed by the Division I Participant whether by way of retirement or death or otherwise;
- (f) Such further information as the Participant thinks fit.

8.2.3 Change of name or address to be notified

Any change of name or address of any Member and such other details as the Trustee may from time to time request shall be forthwith notified by the Participant in respect of whom the Register of

Members has been established by the Trustee to the Trustee who must upon proof thereof to the satisfaction of the Trustee alter the Register of Members accordingly.

8.2.4 Audit at twelve monthly intervals

The Trustee must cause the Register of Members to be audited by the Auditor at intervals of not more than twelve (12) Months.

8.3 No notice of trust

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

PART 9 – THE TRUSTEE

9.1 Trustee must be a Constitutional Corporation

Each Division must be administered by a sole Trustee which is:

- (a) a Constitutional Corporation; and
- (b) an RSE Licensee in respect of the Division.

9.2 Trustee must not be a Disqualified Person

The Trustee cannot act if it is a Disqualified Person.

9.3 Covenants by Trustee

The Trustee covenants with the intent that the benefit of such covenants shall enure to the Participants jointly and to each of them severally that:

9.3.1 To act honestly

The Trustee will act honestly in all matters concerning a Division.

9.3.2 To exercise due care, skill and diligence

The Trustee will exercise, in all matters affecting a Division, the same degree of care, skill and diligence as an ordinary prudent person would exercise in dealing with the property of another for whom the person felt morally bound to provide.

9.3.3 Functions and powers to be exercised in the best interests of Participants and Members

The Trustee will perform its functions and exercise its duties and powers under this Deed in the best interests of all the Participants and Members and not in the interests of the Trustee if those interests are not the same as those of the Participants and Members generally.

9.3.4 To keep money and assets separate

The Trustee will keep the money and assets of a Division separate from any money and assets, respectively that are held by the Trustee personally.

9.3.5 Not to prevent Trustee from performing functions and powers

The Trustee will not enter into any contract, or do anything else, that would prevent the Trustee from, or hinder the Trustee in, properly performing or exercising the Trustee's functions and powers in respect of a Division.

9.3.6 To formulate prudential management strategy for any reserves

The Trustee will, if there are any reserves of a Division, formulate and give effect to a strategy for the prudential management of any such reserve, consistent with a Division's investment strategy and its capacity to discharge its liabilities (whether actual or contingent) as and when they fall due.

9.3.7 To provide prescribed information

The Trustee will give to each:

- (a) prospective Participant and Member;
- (b) new Participant and Member;
- (c) Participant and Member;
- (d) terminating Participant and Member; and
- (e) interested person,

within the Prescribed Period the information required by the Operational Standards to be given to that person.

9.3.8 To provide requested information to Commissioner

The Trustee will:

- (a) produce to the Commissioner when required by the Commissioner any books relating to a Division;
- (b) provide to the Commissioner such written information about matters relating to the affairs of a Division when the Commissioner requires that information.

9.3.9 To notify Commissioner of a Significant Adverse Event

The Trustee will on becoming aware of the occurrence of an event having a Significant Adverse Effect on the financial position of a Division give within the Prescribed Period written notice of the event to the Commissioner setting out particulars of the event.

9.3.10 Not to admit Applicant unless Application received

The Trustee will not admit an Applicant to participation of a Division except pursuant to an Application made to the Trustee by the Applicant or in accordance with sub clauses 3.1.1(b) and 3.2.1(b).

9.3.11 To ensure costs are reasonable and proper

The Trustee will ensure that the costs, charges and expenses of a Division in respect of which a payment is made are reasonably and properly incurred.

9.3.12 Commission or brokerage payable only to certain persons

The Trustee will not pay commission or brokerage in relation to the acceptance of Applications in relation to a Division to a person unless the person:

- (a) holds an AFSL or is a representative of such a person; or
- (b) is exempt from the requirement to hold an AFSL notwithstanding the person carries on a financial services business to provide financial services in Australia;
- (c) is an accountant or a solicitor, an employee of an accountant or solicitor, a company providing accountancy or legal service or a director or employee of a company or a partner in, or an employee of, a firm of accountants or solicitors whose principal business is not the giving of advice about securities and the person has stated in writing that the total amount of the brokerage or commission will be rebated to the Applicant;
- (e) (deleted)
- (f) a Life Insurance Company.

9.3.13 To keep separate accounts of commission or brokerage paid

The Trustee will keep a separate account of any amounts that are applied directly or indirectly in payment of commission or brokerage to a person in consideration of that person's admission to a Division or procuring or agreeing to procure Applications, whether absolute or conditional, for admission to membership of a Division provided that:

- (a) such commission or brokerage shall only be paid in accordance with the terms of this Deed;
- (b) the amount of or rate at which the payment is made is as disclosed in the Disclosure Document in respect of which the Application is made; and
- (c) the person to whom payment is made receives a commission or brokerage only in respect of the Applications which that person has procured.

9.3.14 Not to receive commission, fees or other pecuniary benefits in connection with investment of other Divisions in Division V

The Trustee and any person who is an Associate of the Trustee must not receive a commission, fee or other pecuniary benefit in connection with the Investment in Division V of moneys available for investment under the Deed from Divisions I, II, III and IV.

9.3.15 Accounts to detail extent of investment of other Divisions in Division V

The Trustee will ensure that the Accounts of a Division to be sent to Participants pursuant to Clause 6.16 set out:

- (a) whether moneys available for investment under the Deed from Divisions I, II, III or IV have been invested in Division V during the period to which the Accounts relate; and

- (b) particulars of the amount of moneys of a Division, and the percentage of the Value of the Assets of that Division that that amount represents, which is invested in Division V at the end of the period to which the Accounts relate.

9.3.16 Not to mortgage Investments

Except as provided in this Deed the Trustee will not sell, mortgage, charge or part with the possession of any of the Investments of a Division.

9.3.17 Supervision of delegates

The Trustee will ensure that all persons authorised by it to perform its powers or functions under this Deed will duly observe and perform the covenants and obligations of this Deed in the same manner as is required of the Trustee provided the Trustee shall at all times remain liable for the acts of that person or persons.

9.4 Removal of Trustee

The Trustee will, subject to the Operational Standards, be removed from office:

- (a) if the Trustee is suspended or removed by the Commissioner because:
 - (i) the Trustee is a Disqualified Person;
 - (ii) it appears to the Commissioner that conduct that has been, is being, or is proposed to be, engaged in by the Trustee may result in the financial position of a Division or of any other superannuation entity becoming unsatisfactory; or
 - (iii) the Commissioner revokes the status of the Trustee as an RSE Licensee in respect of a Division;
- (b) if the Participants resolve by Ordinary Resolution at a duly convened meeting of Participants that the Trustee should be removed;
- (c) if the Trustee resigns from office by notice in writing to the Participants of a Division.

9.5 Right of Appointment of New Trustee

9.5.1 Removal or suspension by the Commissioner

- (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 Trustee must by deed retire from office and appoint in its stead the Constitutional Corporation approved by an Ordinary Resolution of the Participants for the purpose and by the Commissioner to be an RSE Licensee for the purpose.

9.5.2 Removal by Participants

If the Participants by Extraordinary Resolution resolve that the Trustee should be removed from office the Trustee must by deed retire from office and appoint in its stead the Constitutional

Corporation approved by an Ordinary Resolution of the Participants for the purpose and by the Commissioner to be an RSE Licensee for the purpose.

9.5.3 Resignation

If the Trustee resigns from office by notice in writing to the Participants the Trustee shall on the expiration of the notice period by deed retire from office and appoint in its stead a Constitutional Corporation nominated by it and approved by the Commissioner to be an RSE Licensee for the purpose.

9.6 Vesting Plan in New Trustee

The Trustee must on its removal or retirement as trustee of a Division transfer or cause the Assets of the Division to be transferred to the new trustee as is appointed pursuant to Clause 9.5 and deliver to the new trustee all books, documents records and other property whatsoever relating to the Division. The costs and expenses incidental to this are an Expense of the Division.

9.7 Covenant by Trustee

The Trustee covenants that it will not accept a payment or other benefit in relation to retirement from office of a Division that has not been approved by the votes of the Participants of that Division whose aggregate Participant's Account balances constitute at least one-half of the Value of the Assets of that Division at a duly convened meeting of Participants.

9.8 Covenants by New Trustee

Every new Trustee appointed pursuant to Clause 9.5 must execute forthwith upon its appointment a deed whereby the new Trustee undertakes to be bound by all the covenants and obligations on the part of the Trustee in this Deed from the date of such appointment and from that date the retiring Trustee will be absolved and released from all covenants and obligations under this Deed, save in respect to any antecedent breach hereof, and the Trustee will have and may exercise all the powers and the rights and will be subject to all the covenants and obligations of the Trustee hereunder in all respects as fully as though such new Trustee had been originally named as a party to this Deed.

9.9 Delay in appointment not fatal

A delay in the appointment of a Trustee will not invalidate that appointment.

9.10 Validity of acts and determinations

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

9.11 Change of name of Plan

The Trustee, upon its retirement or removal as Trustee of a Division may require the new trustee to take any steps which are necessary to change the name of the relevant Division 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.

PART 10 – POLICY COMMITTEE

10.1 Establishment of Policy Committees

The Trustee must:

- (a) in the circumstances where the Operational Standards require the same, take all reasonable steps to ensure that at least one Policy Committee is established for each Group of Standard Employer-Sponsored Members of a Division or Sub-Plan (“**the Fund**”) as is required by the Operational Standards; or
- (b) in the circumstances where the Operational Standards do not require a Policy Committee to be established or continue to be maintained for a Group of Standard Employer-Sponsored Members of a Sub-Plan and the Members of the Sub-Plan are not permitted to make Option Nominations and give Investment Authorities, determine whether it is appropriate to establish a Policy Committee for each Sub-Plan and if the Trustee so determines it appropriate take all reasonable steps to ensure a Policy Committee or Committees are established.

10.2 Composition of Policy Committee

The composition of each Policy Committee and the manner in which its members are appointed, retired and removed must be determined by the Trustee having regard to the particular circumstances and the Operational Standards generally.

10.3 Function of the Policy Committee

10.3.1 Permitted functions

The functions that each Policy Committee may undertake include the following:

- (a) providing an avenue:
 - (i) for each Group of Standard Employer-Sponsored Members of the Fund to enquire about the investment strategy and performance of the Fund;
 - (ii) for the Trustee to obtain the views of each Group of Standard Employer-Sponsored Members of the Fund concerning that strategy and performance;
- (b) providing an avenue for each Group of Standard Employer-Sponsored Members of a Fund to enquire about the Fund’s operational performance;
- (c) providing an avenue for the Trustee to obtain the views of each Group of Standard Employer-Sponsored Members of a Fund concerning the Fund’s operational performance;
- (d) providing an avenue for the Trustee to obtain the views of each Group of Standard Employer-Sponsored Members of a Fund on their information needs;
- (e) assisting the Trustee in dealing with complaints or enquiries about the operation or management of a Fund in which there are Groups of Standard Employer-Sponsored Members.

10.3.2 Trustee’s functions not limited

Clause 10.3.1 is not to be taken as limiting by implications the functions and responsibilities of the Trustee.

10.4 Meetings and facilities

The Trustee must:

- (a) ensure, so far as practicable, that a Policy Committee meets at least once in any financial year;
- (b) provide facilities that are reasonably necessary to enable a Policy Committee to meet and to function effectively.

10.5 Conduct of meetings

A Policy Committee may establish such rules as it determines in relation to the holding and conduct of its meetings. A Policy Committee meeting may be held wholly or in part by means of a telephone conference connection.

10.6 Trustee to ensure a representative present

The Trustee must arrange for a representative of the Trustee to attend each meeting of a Policy Committee where the Policy Committee requests the Trustee to do so.

10.7 Expenses of Policy Committee

The Trustee may debit the Participants Account maintained in respect of the Participant in respect of whom the Policy Committee has been established:

- (a) the costs of providing facilities for the Policy Committee to meet;
- (b) the costs incurred by the Trustee in attending a meeting of the Policy Committee; and
- (c) the costs incurred by the Trustee in providing information to the Policy Committee.

10.8 Dissolution of Policy Committee

A Policy Committee may dissolve itself. If it does this the Trustee is taken to have complied with the Trustee's duties to establish a Policy Committee under this Part 10 and under the Operational Standards. Where however a Policy Committee dissolves itself and at least five Employer-Sponsored Members in respect of whom the Policy Committee functioned, requests the Trustee in writing to form a replacement Policy Committee, the Trustee must take all reasonable steps to do so. The earlier provisions of this Part 10 apply to any such replacement Policy Committee.

PART 11 – MANAGEMENT, POWERS AND RESPONSIBILITY

11.1 Trustee to manage each Division

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

11.2 Trustee to use best endeavours to protect Investments

The Trustee, itself or by its agent or delegate, must manage and supervise all the Authorised Investments made in respect of a Division. It shall use its best endeavours to ensure that all those Investments are kept secure, that all valid notices from and requirements of the relevant authorities in relation thereto are observed and complied with and that they are dealt with in the best interests of the Participants of that Division.

11.3 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 each Division which it could exercise if it were the absolute and beneficial owner thereof.

11.4 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.

11.5 Trustee powers

Without in any way affecting the generality of Clause 11.3, the Trustee may take such action and do such things as it determines necessary to administer the Divisions and to comply with the Operational Standards 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 so to do) 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 Participants or Members in respect of their investment under this Deed;
- (f) maintaining reserves in respect of a Division;
- (g) attending and voting at meetings;
- (h) paying all outgoings reasonably and properly incurred in connection with a Division or this Deed;

- (i) subject to Clause 6, 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 plant, 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 a Division for such purposes as the Trustee may consider conducive to the interests of a Division and the relevant Participants or Members;
- (n) setting aside out of the capital and income of each Division such moneys as shall be required to meet the obligations of the Trustee under this Deed; (o) paying Benefits;
- (p) borrowing:
 - (i) for any of the purposes;
 - (ii) to the extent; and (iii)

for the term

permitted under the Operational Standards, and giving security for any such borrowing or in any of the Assets of a Division;
- (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 the Operational Standards or as required by the Reporting Obligations in accordance with Division VII and generally doing all things necessary or expedient for the performance of the Trustee's obligations 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 a Division and paying out of the fund all expenses of and incidental to the management and administration of the Plan including the payment of fees to the advisers;
- (v) paying any levies imposed under the *Superannuation (Financial Assistance Funding) Levy Act 1993*;

- (w) where a Division has a liability to pay a pension or annuity to any person, the Trustee may segregate such of the Assets of the Division as it determines from time to time as being held in respect of the aggregate liability of the Division for all such pensions and annuities;
- (x) applying for an Australian Business Number for the Plan and registering the Plan for GST purposes;
- (y) 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.

11.6 Delegation of Trustee powers

11.6.1 Power to delegate

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. The Trustee may:

- (a) revoke any delegation;
- (b) exercise any delegated function, authority, discretion or power itself concurrently with or to the permanent or temporary exclusion of a delegate,

provided always that the Trustee must consent to the exercise of any discretion it has delegated pursuant to this Clause 11.6.

11.6.2 Trustee liable for delegates

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.

11.6.3 Trustee responsible for delegate's fees and expenses

The Trustee is responsible for payment of the fees and expenses of any delegate appointed under Clause 11.6.1.

11.7 Arrangements with Investment Managers

11.7.1 Appointment of Investment Manager

The Trustee may appoint a body corporate as an investment manager of a Division. The body corporate may be appointed to act as the only investment manager of the Division or to act as one of a number of investment managers of the Division.

11.7.2 Disqualified Person can not act as Investment Manager

A body corporate can not be appointed as an Investment Manager to manage the underlying Investments of an Investment Option of a Division if the body corporate is a Disqualified Person.

11.7.3 Appointment must be in writing

An Investment Manager must be appointed in writing.

11.7.4 Terms and conditions of appointment

The terms and conditions of the appointment of an Investment Manager must:

- (a) identify the matters to which the Investment Manager will be required to attend;
- (b) contain adequate provision to enable the Trustee to require the Investment Manager from time to time:
 - (i) to provide appropriate information as to the making of, and return on, the investments under management; and
 - (ii) 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;
- (c) provide that the appointment is subject to the following terms and conditions:
 - (i) the only investments which can be made on behalf of the Division are those which are Authorised Investments;
 - (ii) any investment shall be subject to the restrictions, mutatis mutandis, set out in Part 6;
 - (iii) the Investment Manager must assume such of those rights and obligations contained and imposed on the Trustee pursuant to Part 6 as are delegated to the Investment Manager by the Trustee;
 - (iv) no Investment can be made by the Investment Manager unless the Trustee or the Custodian is registered as the holder, or the Investment Manager holds as the nominee of the Trustee, of all Cash and assets deposited, lodged or placed with the Investment Manager and of any investments made from the proceeds of such Cash or assets;
 - (v) the Investment Manager's discretion is subject always to the terms and conditions of its appointment;
- (d) not purport to except the Investment Manager from liability for negligence, or to limit that liability;
- (e) confirm the fee which the Investment Manager is to receive in respect of the provision of its services;
- (f) confirm the term of the appointment.

11.7.5 Investment Manager can manage Investments under management

Subject always to the duties of the Trustee set out in Clause 10.5, nothing in this Deed prohibits the Trustee from accepting the advice of an Investment Manager to invest the Assets of the Division in Investments of which the Investment Manager is the manager or the trustee.

11.7.6 Investment Manager's fee

The fees of any Investment Manager must be fixed by the Trustee and shall be payable out of the Assets of the Division in respect of which the Investment Manager has been appointed and debited against the Expense Reserve Account of that Division.

11.8 Arrangements with Administrators

11.8.1 Appointment of Administrator

The Trustee may appoint an entity to administer a Division.

11.8.2 Appointment must be in writing

The Administrator of a Division must be appointed in writing.

11.8.3 Terms and conditions of appointment

The terms and conditions of the appointment of the Administrator must:

- (a) identify the matters to which the Administrator will be required to attend;
- (b) confirm the fee which the Administrator is to receive in respect of the provision of its services;
- (c) confirm the term of appointment.

11.8.4 Administrator's fee

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 Division and for which the Trustee is remunerated pursuant to Clause 13.1 then the Trustee is liable to pay the fee due to the Administrator pursuant to its appointment out of the remuneration received by the Trustee pursuant to Clause 13.1 and the fee is not an Expense of the Division in respect of which the Administrator has been appointed. Where this is not the case, the fees shall be payable out of the Assets of the Division in respect of which the Administrator has been appointed and debited against the Expense Reserve Account of that Division.

11.8.5 Provision of Information to Administrator

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.

11.9 Arrangements with Custodian

11.9.1 Appointment of Custodian

The Trustee may appoint a body corporate as the Custodian of a Division to receive, hold and retain registration of the Investments of the Division in the name of the Trustee or, with the approval of the Trustee, in the name of the Custodian as nominee for the Trustee and which is a body corporate which:

- (a) is independent of the Trustee;

- (b) 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;
- (c) agrees irrevocably to submit to the non-exclusive jurisdiction of the courts of competent jurisdiction in the State of South Australia in respect of all matters relating to its appointment; and
- (d) is eligible for appointment under the Operational Standards.

11.9.2 Appointment must be in writing

The Custodian of the Trustee must be appointed in writing.

11.9.3 Function of Custodian

A body corporate appointed as a 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:

- (a) 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;
- (b) receive and hold on behalf of the Trustee, any Authorised Investments and any document of title thereto in safe custody in the country of purchase;
- (c) procure registration of such Authorised Investments in registrable form;
- (d) procure safe custody of such Authorised Investments in bearer form by a recognised clearing system nominated by the Custodian;
- (e) receive hold and disburse moneys in the name of the Trustee at the direction of the Trustee; and
- (f) to perform all actions incidental to any of the foregoing powers.

11.9.4 Responsibility

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 any Custodian as if any such act or omission was an act or omission of the Trustee. The Trustee shall be responsible for the payment of the fees and expenses of such Custodian but shall be entitled to be reimbursed in respect of any such fees and expenses out of the Expense Reserve Account as an Expense of the Division.

11.10 Insurance

11.10.1 Insurance policies

The Trustee may:

- (a) effect any policy or policies of insurance it considers necessary or desirable to provide for all or any part of the Benefits payable from a Division, on such terms

and conditions and for such periods as the Trustee determines (“**the Insured Benefit**”);

- (b) accept an assignment of a policy of insurance on such terms as the Trustee determines;
- (c) 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 1 year) as the Trustee may deem prudent.

11.10.2 Group policies

The Trustee may effect or acquire a policy of insurance which relates to more than one Participant or Member.

11.10.3 Reduction for Benefits not paid by insurer

- (a) Where the insurance company refuses to underwrite a Participant’s or 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 Participant, the Member or the Member’s Employer, agrees to pay any additional premiums required to insure the amount the Trustee requested.
- (b) Where the insurance company, having underwritten a Participant’s or Member’s Insured Benefit for the amount the Trustee requests, refuses to pay any part of the Insured Benefit on the Participant or 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 Participant or Member to reflect the amount the insurance company refuses to pay.

11.10.4 Modification of death and Total and Permanent Disablement Benefits

The Trustee may modify the Benefits payable from a Division in respect of a Participant or Member on the Participant’s or Member’s death or Total and Permanent Disablement if any part of that Participant’s or Member’s Insured Benefit is not effected at first class rates of premium, to the extent necessary to reflect the higher premium rate.

11.10.5 Notification

The Trustee must notify a Participant or Member and the Division I Participant in respect of whom the Member has been admitted of any adjustment, reduction or modification of the Participant’s or Member’s Insured Benefit under this Clause 11.10.

11.11 Transfer of taxation liability

11.11.1 Election to transfer taxation liability

Should the Trustee act in respect of a Division which is a Regulated Superannuation

Fund, the Trustee may, in respect of any Financial Year give notice to the Trustee of Division V or to the trustee of any other Pooled Superannuation Trust, or a Life Insurance Company or Registered Organisation of its intention to give a notice to the Commissioner of Taxation under Section 275(1) of the Tax Act stating that Section 275 applies to the Trustee and stating the amount to be included in the assessable income of Division V or of any other Pooled Superannuation Trust, the Life Insurance Company or Registered Organisation in respect of the Financial Year concerned, and where the Trustee of

Division V or the trustee of any other Pooled Superannuation Trust, the Life Insurance Company or the Registered Organisation as the case may be, gives its consent to the same, give a notice in writing to the Commissioner of Taxation to that effect.

11.11.2 Election to accept taxation liability

Where a Division V Participant, other than the Trustee, gives notice to the Trustee of Division V of its intention to give a notice to the Commissioner of Taxation under Section 275(1) of the Tax Act stating that Section 275 applies to the Participant and stating the amount to be included in the assessable income of Division V for a particular Financial Year pursuant to the notice to be given to the Commissioner of Taxation, the Trustee of Division V may consent to the giving of the notice to the Commissioner of Taxation and the amount stated in the notice shall if the Trustee so consents be included in the assessable income of Division V for that Financial Year.

PART 12 – TRUSTEE’S INDEMNITIES

12.1 Effect of Indemnities

The indemnities given to the Trustee in this Part 12:

- (a) are without prejudice to any indemnity allowed by law or elsewhere in this Deed given to the Trustee;
- (b) must be read and construed and take effect subject to the covenants in this Deed on the part of the Trustee and in particular in Clause 9.3.2; and
- (c) must each be read and construed and take effect subject to the provisions of Clause 12.16.

12.2 Limitation of indemnities

The indemnities given to the Trustee in this Part 12 only take effect subject to the limitations in Clause 12.17.

12.3 Trustee’s indemnity for legal fees

The Trustee will be indemnified out of a Division 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 Division.

12.4 No liability for performance of or failure to perform legally restrained acts

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 thereof or any ordinance rule regulation or by-law made pursuant thereto 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.

12.5 No liability for reliance in good faith on information provided

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 Participant or Member or any other person on behalf of a Participant or Member which proves to be incorrect.

12.6 No liability for Taxes paid

The Trustee is not liable to account to Participants or Members or their Dependants or the Legal Personal Representative of a Participant or Member for any payments made by the Trustee in good faith to any duly empowered fiscal authority for Taxes made upon or in respect of a Division or with respect to any transaction hereunder, notwithstanding that any such payment ought or need not have been made.

12.7 Trustee's advisers

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.

12.8 Trustee not responsible for adviser's mistake

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 hereunder as agent or adviser of the Trustee.

12.9 Trustee may rely on documents etc

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, in fact, genuine or so possessed produced passed signed or endorsed.

12.10 Trustee's discretion subject to this Deed

Except insofar as otherwise expressly provided in this Deed, the Trustee has as regards all the trusts powers authorities and discretions vested in it by this Deed an absolute and uncontrolled discretion as to the exercise thereof in relation to the manner mode and time for the exercise thereof.

12.11 Trustee's liability limited to Assets held by it

In no event will the Trustee be bound to make any payment to Participants or Members or their Dependants or the Legal Personal Representatives of Participants or Members except out of the

Division to which those Participants or Members have been admitted or be liable to Participants or Members or their Legal Personal Representatives to any greater extent than the Assets of the Division in respect of the Participant or Member vested in or received by the Trustee in accordance with this Deed.

12.12 Trustee indemnified for investments with liabilities

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 a Division in respect of that liability.

12.13 No liability for failure of Corporation

In the event of the liquidation or dissolution of any Corporation whereupon, 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 therefor or thereby 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 hereunder.

12.14 No liability for duties and charges

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 Participant or Member unless such Participant or Member shall first have paid in Cash or otherwise provided to the Trustee's satisfaction for all duties, Taxes, 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 (herein 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 Participant or Member and to retain the amount so paid out of any moneys or property to which such Participant or Member may be or become entitled hereunder.

12.15 Trustee's indemnity to be from Division

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

12.16 Trustee's duties, remedies etc not limited

Nothing in this Deed limits the Trustee's duties stated in Clause 9 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.

12.17 Indemnities limited

Nothing in this Deed and in particular this Part 12 exempts the Trustee from liability for or indemnifies the Trustee against:

- (a) a breach of trust in respect of a Division where the Trustee:

- (i) failed to act honestly in a matter concerning the Division; or
 - (ii) intentionally or recklessly failed to exercise in relation to a matter affecting the Division, the degree of care and diligence that the Trustee was required to exercise; or
- (b) a monetary penalty under a Civil Penalty Order.

References in this Part 12 to the Trustee include directors of the Trustee acting in that capacity.

PART 13 – REMUNERATION AND EXPENSES

13.1 Remuneration of Trustee

13.1.1 Trustee's monthly fee

The Trustee may pay itself out of the Assets of each Division in respect of which it acts as Trustee and debit against the Expense Reserve Account maintained in respect of that Division by way of remuneration for its services a fee, calculated as at the close of business on the last day of each Month and payable within fourteen (14) days of that date, of an amount up to but not exceeding the total of the following Charges imposed pursuant to this Part 13 in respect of the Division during the same month:

- (a) the Investment Charge;
- (b) the Administration Charge;
- (c) the Contribution Charge; (d) the Participation Charge; and
- (e) Division VI Charge.

The Trustee may receive a different fee calculated in accordance with this Clause 13.1 in respect of each Division.

13.1.2 Reimbursement of Expenses

To the extent that there is a credit balance in the Expense Reserve Account maintained in respect of a Division in respect of which the Trustee acts the Trustee shall be entitled to seek reimbursement from time to time out of that Expense Reserve Account for any Expenses of the Division which the Trustee has paid for out of its own moneys subject to the proviso that the Trustee cannot seek reimbursement of any Expense if the effect would be to create a negative balance in the Expense Reserve Account of that Division. If there is insufficient cash in its hands to pay any such reimbursement the Trustee is entitled to sell or realise out of the Division such Investments as it considers necessary to enable the Trustee to meet payment of the Expenses and to apply the proceeds of sale or realisation in meeting such Expenses and making payment as aforesaid.

13.2 Commission and brokerage

The Trustee must pay out of its remuneration any commission or brokerage payable in respect of an application or agreement to procure applications for participation in a Division.

13.3 Investment Charge

The Trustee:

- (a) may from time to time levy a Participant with an investment performance charge in respect of the financial performance of an Investment Pool in which the Participant has nominated pursuant to an Option Nomination that investment on the Participant's behalf be made, such charge to be equal to the amount disclosed by the Trustee to the Participant in the Disclosure Document offering investment in the Investment Pool; and
- (b) may otherwise from time to time levy a Participant with such fee as the Trustee and Participant may agree in writing before the investment or further investment of moneys on the Participant's behalf, such charge not to exceed three percent (3%) per annum of the value of the investments being made pursuant to an Investment Option or variation thereof.

13.4 Administration Charge

The Trustee may debit from each Participant's Participants Account on the last Business Day of each Month and credit to the Expense Reserve Account maintained in respect of the Division to which the Participant has been admitted thereafter an amount of two point eight eight percent (2.88%) per annum of the balance standing to the credit of the Participants Account established in respect of that Participant provided that the Trustee may reduce the percentage referred to above where such:

- (a) reduced percentage is objectively ascertainable from the current Disclosure Document (if any) offering participation in the Division and such reduced percentage is applied to all Participants Accounts maintained in respect of the Participants of the Division during the currency of the Disclosure Document or for the specific period that may be provided in the Disclosure Document as to the application of such reduced percentage; or
- (b) the Trustee has agreed with a particular Participant in writing, having regard to the details of the Participant's participation, to such reduced percentage,

provided always that where in any Month, in respect of which the Administration Charge in respect of a Participant is being calculated, the Assets of the Division in which the Participant participates have been invested in Division V the Administration Charge to be debited from the Participant's Participants Account shall not exceed the Administration Charge the Trustee would have been entitled to debit to the Participant's Participants Account pursuant to this Clause 13.4 had the Assets of the Division in which the Participant participates not been invested in Division V.

13.5 Contribution Charge

Upon the payment of any Contribution to a Division or upon a transfer to the Division of moneys in respect of a Participant or Member of that Division, the Trustee shall credit the Contributions or transfer received to the relevant Participants Account and the Trustee shall be entitled to deduct from that account and credit to the relevant Expense Reserve Account as a Contribution Charge an amount of seven percent (7%) of the amount of each such Contribution or transfer provided always that the Trustee may reduce the percentage referred to above where:

- (a) such reduced percentage is objectively ascertainable from the current Disclosure Document (if any) offering participation in the Division and such reduced percentage is applied to all Participants Accounts maintained in respect of the Participants of the Division during the currency of the Disclosure Document or for the specific period that may be provided in the Disclosure Document as to the application of such reduced percentage; or

- (b) the Trustee has agreed with a particular Participant in writing, having regard to the details of the Participant's participation, to such reduced percentage,

provided always that where the Contribution made is a Contribution to Division V of moneys or assets in respect of which a Contribution Charge has already been charged pursuant to this Clause 13.5 no Contribution Charge shall be levied in respect of those moneys or charges.

13.5A Division VI Charge

The Trustee may from time to time levy a Division VI Participant with such fees and charges as are provided for under Division VI.

13.6 Increase in fees and charges

13.6.1 Increase in certain circumstances without Participant consent

The fees and charges referred to in this Part 13 may be increased without the consent of the Participants by an 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 Divisions or the date of any previous increase made pursuant to this sub-Clause provided that:

- (a) one (1) Month's notice in writing shall be given by the Trustee to each Participant prior to the increase taking effect; and
- (b) any such increase will only take effect after the expiry or withdrawal of the current Disclosure Document on issue (unless the new charge is described in the said current Disclosure Document).

13.6.2 Participant consent to increase in fees and charges required in certain circumstances

The fees and charges referred to in this Part 13 must not be altered or increased otherwise than as described in Clause 13.6.1 without the prior approval of Participants by Ordinary Resolution.

PART 14 – TERMINATION OF PARTICIPATION AND MEMBERSHIP

14.1 Termination of Participation

14.1.1 Termination of Participation by Participant

A Participant may in such form as the Trustee may from time to time prescribe request the Trustee to terminate the Participant's participation in the Division to which the Participant has been admitted on a date which shall be not less than thirty (30) days from the date of such request.

14.1.2 Deemed Termination of Participation by Participant

If at any time the balance standing to the credit of a Participant's Participants Account is less than the minimum Participant Account balance nominated in the current Disclosure Document or such other amount as may be nominated by the Trustee from time to time the Participant shall be deemed to have requested the Trustee to terminate its participation in the Division to which it has been admitted pursuant to Clause 14.1.1, which request the Trustee, in its absolute discretion, may or may not act upon.

14.1.3 Discretionary Termination of Participation by Trustee

Subject always to Clause 14.1.4 the Trustee may, in its absolute discretion, by notice in writing to any Participant terminate the participation of the Participant in a Division, such termination to take effect not less than fifteen (15) days from the date of such notice.

14.1.4 Compulsory Termination of Participation by Trustee

Notwithstanding the discretion vested in the Trustee pursuant to Clause 14.1.3, the Trustee shall within fourteen (14) days of the occurrence of a Statutory Terminating Event in respect of a Division V Participant by notice in writing to the Division V Participant propose the termination of the participation of the Participant in Division V, such termination to take effect within thirty (30) days from the date of such notice (such notice to be hereinafter called “**the Notice of Proposed Termination**”).

14.2 Procedure on Termination

Within fifteen (15) days of the Termination Date in respect of a Participant the Trustee shall in respect of:

14.2.1 Participants whose Employees have been admitted to Division I or Division IV:

- (a) advise the Participant (“**the Retiring Participant**”) of all arrears, if any, of Contributions due pursuant to the Rules of the relevant Division up to the Termination Date, and the Retiring Participant shall forthwith pay any such arrears prior to the Termination Date;
- (b) determine any Benefits which have become payable on or before the Termination Date in respect of those Members whose membership was nominated by the Retiring Participant (“**the Relevant Members**”) and such Benefits shall continue to be payable out of Division I;
- (c) on the advice of the Actuary in the case of a Retiring Participant with a Benefit Specification which includes Defined Benefits as defined in Rule 1.1 of the relevant Division, certify to the Retiring Participant what proportion of the Assets of the relevant Division, including arrears, if any, of Contributions still to be made pursuant to paragraph (a) hereof, is properly attributable, having regard to the Retiring Participant’s Benefit Specification, to Members who were in the employ of the Retiring Participant at the Termination Date (“**the Members’ Proportional Interest in the Assets of the Division**”);
- (d) notify the Relevant Members of the termination of participation of the Retiring Participant;
- (e) make such arrangements as it thinks proper with the Retiring Participant or Relevant Members or the trustee of another Superannuation Fund, Division or Approved Deposit Fund or Life Insurance Company or Registered Organisation to ensure the amount of the Members’ Proportional Interest in the Assets of the Division is maintained until such time as Benefits otherwise payable in lieu of the Members’ Proportional Interest in the Assets of the Division would have been paid to the Member;
- (f) if after providing Benefits to the Members determined pursuant to paragraph (b) hereof and the Members’ Proportional Interest in the Assets of Division I pursuant to paragraph (c) hereof a surplus remains in the Retiring Participant’s Participants Account, the amount of such surplus shall be paid, subject to the Operational Standards permitting the same, to the Retiring Participant or distributed in such other manner as the Retiring Participant prescribes. Where

the Operational Standards do not permit the payment of any surplus to the Retiring Participant as proposed the Trustee must take such action to distribute any such surplus as it determines is in the best interests of the Members in the circumstances and does not breach the Operational Standards.

14.2.2 Participants who are Eligible Persons and other Participants:

- (a) after taking into consideration any moneys owing by a Participant other than a Division I or Division IV Participant who is an Employer to the Division to which the Participant has been admitted pursuant to the Rules of that Division certify to the Participant what proportion of the Assets of that Division are properly attributable to the Participant (in each case the proportion of the Assets of the Division being called in respect of a Participant, the Participant's "**Proportional Interest**");
- (b) in the event that the Participant is a group of Eligible Persons, certify to the Participant what proportion of the Proportional Interest is properly attributable to each of the Eligible Persons in the group determining the same in accordance with the terms of the Division I Participant's Benefit Specification and where the Benefit Specification makes no provision for calculation of the same in accordance with each Eligible Person's equitable share in the Proportional Interest;
- (c) subject to the Rules of the Division to which the Participant has been admitted either on or after the Termination Date and to the direction of the Participant pay the amount certified to the Participant or the Eligible Persons or transfer such amount as is prescribed to any other Division, Regulated Superannuation Fund, Approved Deposit Fund or Pooled Superannuation Trust or apply such amount towards the purchase of an Annuity as directed by the Participant and agreed by the Trustee.

14.3 Procedure on Compulsory Termination

14.3.1 Division V Participant to respond to Notice of Proposed Termination

Where the Statutory Terminating Event which has occurred is the cessation by the Division V Participant as an Eligible Investor pursuant to Rule 2.5.4 of Division V and the Division V Participant has received a Notice of Proposed Termination, the Division V Participant shall have thirty (30) days after the date of the Notice of Proposed Termination to give a notice in writing to the Trustee stating the grounds on which the Division V Participant:

- (a) has failed to comply with the Eligible Investor Statement Request; and
- (b) expects to be able to give the Trustee the requisite Eligible Investor Statement within sixty (60) days of the date of the Notice of Proposed Termination.

14.3.2 Failure to respond to Notice of Proposed Termination

Where a Division V Participant:

- (a) fails to deliver the notice required by Clause 14.3.1 within the requisite time; or
- (b) gives the notice required by Clause 14.3.1 but the Trustee is not satisfied that the Division V Participant:

- (i) has reasonable grounds for failing to comply with the Eligible Investor Statement Request; or
- (ii) is likely to give the Trustee the Eligible Investor Statement within sixty (60) days of the date of the Notice of Proposed Termination,

the Trustee must within sixty (60) days of the Notice of Proposed Termination comply with the procedures outlined in Clause 14.3.4.

14.3.3 Likely failure to respond to Notice of Termination

Where the Trustee is satisfied on receipt of a notice required by Clause 14.3.1 that the Division V Participant:

- (a) has reasonable grounds for failing to comply with the Eligible Investor Statement Request; and
- (b) is likely to give the Trustee the Eligible Investor Statement within sixty (60) days of the date of the Notice of Proposed Termination,

and the Division V Participant does not give the Trustee the Eligible Investor Statement within sixty (60) days of the Notice of Proposed Termination the Trustee must within thirty (30) days after the end of those sixty (60) days comply with the procedures outlined in Clause 14.3.4.

14.3.4 Certification of amount due to Participant

Where the Trustee is obliged pursuant to this Clause 14.3 to terminate the participation of a Division V Participant the Trustee shall within the time prescribed by the relevant provisions of this Clause 14.3 certify to the Division V Participant what the amount standing to the credit of the Participant's Participants Account is and pay the certified amount to the Participant.

14.4 Termination of Membership

14.4.1 Cessation of Membership

A Member shall cease to be a Member upon the Trustee having paid to or for the benefit of that Member in accordance with the Rules of the relevant Division the Member's Benefit or upon the payment or transfer of the Member's Benefit to the trustee of such Division, Approved Deposit Fund, Regulated Superannuation Fund, Eligible Rollover Fund, Division or Life Insurance Company or Registered Organisation as directed by the relevant Participant pursuant to Clause 14.1.

14.4.2 Cessation of Contributions by Employer

Notwithstanding the provision of Clause 14.4.1, a Participant who is an Employer may at any time notify the Trustee in writing that it will no longer make Contributions to a Division on account of a Member whereupon the Participant and the Trustee shall make such arrangement as they deem necessary and the Trustee approves in respect of the continued membership of the Member in the Division. In making such determination the Trustee shall have regard to the covenants contained in Clauses 9.3.

14.4A Rollover or Transfer of Benefit

14.4A.1 General

If a Member or Eligible Person becomes a member of another Superannuation Entity the Trustee may, if requested by the Member or the Eligible Person as the case may be (and subject to the agreement of the Participant (if any) in relation to the Member), rollover or transfer an amount, which may be effected by way of the transfer of any assets or property of the Plan, not exceeding the amount of the Member's Benefit, to such Superannuation Entity as the Trustee in its discretion determines.

14.4A.2 Contribution Split

The Trustee may, in its absolute discretion, rollover or transfer an amount subject to a Contribution split in accordance with Rule 4.7 of Division I to another Superannuation Entity.

14.5 Distribution

Without limiting the generality of Clause 14.2, the following provisions shall apply:

- (a) on receipt by the Trustee of a Termination Request;
- (b) on the deemed receipt by the Trustee of a Termination Request pursuant to Clause 14.1.2 and the Trustee's election to act upon such deemed Termination Request;
- (c) on delivery by the Trustee of a Termination Notice;
- (d) where the Trustee is obliged pursuant to Clause 14.3 to terminate the participation of a Division II Participant:

14.5.1 Discharge required

Each payment to a Participant pursuant to Clause 14.2 shall only be made against delivery to the Trustee of such form of receipt and discharge as may be required by the Trustee. **14.5.2 Payment of Assets in lieu of Cash**

Where:

- (a) for the purposes of paying the amount due to or in respect of a Participant pursuant to Clause 14.2 or making such arrangements as provided in Clause 14.2.1(e) the Trustee determines that it is necessary to realise any of the Assets of a Division and for whatever reason the said Assets are not realised; or
- (b) for the purposes of paying the amount due to a Member pursuant to Clause 14.4 the Trustee determines that it is necessary to realise any of the Assets of a Division and for whatever reason the said Assets are not realised; or
- (c) a Participant has requested the Trustee to appropriate specific assets out of the Assets of the relevant Division and to transfer such Assets to or in respect of such Participant in satisfaction of the Participant's entitlement to the Assets of the Division; or
- (d) a Participant has requested the Trustee to appropriate the specific assets out of the Assets of the relevant Division and to transfer such assets to such Member in satisfaction of the Member's entitlement to the Assets of the Division the Trustee may:

- (e) in the case of paragraphs (a) and (c) hereof, with the consent of the Participant; and
- (f) in the case of paragraph (b) and (d) hereof, with the consent of the Member and the relevant Participant in respect of whom the Member has been admitted;

transfer such Assets, where appropriate, to the Participant or to the Member, as the case may be, or as directed by the Participant or Member to such other Regulated Superannuation Fund, Division, Approved Deposit Fund or Pooled Superannuation Trust or apply same in the purchase of an Annuity provided always that an appropriation of specific assets pursuant to this Clause can only be made where the assets are of a similar nature and condition to the investments made by one Trustee on behalf of the Participant pursuant to the Participant's Option Nomination or the Member pursuant to the Member's Option Nomination or where the Member has given no Option Nomination, the Option Nomination of the Participant in respect of whom the Member has been admitted.

Upon any such determination, the Trustee shall transfer specific assets from the relevant Division in satisfaction of the Participant's or Member's entitlement. The value of the assets so transferred 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 Participant or the Member, as the case may be. In making the appropriation and transfer of any such assets, the Trustee shall have power to adjust the same either by making or receiving Cash payments or otherwise and to settle any question arising in relation thereto in any manner which appears to it to be just.

14.6 Cashing Restriction

Where the termination of a Participant or Member is to be effected pursuant to this Clause and there is an amount in question in respect of the Participant or Member which is subject to a Cashing Restriction then the amount can only be dealt with as prescribed by Clause 4.4.2.

PART 15 – APPOINTMENT OF AUDITOR, ACTUARY AND VALUERS

15.1 Appointment

The Trustee may from time to time:

- (a) appoint an Approved Auditor or Auditors of each Division to perform the functions of the Auditor required by this Deed and the Rules;
- (b) appoint an Actuary to perform the functions of the Actuary required by this Deed or the Rules. Every person appointed as Actuary must be a fellow or an accredited member of the Institute of Actuaries of Australia or otherwise qualified under the Operational Standards to perform the functions of an actuary;
- (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 and in the case of Land, such person must be a member of the Australian Institute of Valuers (or if such Institute has ceased to exist of some other institute or body serving substantially the same objects).

15.2 Remuneration

The remuneration of any Auditor, Actuary or Approved Valuer must be fixed by the Trustee and shall be payable out of the Assets of the Division in respect of which the Auditor, Actuary or Approved Valuer has been appointed and debited against the Expense Reserve Account of that Division.

15.3 Retirement

Each or any Auditor, Actuary or Approved Valuer appointed may retire upon the expiration of three (3) Month's notice to the Trustee or such shorter period as the Trustee may agree to.

15.4 Removal

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

- (a) by the Trustee; or
- (b) by an Extraordinary Resolution of the Participants of the Divisions or the relevant Division.

15.5 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 who has the qualifications described in Clause 15.1.

PART 16 – ACCOUNTS AND AUDIT**16.1 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 each Division and Sub-Plan;
- (b) enable the preparation from time to time of true and fair accounts of each Division and Sub-Plan as required by the Operational Standards;
- (c) enable the returns of each Division to be prepared in accordance with the Operational Standards; and
- (d) enable the accounts, statements and returns of each Division to be conveniently and properly audited in accordance with the Operational Standards.

16.2 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 readably accessible and readily convertible into writing in the English language.

16.3 Inspection of accounting records

The accounting records of the Trustee are open to the inspection of the other 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.

16.4 Yearly Accounts

16.4.1 Accounts to be prepared at Yearly intervals

At the end of each Financial Year, the Trustee must, within the Prescribed Period:

- (a) prepare or cause to be prepared the Accounts relating to each Division; and
- (b) where the Trustee determines it appropriate may or the Operational Standards require it prepare or cause to be prepared the Accounts relating to a Sub-Plan.

16.4.2 Accounts to be prepared in accordance with the law

The Accounts of a Division or Sub-Plan must be prepared in accordance with the requirements of:

- (a) the Operational Standards; and
- (b) to the extent determined by the Trustee, the Australian Accounting Standards.

16.5 Auditor's Report on Accounts

16.5.1 Preparation of accounting records

At the time of preparation of the Accounts the accounting records prepared in accordance with this Part 16 must be audited by the Auditor.

16.5.2 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 the Operational Standards within the Prescribed Period.

16.6 Provision of Information to Participants

The Trustee shall provide to each Participant in respect of each Financial Year (within such period as may be prescribed by the Operational Standards) a copy of:

- (a) abridged financial information relating to the Plan for that Financial Year as presented in the Plan's Annual Report; and
- (b) such other information in relation to the Accounts as the Operational Standards may require;

EXCEPT THAT the Trustee shall also provide a copy of the Plan's audited financial reports for that Financial Year to any Participant who or which requests such audited financial reports in writing.

16.7 Provision of Information to Members

The Trustee shall provide to each Member in respect of each Financial Year (within such period as may be prescribed by the Operational Standards) a copy of:

- (a) abridged financial information relating to the Plan for that Financial Year as presented in the Plan's Annual Report; and
- (b) such other information in relation to the Accounts as the Operational Standards may require;

EXCEPT THAT the Trustee shall also provide a copy of the Plan's audited financial reports for that Financial Year to any Member who requests such audited financial reports in writing.

PART 17 – MEETINGS

17.1 Trustee may convene meetings

The Trustee may convene a meeting of Participants of the Divisions or a meeting of the Participants of any particular Division at any time.

17.2 Participants may requisition meeting

The Trustee must:

- (a) on the requisition of not less than fifty (50) or one-tenth in number, whichever is the less of the Participants forthwith convene a meeting of the Participants;
- (b) on the requisition of not less than fifty (50) or one-tenth in number, whichever is the less of the Participants of a Division forthwith convene a meeting of the Participants of that Division.

The requisition must state the objects of the meeting and the terms of any resolution proposed to be submitted to the meeting. The requisition must 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 twenty-one (21) days from the date of the requisition being so deposited duly proceed to convene a meeting of the Participants or the Participants of the particular Division, 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 (3) Months from the date of such deposit. Any meeting convened under this Clause by the requisitionists 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 either the Trustee invalidates the meeting but the Trustee may waive such omission or non-receipt.

17.3 Notice of meeting

17.3.1 Ten Business Days' notice required

At least ten (10) Business Days' notice of a meeting specifying the place day and hour of the meeting shall be given to Participants.

17.3.2 Notice to contain certain matters

The Trustee will ensure that any notice of meeting contains adequate notice of:

- (a) any matters to be considered at the meeting of which it is aware;
- (b) any resolutions to be put to the meeting of which it is aware; and
- (c) a summary of information relating to those matters and resolutions that is relevant to the decision of a Participant on how to vote at the meeting.

17.3.3 Accidental omission to give notice does not invalidate meeting

The accidental omission to give such notice to or the non-receipt of such notice by any Participant shall not invalidate the meeting. The accidental 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.

17.4 Right of audience

The Auditor and the representatives of the Trustee are entitled to attend any meeting of Participants or of Participants of a particular Division with or without their respective solicitors and/or counsel and all such persons shall have the right of audience thereat.

17.5 Chairman

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

17.6 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 fifty (50) or at least ten per centum (10%) of the number of Participants whichever is the lesser number or in the case of a meeting of Participants of a particular Division fifty (50) or at least ten per centum (10%) of the number of Participants of that particular Division whichever is the lesser number. If within fifteen (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 Participants by the Trustee.

At an adjourned meeting convened pursuant to paragraphs (a) and (b) hereof, the Participants present in person or by proxy shall form a quorum and shall have power to pass the resolutions to be proposed thereat.

17.7 Method of voting

17.7.1 In the first instance to be by a show of hands

Every question submitted to a meeting of Participants or meeting of Participants of a particular Division 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 17.8.

17.7.2 One vote for each one dollar standing to credit of account

On a show of hands every Participant who is present in person or by proxy shall have one vote and on a poll every Participant shall have one vote for each One Dollar (\$1.00) or part thereof standing to the credit of the Participant's Participants Account at the close of business forty-eight (48) hours prior to the meeting.

17.8 Poll

At any meeting of Participants unless a poll is demanded by the chairman or at least ten (10) Participants holding or representing by proxy at least ten percent (10%) of the total voting rights of all Participants of the Plan or in the case of any meeting of Participants of a particular Division unless a poll is demanded by the Chairman or at least ten (10) Participants of that Division holding or representing by proxy at least ten percent (10%) of the total voting rights of Participants 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.

17.9 Manner of poll

If at any meeting a poll is demanded as provided in Clause 17.8 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 Participants or at any meeting of Participants of a particular Division 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.

17.10 Effect of resolution

A resolution (whether Ordinary or Extraordinary) passed at a meeting of Participants or Participants of a particular Division duly convened and held in accordance with this Part 17 shall be binding upon all the Participants or the Participants of that particular Division whether present or not present at such meeting and each of the Participants and the Trustee are bound to give effect thereto accordingly.

17.11 Corporations

A corporation being a Participant may vote by any representative authorised in writing to act as its representative for such purpose or by proxy who shall be entitled to speak demand a poll vote and in

all other respects exercise the rights of a Participant and shall be reckoned as a Participant for all purposes.

17.12 Objection to qualification of voter

Subject to Clause 17.13 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.

17.13 Proxies

Votes may be given by proxy in accordance with 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 Participant.
- (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 Participant.
- (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 Participant 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 twelve (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:

The Tidswell Master Superannuation Plan

"I, _____ of _____
being a registered
Participant of Division ... of the Plan hereby 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 Participants/Participants of Division ... of the Plan to be held on the
day of 19 _____ and at any adjournment thereof.

Dated this _____ day of _____ 19 ____.

The Common Seal of was
hereunto affixed in
accordance with its

Articles of Association in
the presence of:

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.

17.14 Adjournment of meeting

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

17.15 Minutes

Minutes of all resolutions passed and proceedings at every meeting of Participants shall be made and duly entered in a book to be provided for that purpose by the Trustee and any such minutes as aforesaid 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 Participants shall be conclusive evidence of the matters therein stated and until the contrary is proved every such meeting in respect of the proceedings of which minutes have been made shall be deemed to have been duly held and convened and all resolutions passed thereat and proceedings to have been duly passed and had.

PART 18 – VARIATION OF DEED AND RULES

18.1 Power to amend

Subject to any restrictions on amendment of trust deeds in the Operational Standards and in Clause 18.3, the Trustee may so long as it is reasonably satisfied that the alteration, modification, addition or deletion will not adversely affect the interests or entitlements of the Participants or Members of any Division by deed supplemental to this Deed alter, modify, add to or delete any of the provisions of this Deed, including this Clause.

18.2 Date of effect

An amendment made pursuant to this Part 18 may take effect from a date before or after it is made.

18.3 Prohibition on amendment

An amendment will be void if the effect of the amendment is to breach an Operational Standard.

18.4 Notification of amendment

The Trustee must give to a Participant or Member, within the Prescribed Period, the information required by the Operational Standards concerning the changes effected by the amendment. The failure to so notify a Participant or Member does not invalidate the amendment in any way.

18.5 Amendment because of legislation

The Trustee shall (without limiting the provisions of Clause 18.1) take all reasonable steps necessary to cause this Deed to be amended from time to time to satisfy the requirement of any statute, ordinance, rule, regulation or by-law or with the requirement of any statutory authority but if the Trustee is of the opinion that as a result of such requirements the Assets of a Division or any part thereof are to be invested or deposited otherwise than freely in accordance with the discretions given to the Trustee hereunder or if as a result of any such law it appears to the Trustee to be in the interests of the Participants or Member so to do, then the Trustee may resolve that the Division is to terminate and thereupon the Division shall terminate and be wound up, subject to Clause 19.

PART 19 – TERMINATION OF THE DIVISIONS

19.1 Termination

19.1.1 Period of trusts

The perpetuity period applicable to the trusts and dispositions contained in this Deed shall be the period of eighty (80) years commencing on the date of execution of this Deed. The Divisions shall unless sooner determined under the provisions of this Deed terminate and be wound up on the expiration of that period.

19.1.2 Division to terminate where certain legislation introduced

If any legislation is enacted having the effect in the opinion of the Trustee of materially diminishing the amount of income of the Divisions (or the Relevant Division) available for distribution to the Participants and the Trustee determines that the Divisions (or the Relevant Division) shall be wound up on a date to be determined by them the Divisions (or the Relevant Division) shall terminate and be wound up.

19.1.3 Division to terminate on continued vacancy of office of Trustee

If the office of the Trustee of the Divisions (or the Relevant Division) becomes vacant and a new Trustee is not duly appointed within one (1) Month of the vacancy occurring the Divisions (or the Relevant Division) shall terminate and be wound up.

19.1.4 Division to terminate where Trustee so determines

If the Trustee determines that the Divisions (or the Relevant Division) are to be terminated, the Divisions (or the Relevant Division) shall terminate and be wound up.

19.2 Procedure on termination of a Division

Upon the termination of a Division the Trustee shall hold the Assets of the Division upon trust for the Participants and or Members as the case may be and the Division shall be wound up.

19.3 Trustee to give notice of termination of Division

In the event of the termination of the Divisions (or a Relevant Division), the Trustee shall give notice in writing to all Participants (or Participants of the Relevant Division (“**the Relevant Participants**”)) that the Divisions (or the Relevant Division) shall commence to be wound up on a specified date, hereinafter called “**the Closure Date**”.

19.4 Settlement of accounts

As from the Closure Date the Trustee shall:

- (a) immediately make a call for any arrears of Contributions in respect of each Division (or the Relevant Division) and not, except in the case of Contributions received in response to a call, accept further Contributions to any Divisions (or the Relevant Division); and
- (b) credit and/or debit, as the case may be, to each Participant's Participants Account (or in the event of the termination of the Relevant Division, each Relevant Participant's Participants Account) in a manner the Trustee as being in its opinion fair and equitable, the balance of the Expense Reserve Account maintained in respect of each Division after payment of all expenses associated with the termination of the Divisions (or in the event of the termination of the Relevant Division, the balance of the Expense Reserve Account maintained in respect of the Relevant Division after payment of all expenses associated with the termination of the Relevant Division).

19.5 Realisation of Investments

Upon the termination of the Divisions (or the termination of the Relevant Division (hereinafter referred to as a "**Division Termination**")), the Trustee must, subject to the provisions of Clause 19.7, sell, call in and realise the Investments of the Divisions (or the Relevant Division). So far as reasonably practicable, the sale is to be completed within one hundred and eighty (180) days after the termination of the Divisions (or the Relevant Division).

19.6 Transfer to another trust

The Trustee must transfer any Investment of the Divisions (or the Relevant Division) to the trustee of any other trust fund (or in the case of the transfer of any investment of the Relevant Division to another Division) (whether or not the Trustee is in any way associated with such other trust or Division) on receiving cash equivalent to the market value of such Investment at the date of transfer.

19.7 Ongoing liabilities

The Trustee may retain for so long as it thinks fit such part of the Investments of the Divisions (or the Relevant Division) as in its opinion may be required to meet any outgoing or liabilities (actual or contingent) in respect of the Divisions (or of the Relevant Division) or any Investments thereof provided that any Investments or money so retained to the extent that they are ultimately found not to be so required shall remain subject to the conditions of this Deed for conversion and distribution contained in Clause 19.9.

19.8 Payment of Expenses

The Trustee shall retain out of any moneys in its hands full provision for and to pay thereout all costs charges expenses liabilities (whether actual or contingent) claims and demands incurred made or apprehended by the Trustee in connection with the Divisions (or the Relevant Division) or arising out of the termination of the Divisions (or upon a Division Termination, the Relevant Division) including the fees of any agents solicitors bankers accountants or other persons whom the Trustee may employ in connection with the termination of the Divisions (or the Relevant Division) and is entitled out of the moneys so retained to be indemnified and saved harmless against any of those costs and charges expenses claims and demands provided that any moneys so retained to the extent that they are

ultimately found not to be so required shall remain subject to the conditions of this Deed for distribution pursuant to Clause 19.9.

19.9 Distribution

19.9.1 Distribution of proceeds upon realisation

The Trustee shall upon completion of the realisation of the Investments of the Divisions (or of the Investments of the Relevant Division) distribute to Participants the net proceeds thereof together with all other Cash forming part of the Divisions (or the Relevant Division) in the respective proportions that the respective balances in each Participant's Participants Account (or, upon a Division Termination, each Relevant Division Participant's Participants Account) as at the date of termination of the Divisions bear to the total of all such amounts realised or held on behalf of the Divisions (or, upon a Division Termination, as at the date of termination of the Relevant Division bears to the total of all such amounts realised and held on behalf of the Relevant Division) by the crediting of such amount available to be distributed to each Participant pursuant to this Clause 19.9.1 to that Participant's Participants Account. The money so credited shall then be distributed or paid to the Participants and Members in the manner prescribed, mutatis mutandis, in Clause 14.2 as if the Participant's interest in a Division had been terminated.

19.9.2 Distribution of Investments in lieu of Cash

In the event that any of the Investments of the Divisions (or any of the Investments of the Relevant Division) are for whatever reason not realised but retained by the Trustee in specie the Trustee may having regard to the proportion that the balance in the Participant's Participants Account at the date of termination bears to the total of all such amounts received and held on behalf of the Divisions and to the nature and conditions of the investments made by the Trustee on behalf of the Participant pursuant to that Participant's Option Nomination (or, upon a Division Termination, having regard to the proportion that the balance in the Relevant Division Participant's Participants Account at the date of termination of the Relevant Division bears to the total of all such amounts received and held on behalf of the Relevant Division) transfer such of the Investments of the Divisions to a Participant in satisfaction of the Participant's interest in the Investments of the Divisions (or, upon a Division Termination, to a Relevant Division Participant in satisfaction of the Relevant Division Participant's interest in the Investments of the Relevant Division).

19.9.3 Cashing Restriction

Where the proceeds of the Investments of the Divisions or of a Relevant Division realised are subject to a Cashing Restriction the Trustee must:

- (a) notify each Participant or Member concerned in writing of the details of the Cashing Restriction;
- (b) request each Participant or Member concerned in writing to nominate to the Trustee within one (1) Month of receipt of the request the Regulated Superannuation Fund, Approved Deposit Fund or Deferred Annuity (or upon a Division Termination the Regulated Superannuation Fund, Approved Deposit Fund, Division or Deferred Annuity) to which the proceeds are to be transferred or applied ("**the Nomination**"),

Provided that the Trustee shall not, subject to the following provisions of this Clause 19.9.3, transfer the proceeds to a Regulated Superannuation Fund, Approved Deposit Fund or Division or apply the proceeds towards the purchase of a Deferred Annuity unless:

- (i) so directed by the Participant's or Member's Nomination; and
- (ii) unless the Regulated Superannuation Fund, Approved Deposit Fund, Division or a Deferred Annuity has the appropriate provisions to ensure that the amount subject to the Cashing Restriction is not dealt with other than as permitted by the Operational Standards.

The Trustee must use its best endeavours to obtain a Nomination upon which the Trustee can act in accordance with the terms of this Deed. Where no Nomination is delivered in respect of a Participant or Member, or the Trustee forms the opinion that the Participant or Member cannot be located the Trustee may at its discretion deal with the Participant's or Member's interest in the Division in such manner as is required by the Operational Standards.

19.9.4 Interim distributions

Notwithstanding the foregoing, the Trustee may from time to time and prior to completion of the realisation of Investments programme make such interim distributions to Members on account of their respective entitlements calculated in accordance with Clause 19.9.1 as the Trustee determines.

19.10 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.

19.11 Postponement

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

PART 20 – RESOLUTION OF DISPUTES

20.1 Trustee's decision is binding

Subject to Clause 20.2 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 Participant or Member or any other person hereunder (except to the extent otherwise expressly provided in this Deed or by the Operational Standards) the decision of the Trustee shall be final and binding.

20.2 Resolution of disputes

The Trustee must (unless the Operational Standards do not require) ensure there are arrangements in force:

- (a) under which:
 - (i) a Participant or Member or any other person with a beneficial interest in a Division which is a Regulated Superannuation Fund may inquire into, or complain about, the operation or management of the Division in relation to that Participant or Member or that other person;
 - (ii) inquiries or complaints will be considered and properly dealt with within 90 days after they were made; or

- (b) which otherwise comply with the Operational Standards in relation to the conciliation, arbitration and review of enquiries made by Participants or Members.

PART 21 – MISCELLANEOUS

21.1 Retention of documents

The Trustee must:

- (a) keep, and retain so long as they are relevant and in any event for at least 10 years, 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 Participants and Members;
 - (ii) all Applications; and
 - (iii) such other material as is required by the Operational Standards; and
- (b) make those copies available for inspection by a member of the staff of the Commissioner if requested to do so by a member of the staff.

21.2 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 Participants and Members who are entitled to receive from the Trustee a copy of this Deed.

21.3 Proper law

The rights liabilities and obligations inter se of the Trustee and the Participants and Members shall be governed by the law of the State of South Australia and any proceedings to enforce such rights liabilities or obligations may be taken in the courts of that State.

21.4 Notices to Participants and Members

21.4.1 Forms of notice

Any notice required to be given to Participants or Members under this Deed is deemed to have been duly given if it is in writing and:

- (a) delivered or sent by ordinary post, courier or airmail in a properly pre-paid or franked envelope addressed to the Participant or Member at the address appearing in the Register of Participants or Members;
- (b) sent by facsimile transmission to the facsimile number of the Participant or Member notified to the Trustee by the Participant or Member;
- (c) sent by electronic or digital means to the Participant's or Member's email or other electronic or digital address last notified to the Trustee by the Participant or Member; or

- (d) made available to the Participant or Member by being published on a website or digital application maintained by or on behalf of the Trustee for Participants or Members to access information concerning the Plan or any Division.

21.4.2 Deemed receipt of posted notices

Any notice sent by post is deemed to have been served on the third 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.

21.4.3 Deemed receipt of facsimile notice

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 Participant or 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.

21.4.3A Deemed receipt of electronic notice

A notice, document or other information sent by email or other electronic or digital means is deemed to be received on the day the message is showing on the sender's electronic system as having been properly transferred or transmitted.

21.4.3B Deemed receipt of published information

Where a notice, document or other information is made available to a Participant or Member by the Trustee via a website or digital application, such notice, document or information is deemed to be received by the Participant or Member on the day the notice, document or information is first available to view on the website or digital application.

21.4.4 Sending notices where address unknown

Where the Operational Standards require that a report, statement or notice be sent to a Participant or Member and:

- (a) a copy of a report, statement or notice previously sent to the Participant or Member was posted with correct pre-paid or franked postage to the Participant or Member at the Participant's or Member's last known address and was returned undelivered to the Trustee; and
- (b) the Trustee has not been informed of another address of the place of residence or business of the Participant or Member,

the Trustee is deemed to have complied with the requirements to send a copy of the report, statement or notice to the Participant or Member.

21.5 Limitation of liability

21.5.1 Limit on liability to make further payment

Subject to Clause 4.6.1, a Participant or Member will not by virtue of having been admitted to a Division or having paid Contributions to a Division have any liability to make any further payment, other than Contributions, to the Division or payments to the Trustee in respect thereof.

21.5.2 Limit on liability to indemnify

Subject to Clause 4.6.1, no Participant or Member by reason alone of being a Participant or 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 a Division. Any such liability is hereby 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 Division.

FIRST SCHEDULE

RULES OF DIVISION I – TIDSWELL SUPERANNUATION FUND

1. DEFINITIONS AND PURPOSE

1.1 Definitions

For the purposes of this Division I:

“Accumulation Benefit” means that the Benefit Specification details or that the Division I Participant has otherwise specified to the Trustee that any Benefit payable in respect of its participation is to be a value in or the total amount of the balance standing to the credit of:

- (a) in the case of a Member, the Member’s Nominated Accounts; and
- (b) in the case of a Division I Participant who is an Eligible Person the Participants Account or, as the case requires, the Nominated Accounts maintained in respect of the Eligible Person.

“Compulsory Scheme” means any scheme introduced by the government of the Commonwealth of Australia or of an Australian State or Territory or under any industrial award or agreement or other arrangement whereby a superannuation benefit or allowance (whether as a pension or lump sum or howsoever) becomes payable to or in respect of a person who is a Member in a circumstance or on an event which in the opinion of the Trustee bears a similarity to the circumstance or event upon which a Benefit is provided to be payable pursuant to any Division and to which scheme an Employer becomes obligated to contribute directly or indirectly.

“Compulsory Scheme Benefit” means an amount payable to or in respect of a Member pursuant to a Compulsory Scheme.

“Defined Benefit” means that the Benefit Specification details or that the Division I Participant has otherwise specified to the Trustee that any Benefit payable in respect of its participation is to be defined in terms of, or in terms that include, either or both of the following amounts:

- (a) the amount of the annual salary payable to the person in respect of whom the Benefit is payable:
 - (i) at the date of the person’s retirement from the workforce;
 - (ii) at a date prior to such retirement; averaged over a period of employment prior to such retirement;
- (b) a specified amount.

“Ex Spouse Participant” means an Eligible Person who has been admitted as a Participant in accordance with Rules 3.1 and 5.5.

“Forfeited Benefit” has the meaning given to that expression by Rule 12.3.

“Forgone Benefit” has the meaning given to that expression by Rule 5.2.2(b). **“Non-Member Spouse”** means the spouse of a Member who becomes subject to a payment split.

“Normal Retirement Date” means the date on which a Member attains age 65 or such other date as the Division I Participant and the Member agree.

“payment split” means a payment split within the meaning of the Operational Standards.

“payment split amount” means, in relation to a payment split, the amount determined in accordance with the Operational Standards which is to be credited in respect of the Non-Member Spouse which amount shall be applied for the benefit of the Non-Member Spouse whether by way of benefit payment in accordance with Rule 6.6 being credited to the Participant’s Account in accordance with Clause 5.2(ha) of the Deed or transferred to an Approved Deposit Fund, Regulated Superannuation Fund, Eligible Rollover Fund, Life Insurance Company or Registered Organisation in accordance with Rules 5.5.3 or 5.5.4.

“Regular Pension Payment” has the meaning assigned to that expression in Rule 6.5.4(c).

“Regular Pension Payment Interval” has the meaning assigned to that expression in Rule 6.5.4(d).

“Regular Pension Request” has the meaning assigned to that expression in Rule 6.5.4.

“Reserve Account” means any reserve account kept in accordance with Rule 5.2.

“Salary Continuance Benefit” means the amount arranged by the Trustee to be paid to a Participant or Member in the event of the Participant’s or Member’s ill-health.

“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, having regard to the relevant Benefit Specification and being as a minimum that amount vested in the person pursuant to the Operational Standards.

1.2 Purpose of Division I

Division I 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 Fund must be solely maintained.

1.3 Eligibility and Application for Participation

Participation in Division I will be restricted to:

- (a) Employers wishing to provide retirement and/or other approved ancillary benefits for their Employees from a Regulated Superannuation Fund; and
- (b) Eligible Persons wishing to obtain retirement and/or other approved ancillary benefits from a Regulated Superannuation Fund.

2. RULES RELATING TO THE ADMISSION OF PARTICIPANTS WHO ARE EMPLOYERS WISHING TO PROVIDE BENEFITS FOR THEIR EMPLOYEES

2.1 Form of Application

Every Applicant who is an Employer and wishes to be admitted to Division I for the purpose of providing retirement and other approved ancillary benefits for its Employees must lodge an Application with the Trustee to become a Division I Participant. At the time of lodgement of an Application an Applicant:

- (a) must complete the Benefit Specification;
- (b) unless:
 - (i) the Applicant has specified pursuant to Clause 6.15 that its Employees admitted as Members of the Division are able to make Option Nominations; or
 - (ii) the Trustee pursuant to Clause 6.3.1 has not given the Applicant a choice of investment strategies to choose from

then the Applicant must complete an Option Nomination and where required an Investment Authority.

2.2 Preconditions to acceptance

The Trustee must not accept an Application for admission by an Employer as a Division I Participant unless the Applicant has:

- (a) completed the Application;
- (b) completed a Benefit Specification;
- (c) agreed in writing to be bound by and comply with the Deed and these Rules;
- (d) where the Applicant is required to make an Option Nomination the Applicant has done so; and
- (e) 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 Division I as the Operational Standards require in the circumstances to be given to the Applicant.

2.3 Date of acceptance

An Applicant will become a Division I Participant upon the date of acceptance by the Trustee of the Applicant's Application or as otherwise specified by the Trustee in the notice delivered to the Applicant pursuant to Clause 3.1.6(d).

2.4 Eligibility and Application for Membership

2.4.1 Eligibility

Membership of Division I will be restricted to the Employees of a Division I Participant or of any Associated Employer.

2.4.2 Nomination by Employer

Where a person is eligible for admission to membership in the terms prescribed by the Division I Participant and agreed to by the Trustee or any person who is an Employee of an Associated Employer, the Division I Participant is entitled to nominate the person for membership of Division I.

2.4.3 Form of Application

Upon nomination by a Division I Participant or at such other time as the Division I Participant and Employee agree, the Employee may make application to the Trustee to become a Member of Division I in such form as the Trustee may from time to time prescribe (“**the Employee’s Application**”).

2.4.4 Preconditions to acceptance

The Trustee must not accept an Employee’s Application unless:

- (a) The Employee has been nominated for membership by its Division I Participant;
- (b) the Employee is eligible pursuant to the Operational Standards to be a member of a Regulated Superannuation Fund;
- (c) the Employee has completed the Employee’s Application to the satisfaction of the Trustee and agreed in writing to be bound by and comply with these Rules;
- (d) the relevant Division I Participant has advised the Trustee in writing, having regard to the Division I Participant’s Benefit Specification, the conditions to apply in determining the Employee’s Benefits; and
- (e) where the Member is entitled to make an Option Nomination the Member has done so.

2.4.5 Date of acceptance

Any Employee who has made application pursuant to Rule 2.4.3 to become a Member shall become a Member at the time and in accordance with Clause 3.2.3.

2.5 Admission of Members

Should at the time of acceptance of the Member there be any matter which the Division I Participant has advised the Trustee as being pertinent to the membership of the Employee and which is at variance to the conditions specified in the Division I Participant’s Benefit Specification, the Trustee may make such arrangements about that matter as it thinks proper with the Division I Participant or the Employee or any previous Employer of the Employee or the trustee of any Regulated Superannuation Fund of which the Employee was a member provided that in the opinion of the Trustee the matter is incidental to or consequent upon the membership of such Employee in this Division I and the Trustee will confirm in writing with the Participant or Employee the arrangements so made.

3. RULES RELATING TO THE ADMISSION OF ELIGIBLE PERSONS WISHING TO OBTAIN BENEFITS FOR THEMSELVES

3.1 Form of Application

Every Applicant who is an Eligible Person or group of Eligible Persons and wishes to be admitted to Division I for the purpose of obtaining retirement and other approved ancillary benefits for themselves must lodge an Application with the Trustee to become a Division I Participant. At the time of lodgement of an Application the Applicant:

- (a) must complete the Benefit Specification;
- (b) must, unless the Trustee pursuant to Clause 6.3.1 has not given the Applicant a choice of investment strategies to choose from then the Applicant must complete an Option Nomination;
- (c) must lodge any statement or notification required to accompany a Contribution which is an Eligible Termination Payment under the Operational Standards.

3.2 Pre-conditions to acceptance

The Trustee must not:

- (a) accept an application by an Eligible Person for admission as a Division I Participant unless the Applicant has:
 - (i) completed the Application;
 - (ii) completed a Benefit Specification;
 - (iii) in the case of an Applicant who wishes to receive its Benefit in pension form, completed the Regular Pension Request;
 - (iv) agreed in writing to be bound by and comply with the Deed and these Rules;
 - (v) where the Applicant is required to make an Option Nomination the Applicant has done so;
 - (vi) 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 Division I as the Operational Standards require in the circumstances to be given to a prospective participant; or
- (b) approve the terms of a Regular Pension Request unless its terms and conditions meet the requirements of the Operational Standards.

3.3 Date of acceptance

An Applicant will become a Division I Participant from the date of acceptance by the Trustee of the Applicant's Application or as otherwise specified by the Trustee in the notice delivered to the Applicant pursuant to Clause 3.1.6(d).

4. CONTRIBUTIONS

4.1 Employer Contributions

4.1.1 Required Contributions

Each Division I Participant who is an Employer and any Associated Employer must make Contributions of such levels and upon such basis as will ensure the payment for or in respect of the relevant Members of the Benefits prescribed in the Division I Participant's Benefit Specification.

4.1.2 Division I Participant Discretionary Contributions

In addition to the Contributions payable by it pursuant to Rule 4.1.1 a Division I Participant may at any time, with the consent of the Trustee, make additional Contributions to Division I for the purpose of providing additional Benefits for any particular Member or Members.

4.2 Member Contributions

4.2.1 Required Contributions

Each Member must make Contributions of the amount specified in the relevant Division I Participant's Benefit Specification.

4.2.2 Other Contributions

- (a) In addition to the Contributions payable by the Member pursuant to Rule 4.2.1 a Member may with the approval of the Division I Participant and the Trustee and subject to such terms and conditions as they agree make additional Contributions to Division I;
- (b) With the approval of the Division I Participant the Trustee may accept Spouse Contributions in respect of a Member.

4.2.3 Deduction of Contributions from remuneration

Unless the Member and its Employer otherwise agree or the law does not allow, whereupon the Member must pay its Contribution to the Employer, the Member's Contributions will be deducted from time to time by the Employer from the Member's remuneration. The Employer must pay the Member's Contributions so deducted or paid to the Trustee in such manner and at such times as are specified in the Division I Participant's Benefit Specification or as is otherwise agreed from time to time between the Member and the Member's Employer and acceptable to the Trustee but in any event within the Prescribed Period.

4.3 Eligible Person Contributions

4.3.1 Participant Contributions

Each Eligible Person or group of Eligible Persons who is not otherwise required to contribute pursuant to Rule 4.1 or 4.2 must make Contributions to Division I in such manner as the Participant determines and the Trustee accepts from time to time provided that where the Eligible Person has been admitted to Division I as part of a group of Eligible Persons Contributions must be of an amount which ensures the payment of the Benefits prescribed in respect of that group in the relevant Benefit Specification.

4.3.2 Spouse Contributions

The Trustee may accept Spouse Contributions in respect of an Eligible Person.

4.4 Other Discretionary Contributions

In the event that the Employer of any Member or Division I Participant is obliged to contribute to a Regulated Superannuation Fund in respect of a Member or Division I Participant or the Employer of any Member or Division I Participant wishes to make Contributions on behalf of the Member or Division I Participant, the Employer may, with the consent of:

- (a) the Division I Participant in respect of who the Member has been admitted to membership and the Trustee in the case of a Member; and
- (b) the Division I Participant and the Trustee in the case of a Division I Participant, contribute to Division I on account of the Member or Participant.

4.5 Contributor must be eligible to contribute

It is a condition of acceptance of any Contributions that at the time of payment that:

- (a) the contributor is eligible pursuant to the Operational Standards to make the Contribution; and
- (b) the Division is not prohibited by the Operational Standards from accepting the Contribution.

Should it be brought to the notice of the Trustee that any Contribution paid does not satisfy the conditions of acceptance the Trustee may return the Contributions so made to the contributor or come to some other arrangement with the Division I Participant so as to comply with the Operational Standards.

4.6 Reduction or suspension of Contributions

4.6.1 Division I Participant may reduce or suspend Contributions

A Division I Participant may reduce or suspend the Contributions payable by it or any Associated Employer to Division I for some or all of the Members or Eligible Persons admitted in respect of the Division I Participant.

4.6.2 Reduction or suspension of Contributions

- (a) Where the Division I Participant gives notice of a reduction or suspension of Contributions, the Trustee:
 - (i) must where the Benefits payable are Accumulation Benefits notify any of the Members or Eligible Persons to which the suspension or reduction of Contributions applies who make personal Contributions with the intention that those Members or Eligible Persons may reduce or suspend their personal Contributions; and
 - (ii) unless the reduction or suspension of Contributions has been recommended by the Actuary, must where the Benefits payable are Defined Benefits and the Division I Participant requests same notify any of the Members or Eligible Persons to which the suspension or reduction of Contributions applies who make personal Contributions with the intention that those Members or Eligible Persons may reduce or suspend their personal Contributions.

- (b) In the event that the Benefit Specification of the Division I Participant prescribes that all or part of the Benefits payable are to be calculated as Defined Benefits, then the Trustee must after considering the advice of the Actuary calculate the level of Benefits to which Members or Eligible Persons will be entitled on the basis of the reduced or suspended level of Contributions.
- (c) 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 Eligible Person or the Commissioner consents to the same, reduce the amount of the Member's or Eligible Person's Vested Benefit Entitlement to that date.

4.7 Contribution Splitting

The Trustee may effect the splitting of any Contributions made by or in respect of any Member or Eligible Person on the request of such person by debiting the said Nominated Account of the Member or Eligible Person, as the case may be, with the amount of the Contribution to be subject of the split and by crediting the said amount to the Nominated Account of the spouse of the Member/Eligible Person, but if and only if, such spouse has been admitted as an Eligible Person under the Plan (unless the spouse is already a Member) but otherwise the said amount shall be rolled over or transferred for the benefit of the said spouse to another Superannuation Entity in accordance with Clause 14.4A.2 subject at all times to the requirements of the Operational Standards and the Trustee's discretion.

4.8 Allocation of Contributions and Minimum Benefits

Subject to a Contribution being subject of a split in accordance with Rule 4.7, all Contributions by or in respect of a Member or an Eligible Person shall be allocated in respect of the Member or Eligible Person, as the case may be, within such time as may be prescribed by the Operational Standards and all the Member's and the Eligible Person's benefits, to the extent that such benefits are minimum benefits within the meaning of the Operational Standards shall not be subject to forfeiture as against the Member or Eligible Person and such benefits shall not be altered adversely to the Member or Eligible Person whether by way of amendment of the Deed or any action of the Trustee or the relevant Division I Participant or otherwise.

5. SPECIAL PROVISIONS IN RELATION TO MEMBERS AND GROUPS OF ELIGIBLE PERSONS

5.1 Nominated Accounts

5.1.1 Establishment of Nominated Accounts

In the event that the Benefit Specification of a Division I Participant prescribes that all or part of the Benefits payable are to be calculated as Accumulation Benefits, the Trustee must, having regard to the terms and conditions of the Benefit Specification, keep in respect of any Members admitted in respect of the Division I Participant in addition to the accounts described in Part 5 those Accounts nominated by the Division I Participant in the Benefit Specification or as otherwise determined as necessary by the Trustee.

5.1.2 Distribution of Contributions between Nominated Accounts

The Division I Participant must advise the Trustee of the proportions, if any, in which any Contributions made by or in respect of a Member admitted in respect of the Division I Participant are to be credited to the Member's Nominated Accounts.

5.1.3 Member's Nominated Accounts

The Trustee must record to a Member's Nominated Accounts such of the following credits as the Trustee determines is appropriate:

- (a) any of the Division I Participant's Contributions which the Division I Participant has directed to be so credited pursuant to Rule 5.1.2;
- (b) any of the Contributions made by the Member which the Division I Participant has directed to be so credited to the Account pursuant to Rule 5.1.2;
- (c) any of the Contributions made by the Member's Employer which the Division I Participant has directed to be so credited to the Account pursuant to Rule 5.1.2;
- (d) any Interest Entitlement or Interim Interest Entitlement determined pursuant to Rule 5.3;
- (e) any part of the Division I Participant's Reserve Account as determined by the Trustee and approved in writing by the Division I Participant pursuant to Rule 5.2;
- (f) any Insured Benefit that the Division I Participant has requested the Trustee to arrange;
- (g) any other amount that the Division I Participant directs in writing from time to time to be so credited;
- (ga) any payment split amount accepted by the Trustee by way of transfer from another Superannuation Entity or arising by way of debit against the Participant's Account or Member's Nominated Accounts of a Participant or Member under the Fund;
- (gb) the amount of a Contribution split in accordance with Rule 4.7 in favour of the Member; and must record the following debits against that account:
 - (h) any Vested Benefit Entitlement determined in respect of the Member;
 - (i) any amounts which the Trustee, having regard to the Benefit Specification, determines should be debited to the Member's Nominated Accounts including any levies paid under the *Superannuation (Financial Assistance Funding) Levy Act 1993* which are in the opinion of the Trustee attributable to the Member and any cost of the kind described in Clause 10.7 and incurred in respect of any Policy Committee established in respect of the Member;
 - (j) any amount transferred pursuant to Clause 14;
 - (k) any Surcharge assessed to the Trustee in respect of the Member;
 - (ka) a payment split amount in respect of the Member; and
 - (l) the amount of a Contribution split in accordance with Rule 4.7 against the Member.

5.2 Division 1 Reserve Account

5.2.1 Maintenance of Reserve Account

The Trustee may subject to the terms of the Division 1 Participant's Benefit Specification and subject to the Operational Standards establish a Reserve Account which Reserve Account shall be maintained in accordance with Rules 5.2.2 and 5.2.3.

5.2.2 Credit to Reserve Account

The Trustee may credit an amount to a Division 1 Participant's Reserve Account:

- (a) calculated as the excess (if any) of the Division 1 Participant's Income Entitlement over the amount credited to the relevant Members' Nominated Accounts;
- (b) being the amount of the balance, if any, remaining in the Members' Nominated Accounts maintained in respect of the Division 1 Participant (other than any amount subject to a Cashing Restriction) following the payment of any Vested Benefit Entitlement ("**the Foregone Benefit**");
- (c) any Forfeited Benefit credited to the Account pursuant to any of Rules 7.5, 7.6, 8.3 or 12.3;
- (d) calculated as the amount of the Contributions of the Division 1 Participant which have not been credited to any Members' Nominated Accounts in accordance with Rule 5.1.2.

5.2.3 Application out of Reserve Account

The amount standing to the credit of the Reserve Account of the Division 1 Participant from time to time shall be available to be applied by the Trustee for the benefit of the relevant Members or for such other purposes as may be appropriate having regard to the Division 1 Participant's Benefit Specification or any other written direction to the Trustee from the Participant and if the application of any amount out of the Reserve Account in accordance with this Rule 5.2.3 is a Surchargeable Contribution, the Trustee shall pay or set aside an amount on account of the Surcharge payable SUBJECT ALWAYS to the restriction that the balance in the Reserve Account may only be applied in a manner permitted by the Operational Standards and where the Operational Standards prescribe a time period within which any Foregone Benefit or Forfeited Benefit must be allocated or applied, the Foregone Benefit or Forfeited Benefit must be allocated or applied within the Prescribed Period.

5.3 Interest Entitlement

5.3.1 Calculation of Interest and Interim Interest Entitlements

The Trustee must:

- (a) on each Distribution Date determine the Interest Entitlement to be credited to the Member's Nominated Accounts maintained in respect of the Division I Participant ("**the Relevant Accounts**"); and
- (b) on:
 - (i) receipt of a Termination Request in respect of the Division I Participant;
 - (ii) receipt of a notification pursuant to Rule 7.2 or 8.2 that a Benefit is payable; and

- (iii) the giving of a Termination Notice to the Division I Participant, determine the Interim Interest Entitlement to be credited to the Relevant Accounts.

5.3.2 Factors to be regarded in calculation of Interest and Interim Interest Entitlement

In determining:

- (a) the amount of any Interest Entitlement, the Trustee must have regard to:
 - (i) the Income Entitlement most recently determined in respect of the Division I Participant;
 - (ii) the Investments made on the Division I Participant's behalf pursuant to the Participant's Option Nomination and to the extent that the Participant has advised the Trustee that certain Investments made on the Participant's behalf apply in respect of any one or more of the Relevant Accounts, those Investments;
 - (iii) where any Member admitted in respect of the Division I Participant has made an Option Nomination in lieu of the Division I Participant, the Investments made on the Member's behalf;
 - (iv) the Expenses debited against the Division I Participant's Participants Account since the immediately preceding Distribution Date to the extent that they have not been reimbursed by the Division I Participant; and
 - (v) such other factors as determined by the Trustee, having regard to the Benefit Specification, and which are not otherwise inconsistent with the Operational Standards.
- (b) the amount of any Interim Interest Entitlement, the Trustee and the Division I Participant must have regard to:
 - (i) the factors taken into account in determining the Interest Entitlement most recently determined;
 - (ii) in respect of those Investments held or made on behalf of the Division I Participant or in respect of those Investments that the Division I Participant has advised the Trustee that apply in respect of any one or more of the Relevant Accounts, the likely returns in respect of those Authorised Investments since the immediately preceding Distribution Date;
 - (iii) where any Member admitted in respect of the Division I Participant has made an Option Nomination in lieu of the Division I Participant, the Investments made on the Member's behalf;
 - (iv) the Expenses debited against the Division I Participant's Participants Account since the immediately preceding Distribution Date to the extent that they have not been reimbursed by the Division I Participant; and
 - (v) such other factors as agreed upon between the Trustee and the Division I Participant and not otherwise inconsistent with the Operational Standards.

provided always that in the event that the Division I Participant fails to respond to the Trustee's request that the Division I Participant participate in the calculation of any Interest Entitlement or Interim Interest Entitlement as required by the Operational Standards, the Trustee is entitled to forthwith determine such Interest Entitlement or Interim Interest Entitlement.

5.3.3 Crediting of Interest Entitlement

Following determination of the Interest Entitlement or the Interim Interest Entitlement, the Trustee must credit an amount to each of the Relevant Accounts kept in respect of the Division I Participant on account of the Interest and Interim Interest Entitlements determined having regard to:

- (i) the amount standing to the credit of each of the Relevant Accounts at the immediately preceding Distribution Date or the date of establishment of the Relevant Accounts, whichever is the later;
- (ii) the credits and debits made from time to time to each of the Relevant Accounts since the date referred to in sub-paragraph (i) hereof; and
- (iii) such further details as agreed upon between the Trustee and the Division I Participant.

5.4 Application of this Rule to groups of Eligible Persons

Where a Division I Participant is a group of Eligible Persons:

- (a) the references to "Division I Participant" in this Rule 5 shall accordingly be deemed to be a reference to the group of Eligible Persons;
- (b) a reference to "Member" shall accordingly be deemed to be a reference to an "Eligible Person" and a reference to "Members" shall accordingly be deemed to be a reference to "Eligible Persons";
- (c) a reference to "Member's Nominated Accounts" shall accordingly be deemed to be a reference to an "Eligible Person's Nominated Accounts".

5.5 Payment Split

5.5.1 Payment Split Notice

The Trustee shall issue a payment split notice ("**Notice**") in accordance with the requirements of the Operational Standards as soon as is practicable after the Trustee becomes aware that a person has become a Non-Member Spouse in relation to a Member or Participant as the case may be.

5.5.2 Application to Become Division I Participant

The Non-Member Spouse may lodge an Application in accordance with Rule 3.1 within 28 days of receipt of the Notice (or such longer period as the Trustee may permit) that the Trustee admit the Non-Member Spouse as an Ex-Spouse Participant and if the Non-Member Spouse makes such an application the Trustee may admit the Non-Member Spouse as an Ex-Spouse Participant in relation to the Plan.

5.5.3 Application to Transfer

A Non-Member Spouse in receipt of a Notice may make an application in writing within the specified time that the Trustee rollover or transfer the payment split amount to an Approved Deposit Fund, Regulated Superannuation Fund or a retirement savings account or an exempt public sector superannuation scheme within the meaning of the Operational Standards and if the Non-Member Spouse makes such an application the Trustee shall rollover or transfer the said payment split amount to the entity as requested by the Non-Member Spouse subject at all times to the requirements of the Operational Standards.

5.5.4 No Application

If the Non-Member Spouse does not lodge an application with the Trustee in accordance with Rule 5.5.2 or 5.5.3 or if the Trustee determines not to admit the Non-Member Spouse as a Participant, then the Trustee shall rollover or transfer the payment split amount to an Eligible Rollover Fund.

6. TYPES OF BENEFIT PAYABLE

6.1 Lump Sum or Pension

The Benefit Specification of each Division I Participant must detail whether the Benefit a Member or an Eligible Person is to receive is in a lump sum or pension form or combination thereof.

6.2 Purchase of Annuity

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

6.3 Commutation of Pension Benefit

6.3.1 Commutation Generally

A Member or Eligible Person entitled to or in receipt of a Pension Benefit may request, subject to any limits or conditions prescribed by the Operational Standards, the commutation of any amount of the capital value of the Pension to a lump sum payment, to an accumulation in a Member's Nominated Accounts to the extent authorised by the Operational Standards or to the acquisition of another Pension payable for the said Member or Eligible Person. Following the commutation of any Pension Benefit the Trustee shall adjust the amount of Pension payable as appropriate having regard to the Operational Standards and the Benefit Specification applicable to the Pension and if the commutation has been effected for the purpose of acquiring another Pension then Pension payments shall commence in respect of that Pension having regard to the Operational Standards and the Benefit Specification applicable to the new Pension.

6.3.2 Unused Undeducted Purchase Price

If a Pension Benefit is commuted in part, the Member or Eligible Person entitled to or in receipt of the Pension may request that the Trustee identify an amount of undeducted contributions or unused undeducted purchase price as being incorporated and included in the amount subject of the commutation and the Trustee may determine in its absolute discretion to characterise the amount so commuted in that way.

6.4 Payment of lump sum Benefit in pension form

A Member or Eligible Person entitled to a lump sum Benefit other than on the death of the Member or Eligible Person 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 or Eligible Person, as the case may be, must determine:

- (a) the terms and conditions applicable to the Pension which shall be reduced to writing in the Benefit Specification;
- (b) whether the Pension will be paid as a Pension from the Division or purchased by the Trustee in the form of an Annuity in the name of Trustee or the Member or Eligible Person.

6.5 Pension Benefits

6.5.1 Pension payable to Member in accordance with Benefit Specification

Where a Division I Participant has indicated in the Benefit Specification that a Benefit becoming payable in respect of a Member is to be paid in pension form then the Pension shall be payable in the manner prescribed by the Benefit Specification.

6.5.2 Pension payable to Member as a Participant

Where a Division I Participant has not indicated in the Benefit Specification that a Benefit becoming payable in respect of a Member is to be paid in pension form or that any Pension payable in respect of a Member is to be maintained out of the Member's Nominated Accounts then where the Member wishes to take a Benefit in pension form the Member will be deemed to have made a request for deferral of the Member's Benefit pursuant to Rule 7.3.1 and the provisions of Rule 7.3.2 shall apply.

6.5.3 Pension payable to Eligible Person in accordance with Benefit Specification

Where a Division I Participant who is an Eligible Person or group of Eligible Persons has indicated in the Benefit Specification that a Benefit becoming payable in respect of the Eligible Person or any one of the Eligible Persons is to be paid in pension form then the Pension shall be payable in the manner prescribed by the Benefit Specification.

6.5.4 Regular Pension Request

Where:

- (a) Rule 6.5.1 or Rule 6.5.3 applies and the Benefit Specification does not prescribe the same;
- or (b) Rule 6.5.2 applies, then the person to whom the Pension is to be paid must:
 - (c) nominate to the Trustee the dollar amount which the person wishes to draw on a regular basis ("**the Regular Pension Payment**");
 - (d) specify the intervals at which the Regular Pension Payment is to be paid ("**the Regular Pension Payment Interval**"),

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

6.5.5 Style of Pension

The style of Pension provided for under a Benefit Specification in accordance with this Clause shall be any style of pension authorised by the Operational Standards as may be agreed between the Trustee and the Member.

6.6 Non-Member Spouse

A Non-Member Spouse who becomes entitled to a payment split amount and who satisfies a condition of release within the meaning of the Operational Standards shall be entitled to be paid the said payment split amount in whole or in part on request to the Trustee notwithstanding that the Non-Member Spouse may not be admitted as an Ex-Spouse Participant.

7. BENEFITS FOR MEMBERS

7.1 When Benefit payable

A Benefit becomes payable in respect of a Member:

- (a) upon, subject to the Operational Standards, termination of the Member's Service with the Member's Employer at or after the Member's Normal Retirement Date other than by reason of the Member's death or Total and Permanent Disablement;
- (b) upon the Member's death;
- (c) upon the Member's Total and Permanent Disablement;
- (d) upon the Member's cessation of gainful employment due to ill-health;
- (e) upon, subject to the Operational Standards, termination of the Member's Service with the Member's Employer prior to the Member's Normal Retirement Date other than by reason of the Member's death or Total and Permanent Disablement;
- (f) where the Member has attained an age in such circumstances that the Operational Standards permit a Benefit to be paid or commenced to be paid in respect of the Member, whether by way of lump sum or any style of Pension or alternatively only by way of a limited commutation style Pension, subject to the Member requesting the same and the relevant Division I Participant and the Trustee consent to the same;
- (g) where the Member has attained an age in such circumstances that the Operational Standards require that a Benefit be paid or commence to be paid in respect of the Member.
- (h) subject at all times to the Benefit being subject to a payment flag within the meaning of the Operational Standards in which case the Benefit shall only become payable once the payment flag has been lifted.

7.2 Notification of Benefits payable

Upon receipt of a notification in writing, that a Benefit is payable in the case of a Member by the relevant Division I Participant the Trustee must determine the Benefit in accordance with the provisions of this Rule 7.

7.3 Deferral of Benefit payable

7.3.1 Request for deferral

Where a Benefit becomes payable in respect of a Member the Member may apply to the Trustee in writing to defer payment of the Benefit. The Trustee may agree to defer payment of the Benefit unless the Operational Standards require that the Benefit be paid.

7.3.2 Change of status

Where payment of a Benefit in respect of a Member is deferred under Rule 7.3.1 and the Division I Participant in respect of whom the Member has been admitted to the Division does not consent to the same:

- (a) the Division I Participant shall be deemed to have delivered a notification to the Trustee pursuant to Clause 14.4.2; and
- (b) the Trustee must make such arrangements as it considers necessary in respect of the continued membership of the Member in Division I as a Participant or otherwise.

7.3.3 Contributions

Where payment of a Benefit is deferred under Rule 7.3.1 the Trustee may:

- (a) accept Contributions for the Member where the Operational Standards permit the acceptance of the Contributions; or
- (b) notify the Member that no Contributions will be accepted by or on behalf of the Member.

7.3.4 Compulsory payment

The Trustee must pay or commence to pay the Benefit in full where the Operational Standards require that the Benefit be paid to the Member or the Member dies.

7.4 Amount of Benefit

7.4.1 Events other than death and ill-health

Upon the occurrence of an event described in Rule 7.1 other than Rules 7.1(b) or (d) the amount of the Benefit payable in respect of the Member and the circumstances in which it must be paid shall be determined by the Trustee with, where the Operational Standards permit the same, the consent of the Division I Participant having regard to the Benefit Specification made in respect of the Member.

7.4.2 Death

Upon the death of a Member the Trustee shall determine, with the consent of the Division I Participant, having regard to:

- (a) the terms of the Benefit Specification made in respect of the Member;
- (b) any Nomination made by the Member in accordance with Clause 3.5 of the Deed;

- (c) such other matters as the Trustee in its. absolute discretion determine as relevant; and
- (d) the Operational Standards generally,

whether the Benefit payable will be paid as a lump sum or a Pension or combination thereof EXCEPT THAT if a Member has made a Nomination which is binding in accordance with Clause 3.5 of the Deed and if the Trustee determines that the Nomination is valid having regard to the Operational Standards and any conditions prescribed by the Trustee then notwithstanding this Rule 7.4.2 and any other provision of this Deed the Trustee shall pay the Benefit in accordance with the Nomination.

Where the Trustee determines that the Benefit will be paid as a lump sum the Benefit will be an amount equal to the balance outstanding to the credit of the Member's Nominated Accounts or, when no Member's Nominated Accounts are maintained in respect of the Member, the amount determined by reference to the Benefit Specification made in respect of the Member.

Where the Trustee determines that the Benefit will be paid in whole or in part as a Pension (such whole or part being defined in this Deed as "**the Reversionary Pension**") the Trustee must determine whether to pay the Reversionary Pension to the Member's Nominated Reversionary Dependant or other Dependant (the person selected by the Trustee being defined in this Deed as "**the Reversionary Dependant**") and with the consent of the Reversionary Dependant determine the value of and the terms and conditions pertaining to payment of the Reversionary Pension.

7.4.3 **Ill-health**

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 shall be entitled to receive a Salary Continuance Benefit.

7.4.4 **Principles Applying to calculation of Benefit**

The following principles apply to the calculation of a Benefit:

- (a) The amount of the Benefit payable must not be less than the amount of the person's Vested Benefit Entitlement;
- (b) Where the Benefit or any part thereof is an Accumulation Benefit any Benefit payable shall not be greater in amount than the balance standing to the credit of the Member's Nominated Accounts.
- (c) Any Benefit payable in the event of the death or Total and Permanent Disablement of a Member shall include the amount of any Insured Benefit.
- (d) Where the Benefit or any part thereof is a Defined Benefit the amount of the Benefit must not cause a reduction of the Vested Benefit Entitlements of those other Employees of the Division I Participant who are Members as in the opinion of the Trustee and taking into account any certificate provided by the Actuary is inequitable.
- (e) Under no circumstances shall the Trustee be at liberty to call upon the Investments of the Division held in respect of any other Member to make good any shortfall in Benefits payable in respect of the person.

7.5 To whom Benefit payable

7.5.1 Trustee to pay Benefit

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.

7.5.2 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 7.1 other than Rule 7.1(b) pay the Benefit to the Member;
- (b) upon the Member's death and where the Trustee has determined that the death Benefit will be paid as a lump sum, by payment of the Benefit to the Nominated Person/s (if any) except that if there is no Nominated Person or the Nominated Person Notice is invalid or no longer effective then to one or more of the Member's Dependants and/or Legal Personal Representatives in such proportions as the Trustee may determine in its absolute discretion excepting that if there are no Dependants or Legal Personal Representatives

of the Member then to such persons or entities as the Trustee may determine subject to the requirements of the Operational Standards;

- (c) upon the Member's death and where the Trustee has determined that the death Benefit will be paid as a Reversionary Pension, pay the Reversionary Pension to the Member's Reversionary Dependant.

EXCEPT THAT where a Member dies and the Member is already entitled to a Pension which provides for no residual capital value the Trustee shall either pay a Reversionary Pension to the Member's Reversionary Dependant or the balance standing to the credit of the Member's Nominated Accounts shall be forfeited as against the Member and credited to the Reserve Account in accordance with Rule 5.2.2(c).

7.5.3 Death of Pensioner

Upon the death of a Pensioner the Trustee shall, subject to the Member's Division I Participant's Benefit Specification having regard to:

- (a) the balance standing to the credit of the deceased Pensioner;
- (b) the terms of the original Pensioner's Nominated Persons Notice;
- (c) whether or not the Pensioner is the original Pensioner or a Reversionary Pensioner;
- (d) the terms and conditions of the Pension as evidenced by the Benefit Specification;
- (e) the Occupational Standards generally, determine whether to:
- (f) continue to pay the Pension as a Reversionary Pension to a Dependant or Dependents of the deceased Pensioner as the Trustee may determine;

- (g) in the case of a Pension which provides for a residual capital value or commutation payment, pay an amount standing to the credit of the deceased Pensioner referable to the Pension as a lump sum to one or more of the Dependants or legal personal representatives of the deceased Pensioner as the Trustee may determine; or
- (h) in the case of a Pension which does not provide for any residual capital value of commutation payment, forfeit any amount standing to the credit of the deceased Pensioner and credit such amount to the Reserve Account in accordance with Rule 5.2.2(c).

7.6 Fixed Term Pension

If the Trustee pays a Pension known as a fixed term pension then if no residual capital value is able to be paid any amount remaining to the credit of the Member's Nominated Accounts at the expiration of the applicable fixed term shall be forfeited and applied to the Reserve Account in accordance with Rule 5.2.2(c).

7.7 Application of this Rule to groups of Eligible Persons

Where a Division I Participant is a group of Eligible Persons:

- (a) the references to "Division I Participant" in this Rule 7 shall accordingly be deemed to be a reference to the group of Eligible Persons;
- (b) a reference to "Member" shall accordingly be deemed to be a reference to an Eligible Persons;
- (c) a reference to a "Member's Nominated Accounts" shall accordingly be deemed to a reference to an "Eligible Person's Nominated Accounts".

8. BENEFITS FOR ELIGIBLE PERSONS

8.1 Eligible Persons

A Benefit becomes payable in respect of a Division I Participant who is an Eligible Person:

- (a) where, subject to the Operational Standards, the Eligible Person ceases to be an Eligible Person other than by reason of the Eligible Person's death or Total and Permanent Disablement;
- (b) upon the Eligible Person's death;
- (c) upon the Eligible Person's Total and Permanent Disablement;
- (d) upon the Eligible Person's cessation of gainful employment due to the Eligible Person's ill-health;
- (e) where the Eligible Person has attained an age in such circumstances that the Operational Standards permit a Benefit to be paid or commenced to be paid in respect of the Eligible Person whether by way of lump sum or any style of Pension or alternatively only by way of a limited commutation style Pension subject to the Eligible Person requesting the same and the Trustee has consented to the same;

- (f) when otherwise prescribed by the Operational Standards;
- (g) subject at all times to the Benefit being payable subject to a payment flag within the meaning of the Operational Standards in which case the Benefit shall only become payable once the payment flag has been lifted.

8.2 Notification of Benefits payable

Upon receipt of a notification in writing from the Participant that a Benefit is payable the Trustee must determine the Benefit in accordance with the provisions of this Rule 8.

8.3 Amount of Benefit

8.3.1 Events other than death and ill-health

Upon the occurrence of an event described in Rule 8.1 other than Rules 8.1(b) or (d) the amount of the Benefit payable in respect of the Eligible Person and the circumstances in which it shall be paid must be determined by the Trustee who with the agreement of the Eligible Person and having regard to the Eligible Person's Benefit Specification must determine the level and terms and conditions pertaining to the payment of such Benefit.

8.3.2 Death

Upon the death of an Eligible Person the Trustee must determine having regard to:

- (a) the terms of the Eligible Person's Benefit Specification;
- (b) any Nomination made by the Member in accordance with Clause 3.5 of the Deed;
- (c) such other matters as the Trustee in its absolute discretion determines as relevant; and
- (d) the Operational Standards generally determine

whether the Benefit payable will be paid as a lump sum or a Pension or combination thereof EXCEPT THAT if a Member has made a Nomination which is binding in accordance with Clause 3.5 of the Deed and if the Trustee determines that the Nomination is valid having regard to the Operational Standards and any conditions prescribed by the Trustee then, notwithstanding this Rule 8.3.2 and any other provision of this Deed, the Trustee shall pay the Benefit in accordance with the Nomination.

Where the Trustee determines that the Benefit will be paid as a lump sum the Benefit will be an amount equal to the balance standing to the credit of the Eligible Person's Participant's Account.

Where the Trustee determines that the Benefit will be paid in whole or in part as a Pension (such whole or part being defined in this Deed as "**the Reversionary Pension**") the Trustee shall determine whether to pay the Reversionary Pension to the Eligible Persons Nominated Reversionary Dependant or other Dependant (the person selected by the Trustee being defined in this Deed as "**the Reversionary Dependant**") and, with the consent of the Reversionary Dependant, determine the value of and the terms and conditions pertaining to payment of the Reversionary Pension.

8.3.3 Ill-health

Upon an Eligible Person suffering ill-health which causes the Eligible Person's cessation of gainful employment prior to the Eligible Person otherwise becoming entitled to a Benefit under these Rules, the Eligible Person shall be entitled to receive a Salary Continuance Benefit.

8.3.4 Principles applying to calculation of Benefit

The following principles apply to the calculation of a Benefit:

- (a) Any Benefit payable shall not be greater in amount than the balance standing to the credit of the Eligible Person's Participants Account from time to time.
- (b) Any Benefit payable in the event of the death or Total and Permanent Disablement of an Eligible Person shall include the amount of any Insured Benefit.
- (c) Under no circumstances shall the Trustee be at liberty to call upon the Investments of the Division held in respect of any other Eligible Person to make good any shortfall in Benefits payable in respect of the person.

8.4 To whom Benefit payable

8.4.1 Trustee to pay Benefit

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 Eligible Person's Benefit in the manner set out in this Deed.

8.4.2 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 8.1 other than Rule 8.1(b) pay the Benefit to the Eligible Person;
- (b) upon the Eligible Person's death and where the Trustee has determined that the death Benefit will be paid as a lump sum, by a payment of the Benefit to the Nominated Person/s (if any) except that if there is no Nominated Person or the Nominated Person Notice is invalid or no longer effective then to one or more of the Eligible Person's Dependants and/or Legal Personal Representatives in such proportions as the Trustee may determine in its absolute discretion excepting that if there are no Dependants or Legal Personal Representatives of the Eligible Person then to such persons or entities as the Trustee may determine subject to the requirements of the Operational Standards;
- (c) upon the Eligible Person's death and where the Trustee has determined that the death Benefit will be paid as a Reversionary Pension, pay the Reversionary Pension to the Eligible Person's Reversionary Dependant.

EXCEPT THAT where an Eligible Person dies and the Eligible Person is already entitled to a Pension which provides for no residual capital value the Trustee shall either pay a Reversionary Pension to the Eligible Person's Reversionary Dependant or the balance standing to the credit of the Eligible Person's Participant Account shall be forfeited as against the Member and credited to the Reserve Account in accordance with Rule 5.2.2(c).

8.4.3 Death of Pensioner

Upon the death of a Pensioner the Trustee shall subject to the Eligible Person's Benefit Specification having regard to:

- (a) the balance standing to the credit of the deceased Pensioner;
- (b) the terms of the Eligible Person's Nominated Person's Notice;
- (c) whether or not the Pensioner is the original pensioner or a Reversionary Pensioner;
- (d) the terms and conditions of the Pension as evidenced by the Benefit Specification; and
- (e) the Operational Standards generally, determine whether to:
- (f) continue to pay the pension as a Reversionary Pension to a Dependant or Dependents of the deceased Pensioner as the Trustee may determine;
- (g) in the case of a Pension which provides for a residual capital value or commutation payment, pay an amount standing to the credit of the deceased Pensioner referable to the Pension as a lump sum to one or more of the Dependents or legal personal representatives of the deceased Pensioner as the Trustee may determine; or
- (h) in the case of a Pension which does not provide for any residual capital value or commutation payment, forfeit any amount standing to the credit of the deceased Pensioner and credit such amount to the reserved account in accordance with Rule 5.2.2(c).

8.5 Fixed Term Pension

If the Trustee pays a Pension known as a fixed term pension then if no residual capital value is able to be paid any amount remaining to the credit of the Eligible Person's Participant Accounts at the expiration of the applicable fixed term shall be forfeited and applied to the Reserve Account in accordance with Rule 5.2.2(c).

9. DRAWDOWNS

9.1 Drawdown request

Where the Trustee has agreed to defer payment of a Benefit pursuant to these Rules or part of the balance standing to the credit of a Participant's Participants Account or Member's Nominated Accounts exists by reason of a rollover to the Division or otherwise, the relevant:

- (a) Participant;
- (b) Member; or
- (c) Eligible Person,

may, subject at all times to the Operational Standards and in particular to the Cashing Restrictions, and in such form as the Trustee may from time to time prescribes request the Trustee to draw all or part of that person's interest in the Division (such request being defined in this Deed as "**the Drawdown Request**" and the amount of the Drawdown Request as "**the Drawdown**").

9.2 Discretion to refuse

A Drawdown Request:

- (a) must be in an amount which is not less than the minimum Drawdown Amount nominated in the current Disclosure Document or such other amount as may be nominated by the Trustee from time to time; and
- (b) must not cause the balance standing to the credit of the Accounts maintained in respect of the person making the Drawdown Request to fall below the minimum Account balance nominated in the current Disclosure Document or such other amount as may be nominated by the Trustee from time to time.

9.3 Pay Drawdown

The Trustee shall, subject to the provisions of Clause 4.4.4:

- (a) unless the Trustee otherwise agrees, pay the Drawdown to the relevant person on a date not less than thirty (30) days from receipt of the Drawdown Request; and
- (b) debit the amount of the Drawdown Amount to the Accounts maintained in respect of the relevant person.

10. PAYMENT OF REGULAR PENSION PAYMENTS

10.1 Payment of Pension Benefit

The Trustee shall, subject to the provisions of Rule 10.3 pay any Regular Pension Payment within fourteen (14) days of the end of each Regular Pension Interval.

10.2 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 Division so as to ensure that the Investments of the Division will comprise sufficient Cash from time to time to meet the amount of the Eligible Person's Regular Pension Payment.

10.3 Sale of Investments to pay Regular Pension Payment

In the event that the Division'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 Option Nomination and the provisions of Clause 6 generally realise some or all of the Division's nonCash Investments and pay the Regular Pension Payment to the person from the proceeds.

10.4 Variation of Regular Pension Payment

Subject to the Benefit Specification applicable to a Pension a Member or Eligible Person with the Trustee's consent may vary from time to time the Member's or Eligible Person's Regular Pension Payment or Regular Pension Interval by giving notice in writing of at least twenty one (21) days to the Trustee in the form from time to time prescribed by the Trustee.

10.5 Rules applicable to all Pensions

Any Pension payable in accordance with this Plan shall be subject to the following rules:

- (a) the Pension may not be transferred or assigned to another person unless such transfer or assignment is authorised by the Operational Standards; and
- (b) the capital value of the Pension and the income from it cannot be used as security for a borrowing.

10.6 One or more Pensions

The Trustee may commence more than one Pension in respect of a Member whether at the same time or at different times and each such Pension shall be arranged and paid just as if it were the only Pension to be paid from the Fund in respect of the Member.

10.7 Actuarial Advice

- 10.7.1 In the event of the commencement of a defined benefit pension within the meaning of the Operational Standards, the Trustee shall have obtained advice from the Actuary as to the benefit design features of the Pensions that are available and the Regular Pension Payments that would be payable in the first year having regard to the amount standing to the credit of the Member's Nominated Accounts, the type of Pension and the benefit design features available in respect of each type of Pension.
- 10.7.2 Within twelve (12) months of the commencement of a defined benefit pension and within every twelve (12) month period thereafter during which the liability to pay the Pension remains on foot the Trustee shall obtain a certificate from the Actuary in accordance with the requirements of the Operational Standards.

11. ACTUARIAL INVESTIGATION

11.1 Requirement for actuarial investigation

In the event that the Benefit Specification of a Division I Participant prescribes that all or part of the Benefits payable are to be calculated as Defined Benefits, the provisions of this Rule 11 will apply.

11.2 Appointment of Actuary

The Trustee must instruct an Actuary to carry out an actuarial investigation of the financial condition of Division I as it relates to the Division I Participant at the times required by the Operational Standards and must instruct the Actuary to report on the matters prescribed in the Operational Standards including such of the following matters as the Trustee determines appropriate:

- (a) a statement of the Assets of the Division held on behalf of the Division I Participant;
- (b) a statement that whether or not in the Actuary's opinion the value of those Assets is adequate to meet the liabilities in respect of the relevant Vested Benefit Entitlements;
- (c) the Actuary's recommendation as to the amount of the Contributions to be made by the Division I Participant for the three (3) year period immediately following the period to which the report relates;

- (d) a statement that in the Actuary's view the recommended Contributions to be made by the Division I Participant together with the Assets of the Division held on behalf of the Division I Participant and any prescribed Member Contributions will provide adequately for expected liabilities of any Benefits provided in respect of the Division I Participant during the three (3) year period referred to in sub-Rule (c) hereof; and
- (e) such other matters as are required to meet the requirements imposed by the Operational Standards or as the Actuary may otherwise consider appropriate.

The Trustee shall provide a copy of the Actuary's report to the Division I Participant and upon their request to the relevant Members.

11.3 Action on unsatisfactory financial condition

If:

- (a) an Employer fails at any time to make the level of Contributions recommended in the last Actuary's report; or
- (b) the Actuary having conducted an actuarial investigation reports that the Actuary is unable to provide a funding and solvency certificate as required under the Operational Standards, or the Actuary withdraws a funding and solvency certificate previously issued,

the Trustee must take whatever steps are prescribed under the Operational Standards and may consult the Actuary to determine the appropriate course of action as prescribed in the Operational Standards.

11.4 Surpluses and deficiencies

Subject to the Operational Standards and its restrictions on payments to Employer, the Trustee may upon the advice of the Actuary and with the approval of the Division I Participant deal with any surplus or deficiency disclosed by the valuation by increasing or decreasing the rates of contributions or increasing or subject to the Operational Standards decreasing the Benefits provided for in the Benefit Specification or in any other manner including a reversion of all or a part of the surplus to one or more of the Division I Participant or its Associated Employers where:

- (a) the Actuary has certified in writing to the Trustee that the payment will not have the effect that that part of Division I which relates to the Division I Participant will become technically insolvent for the purposes of the Operational Standards; and
- (b) the procedures required for authorisation of a payment to the Division I Participant or Associated Employer under the Operational Standards are followed.

11.5 Compulsory scheme benefit

The Division I Participant may instruct the Trustee to adjust any Benefit payable or which may become payable to or in respect of a Member to take into account a Compulsory Scheme Benefit to be paid or payable to the Member and the Trustee may with the agreement of the Trustee adjust the Contributions payable thereafter by the Division I Participant in respect of the Member to comply with any statutory requirements in respect of the Compulsory Scheme Benefit or amounts payable to the Member generally provided that Benefits accrued to the

date of the introduction of the Compulsory Scheme in respect of the Member cannot be reduced without the written consent of the Member.

12. FORFEITURE OF BENEFIT

12.1 Disentitling Event

(a) Any:

- (i) Member who in the opinion of its Division I Participant based on reasonable grounds commits any fraud dishonesty defalcation or gross wilful or serious misconduct in relation to the Participant or its affairs; or
- (ii) Member or Division I Participant who is an Eligible Person (“**Eligible Person**”) who assigns or charges or attempts to assign or charge the Member’s or Person’s interest in Division I; or
- (iii) Member or Eligible Person who commits an act of bankruptcy or is adjudicated bankrupt or assigns-its estate for the benefit of its creditors; or
- (iv) Member or Eligible Person who is declared an insane or incapable person; or
- (v) Member or Eligible Person who does or attempts to do or suffers any act or if any event happens whereby if a Benefit or any part thereof were payable to the Member or Eligible Person absolutely the Member or Eligible Person as the case may be would be deprived of the right to receive it or any part of it or it would be disposed of or dealt with otherwise than in accordance with this Deed; or
- (vi) Member or Eligible Person who is suffering from any physical or mental disability which in the opinion of the Trustee renders the Member or Eligible Person unable to manage its own affairs;

shall subject to the provisions of Rules 12.2 and 12.3 in any such event (hereinafter called “**a Disentitling Event**”) cease to be presumptively entitled to receive any payment from Division I.

- (b) Without prejudice to any rights an Employer may have under Rule 12.3, nothing in this Rule 12.1 shall be construed to cause or authorise the forfeiture of a Benefit which has become payable to or in respect of a Member or Division I Participant at the time an event referred to in Rule 12.1(a)(i) occurs.
- (c) To the extent that the forfeiture of any amount under Rule 12.1(a) is void under any legislation regulating bankruptcy, Rule 12.1(a) is severed from these Rules and has no effect and the amount is deemed not to have been forfeited.
- (d) Notwithstanding this Rule 12, no Benefit of a Member which is a minimum benefit within the meaning of the Operational Standards shall be subject to forfeiture unless such forfeiture would not breach the Operational Standards.

12.2 Application of Forfeited Benefit

On the occurrence of a Disentitling Event, the Trustee may:

- (a) in the case of a Disentitling Event in respect of a Member, subject to Rule 12.3 apply the amount recorded as standing to the credit of the Member's Nominated Accounts, then remaining in its hands or under its control for the maintenance and support or otherwise for the benefit of the Member and/or such one or more of the Member's Dependants as the Trustee may in its discretion determine provided that whilst a Member remains in the Service of an Employer any such application by the Trustee shall be restricted to the maintenance and support of the Member and/or the Member's Dependants to the extent necessary to relieve the Member's or the Member's Dependants' genuine financial hardship or sickness accident or other misfortune causing hardship. The payment or application of moneys by the Trustee in pursuance of this sub-Rule shall be a complete discharge to the Trustee therefor.
- (b) in the case of a Disentitling Event in respect of an Eligible Person:
 - (i) who is a Division I Participant apply the amount standing to the credit of the Division I Participant's Participants Account then remaining in its hands or under its control for the maintenance and support or otherwise for the benefit of the Division I Participant and/or such one or more of the Participant's Dependants as the Trustee may in its discretion determine provided that whilst a Division I Participant remains gainfully employed any such application by the Trustee shall upon the agreement of the Commissioner be restricted to the maintenance and support of the Division I Participant and/or the Division I Participant's Dependants to the extent necessary to relieve the Division I Participant's or the Division I Participant's Dependants' genuine financial hardship or sickness accident or other misfortune causing hardship. The payment or application of moneys by the Trustee in pursuance of this sub-Rule shall be a complete discharge to the Trustee therefor.
 - (ii) who has with other Eligible Persons been admitted as a Division I Participant apply the amount standing to the credit of the Nominated Accounts then remaining in its hands or under its control for the maintenance and support or otherwise for the benefit of the Eligible Person and/or such one or more of the Eligible Person's Dependants as the Trustee may in its discretion determine provided that whilst a Eligible Person remains gainfully employed any such application by the Trustee shall upon the agreement of the Commissioner be restricted to the maintenance and support of the Eligible Person and/or the Eligible Person's Dependants to the extent necessary to relieve the Eligible Person's or the Eligible Person's Dependants' genuine financial hardship or sickness accident or other misfortune causing hardship. The payment or application of moneys by the Trustee in pursuance of this sub-Rule shall be a complete discharge to the Trustee therefor.

12.3 Reimbursement to Employer

On the occurrence of a Disentitling Event mentioned in paragraph (a) of Rule 12.1 the Trustee may reimburse to a Division I Participant by payment to the Participant or to the Participant's Reserve Account out of the amount recorded as standing to the credit of the Member's Nominated Accounts pursuant to this Deed an amount not exceeding all costs and losses (including the costs of all proceedings both civil and criminal) incurred by the Division I Participant as a result of or incidental to or arising out of the Member's fraud dishonesty defalcation or gross or wilful or serious misconduct in relation to the Division I Participant or its affairs provided that in determining the amount of the Member's Benefit pursuant to Rule

7 available for the purpose of reimbursing the Division I Participant no part of the Member's Vested Benefit Entitlement shall be taken into account (**"the Forfeited Benefit"**).

SECOND SCHEDULE

RULES OF DIVISION II – TIDSWELL PERSONAL SUPERANNUATION FUND

1. DEFINITIONS AND PURPOSE

1.1 Definitions

For the purposes of this Division II:

“**Regular Pension Payment**” has the meaning assigned to that expression in Rule 4.5.2(a).

“**Regular Pension Payment Interval**” has the meaning assigned to that expression in Rule 4.5.2(b).

“**Regular Pension Request**” has the meaning assigned to that expression in Rule 4.5.2.

“**Salary Continuance Benefit**” means the amount arranged by the Trustee to be paid to the Division II Participant in the event of the Division II Participant’s illhealth.

1.2 Purpose of Division II

Division II 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 Fund must be solely maintained.

1.3 Eligibility and Application for Participation

Participation in Division II will be restricted to Eligible Persons wishing to obtain retirement and/or other approved ancillary benefits from a Regulated Superannuation Fund.

2. THE ADMISSION OF DIVISION II PARTICIPANTS

2.1 Form of Application

Every Applicant who is an Eligible Person and wishes to be admitted to Division II for the purpose of obtaining retirement and other approved ancillary benefits for themselves must lodge an Application with the Trustee to become a Division II Participant. At the time of lodgement of an Application the Applicant:

- (a) must complete the Benefit Specification;
- (b) must, unless the Trustee pursuant to Clause 6.3.1 has not given the Applicant a choice of investment strategies to choose from then, complete an Option Nomination;
- (c) must lodge any statement or notification required to accompany a contribution which is an Eligible Termination Payment under the Operational Standards.

2.2 Pre-conditions to acceptance

The Trustee must not:

- (a) accept an application for admission as a Division II Participant unless the Applicant has:
 - (i) completed the Application;
 - (ii) completed a Benefit Specification;
 - (iii) in the case of an Applicant who wishes to receive its Benefit in pension form, completed the Regular Pension Request;
 - (iv) agreed in writing to be bound by and comply with the Deed and these Rules;
 - (v) where the Applicant is required to make an Option Nomination the Applicant has done so;
 - (vi) 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 Division II as the Operational Standards require in the circumstances to be given to a prospective Participant; or
- (b) approve the terms of a Regular Pension Request unless its terms and conditions meet the requirements of the Operational Standards.

2.3 Date of acceptance

An Applicant will become a Division II Participant from the date of acceptance by the Trustee of the Applicant's Application or as otherwise specified by the Trustee in the notice delivered to the Applicant pursuant to Clause 3.1.6(d).

3. CONTRIBUTIONS

3.1 Participant Contributions

Each Division II Participant must make Contributions to Division II in such manner as the Participant determines and the Trustee accepts from time to time.

3.2 Employer Contributions

The employer of any Division II Participant may, with the consent of the Division II Participant and the Trustee contribute to Division II on account of the Participant.

3.3 Contributor must be eligible to contribute

It is a condition of acceptance of any Contributions that at the time of payment that:

- (a) the contributor is eligible pursuant to the Operational Standards to make the Contribution; and
- (b) the Division is not prohibited by the Operational Standards from accepting the Contribution.

Should it be brought to the notice of the Trustee that any Contribution paid does not satisfy the conditions of acceptance the Trustee may return the Contributions so made to the

contributor or come to some other arrangement with the Division II Participant so as to comply with the Operational Standards.

4. TYPES OF BENEFIT PAYABLE

4.1 Lump Sum or Pension

The Benefit Specification of each Division II Participant must detail whether the Benefit the Division II Participant is to receive is in a lump sum or pension form or combination thereof.

4.2 Purchase of Annuity

A Benefit to be paid in pension form may be paid as a pension from the Division or purchased by the Trustee in the form of an Annuity in the name of the Trustee or the Division II Participant.

4.3 Commutation of Pension Benefit

A Division II Participant entitled to or in receipt of a Pension Benefit may request, subject to any limits or conditions prescribed by the Operational Standards, 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 and with the consent of the Division II Participant reduce the Regular Pension Payment paid or payable annually to the Division II Participant.

4.4 Payment of lump sum Benefit in pension form

A Division II Participant entitled to a lump sum Benefit other than on the death of the Division II Participant 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 Division II Participant, as the case may be, 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 Division or purchased by the Trustee in the form of an Annuity in the name of Trustee or the Division II Participant.

4.5 Pension Benefits

4.5.1 Pension payable in accordance with Benefit Specification

Where a Division II Participant has indicated in the Benefit Specification that a Benefit becoming payable in respect of the Division II Participant is to be paid in pension form then the Pension shall be payable in the manner prescribed by the Benefit Specification.

4.5.2 Regular Pension Request

Where Rule 4.5.1 applies and the Benefit Specification does not prescribe the same then the person to whom the Pension is to be paid must:

- (a) nominate to the Trustee the dollar amount which the person wishes to draw on a regular basis (“**the Regular Pension Payment**”);

- (b) specify the intervals at which the Regular Pension Payment is to be paid (“**the Regular Pension Payment Interval**”),

such nomination and specification being defined in these Rules as the “**Regular Pension Request**”.

4.5.3 Style of Pension

The style of Pension provided for under a Benefit Specification in accordance with this Clause shall be any style of pension authorised by the Operational Standards as may be agreed between the Trustee and the Member.

5. BENEFITS FOR DIVISION II PARTICIPANTS

5.1 Division II Participants

A Benefit becomes payable in respect of a Division II Participant:

- (a) upon, subject to the Operational Standards, the Division II Participant ceasing to be an Eligible Person other than by reason of the Division II Participant’s death or Total and Permanent Disablement;
- (b) upon the Division II Participant’s death;
- (c) upon the Division II Participant’s Total and Permanent Disablement;
- (d) upon the Division II Participant’s cessation of gainful employment due to ill-health;
- (e) where the Division II Participant has attained an age at which the Operational Standards permit a Benefit to be paid or commence to be paid in respect of the Division II Participant and the Division II Participant has requested the same and the Trustee has consented to the same; or
- (f) when otherwise prescribed by the Operational Standards.

5.2 Notification of Benefits payable

Upon receipt of a notification in writing from the Participant that a Benefit is payable the Trustee must determine the Benefit in accordance with the provisions of this Rule 5.

5.3 Deferral of Benefit payable

5.3.1 Request for deferral

Where a Benefit becomes payable in respect of a Division II Participant the Participant may apply to the Trustee in writing to defer payment of the Benefit. The Trustee may agree to defer payment of the Benefit unless the Operational Standards require that the Benefit be paid.

5.3.2 Contributions

Where payment of a Benefit is deferred under Rule 5.3.1 the Trustee may:

- (a) accept Contributions for the Division II Participant where the Operational Standards permit the acceptance of the Contributions.

5.3.3 Compulsory Payment

The Trustee must pay or commence to pay the Benefit in full where the Operational Standards require that the Benefit be paid to the Division II Participant if the Division II Participant dies.

5.4 Amount of Benefit

5.4.1 Events other than death and ill-health

Upon the occurrence of an event described in Rule 5.1 other than Rules 5.1(b) or (d) the amount of the Benefit payable in respect of the Division II Participant and the circumstances in which it shall be paid must be determined by the Trustee who with the agreement of the Division II Participant and having regard to the Division II Participant's Benefit Specification must determine the level and terms and conditions pertaining to the payment of such Benefit.

5.4.2 Death

Upon the death of a Division II Participant the Trustee must have regard to:

- (a) the terms of the Division II Participant's Benefit Specification;
- (b) any Nomination made by the Division II Participant in accordance with Clause 3.5 of the Deed;
- (c) such other matters as the Trustee in its absolute discretion determines as relevant; and
- (d) the Operational Standards generally,

determine whether the Benefit payable will be paid as a lump sum or a pension or combination thereof **EXCEPT THAT** if a Member has made a Nomination which is binding in accordance with Clause 3.5 of the Deed and the Trustee determines that the Nomination is valid having regard to the Operational Standards and any conditions prescribed by the Trustee then notwithstanding this Rule 5.4.2 and any other provision of this Deed the Trustee shall pay the Benefit in accordance with the Nomination.

Where the Trustee determines that the Benefit will be paid as a lump sum the Benefit will be an amount equal to the balance outstanding to the credit of the Division II Participant's Nominated Accounts or, when no Division II Participant's Nominated Accounts are maintained in respect of the Division II Participant, the amount determined by reference to the Benefit Specification made in respect of the Division II Participant.

Where the Trustee determines that the Benefit will be paid in whole or in part as a Pension (such whole or part being defined in this Deed as "**the Reversionary Pension**") the Trustee must determine whether to pay the Reversionary Pension to the Division II Participant's Nominated Reversionary Dependant or other Dependant (the person selected by the Trustee being defined in this Deed as "**the Reversionary Dependant**") and with the consent of the Reversionary Dependant determine the value of and the terms and conditions pertaining to payment of the Reversionary Pension.

5.4.3 Ill-health

Upon a Division II Participant suffering ill-health which causes the Division II Participant's cessation of gainful employment prior to the Division II Participant otherwise becoming entitled to a Benefit under these Rules, the Division II Participant shall be entitled to receive a Salary Continuance Benefit.

5.4.4 Principles applying to calculation of Benefit

The following principles apply to the calculation of a Benefit:

- (a) Any Benefit payable shall not be greater in amount than the balance standing to the credit of the Division II Participant's Participants Account from time to time.
- (b) Any Benefit payable in the event of the death of a Division II Participant shall include the amount of any Insured Benefit.
- (c) Under no circumstances shall the Trustee be at liberty to call upon the Investments of the Division held in respect of any other Division II Participant to make good any shortfall in Benefits payable in respect of the person.

5.5 To whom Benefit payable

5.5.1 Trustee to pay Benefit

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 Division II Participant's Benefit in the manner set out in this Deed.

5.5.2 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 5.1 other than Rules 5.1(b) pay the Benefit to the Division II Participant;
- (b) upon the Division II Participant's death and where the Trustee has determined that the death Benefit will be paid as a lump sum, by a payment of the Benefit to the Nominated Person/s (if any) except that if there is no Nominated Person or the Nominated Person Notice is invalid or no longer effective then to one or more of the Division II Participant's Dependents and/or Legal Personal Representatives in such proportions as the Trustee may determine in its absolute discretion excepting that if there are no Dependents or Legal Personal Representatives of the Division II Participant then to such persons or entities as the Trustee may determine subject to the requirements of the Operational Standards;
- (c) upon the Division II Participant's death and where the Trustee has determined that the death Benefit will be paid as a Reversionary Pension, pay the Reversionary Pension to the Division II Participant's Reversionary Dependant.

5.5.3 Death of Reversionary Dependant to whom a Reversionary Pension is payable

Upon the death of the Reversionary Dependant in respect of whom a Reversionary Pension is being paid, the Trustee shall having regard to:

- (a) the balance standing to the credit of the deceased Division II Participant's Participant Account and circumstances of the other surviving Dependants of the deceased Division II Participant (if any);
- (b) the terms of the Division II Participant's Nominated Person Notice;
- (c) such matters as the Trustee determines as relevant; and
- (d) the Operational Standards generally, determine whether to:
- (e) continue to pay the Reversionary Pension to another surviving Dependant of the deceased Division II Participant as the Trustee in its absolute discretion decides; or
- (f) pay the balance of the Reversionary Pension as a lump sum to the other surviving Dependants of the deceased Division II Participant or to any one or more of them to the exclusion of the other or others of them as the Trustee in its absolute discretion determines

provided that any such Dependant must have been a Dependant of the deceased Division II Participant at the date of the Dependant's death.

In the event that the Trustee is unable to determine any Dependants of the deceased Division II Participant to whom the balance standing to the credit of the deceased Division II Participant's Participant Account or any portion thereof should be paid, such balance or portion thereof shall be paid to the Division II Participant's Legal Personal Representative.

6. DRAWDOWNS

6.1 Drawdown Request

Where the Trustee has agreed to defer payment of a Benefit pursuant to these Rules but payment of the Benefit has not been made, the Division II Participant may, subject at all times to the Operational Standards and in particular to the Cashing Restrictions, at any time request the Trustee in such form as the Trustee may from time to time prescribe a drawdown of part of that person's interest in the Division (such request being defined in this Deed as "**the Drawdown Request**") and the amount of the Drawdown Request as "**the Drawdown**").

6.2 Discretion to refuse

A Drawdown Request:

- (a) must be in an amount which is not less than the minimum Drawdown Amount nominated in the current Disclosure Document or such other amount as may be nominated by the Trustee from time to time; and
- (b) must not cause the balance standing to the credit of the Accounts maintained in respect of the person making the Drawdown Request to fall below the minimum Account balance nominated in the current Disclosure Document or such other amount as may be nominated by the Trustee from time to time.

6.3 Pay Drawdown

The Trustee shall, subject to the provisions of Clause 4.4.4:

- (a) unless the Trustee otherwise agrees, pay the Drawdown to the relevant person on a date not less than thirty (30) days from receipt of the Drawdown Request; and
- (b) debit the amount of the Drawdown to the Accounts maintained in respect of the relevant person.

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 fourteen (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 Division so as to ensure that the Investments of the Division will comprise sufficient Cash from time to time to meet the amount of the Division II Participant's Regular Pension Payment.

7.3 Sale of Investments to pay Regular Pension Payment

In the event that the Division'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 Option Nomination and the provisions of Clause 6 generally realise some or all of the Division's non-Cash Investments and pay the Regular Pension Payment to the person from the proceeds.

7.4 Variation of Regular Pension Payment

A Division II Participant may, subject to the Operational Standards and in particular to the Cashing Restrictions and to the Trustee's consent to the same, vary from time to time the Division II Participant's Regular Pension Payment or Regular Pension Interval by giving notice in writing of at least twenty-one (21) days to the Trustee in the form from time to time prescribed by the Trustee.

8. FORFEITURE OF BENEFIT

8.1 Disentitling Event

- (a) Any Division II Participant who:
 - (i) assigns or charges or attempts to assign or charge the person's interest in Division II; or
 - (ii) commits an act of bankruptcy or is adjudicated bankrupt or assigns its estate for the benefit of its creditors; or
 - (iii) is declared an insane or incapable person; or
 - (iv) does or attempts to do or suffers any act or if any event happens whereby if a Benefit or any part thereof were payable to the Division II Participant absolutely the Division II Participant as the case may be would be deprived of the right to

receive it or any part of it or it would be disposed of or dealt with otherwise than in accordance with these Rules; or

- (v) is suffering from any physical or mental disability which in the opinion of the Trustee renders the Division II Participant unable to manage its own affairs;

shall subject to the provisions of Rule 8.2 in any such event (hereinafter called “**a Disentitling Event**”) cease to be presumptively entitled to receive any payment from Division II.

- (b) To the extent that the forfeiture of any amount under Rule 8.1 is void under any legislation regulating bankruptcy, Rule 8.1 is severed from these Rules and has no effect and the amount is deemed not to have been forfeited.

8.2 Application of Forfeited Benefit

On the occurrence of a Disentitling Event, the Trustee may in the case of a Disentitling Event apply the amount standing to the credit of the Division II Participant’s Participants Account then remaining in its hands or under its control for the maintenance and support or otherwise for the benefit of the Division II Participant and/or such one or more of the Participant’s Dependants as the Trustee may in its discretion determine provided that whilst a Division II Participant remains gainfully employed any such application by the Trustee shall upon the agreement of the Commissioner be restricted to the maintenance and support of the Division II Participant and/or the Division II Participant’s Dependants to the extent necessary to relieve the Division II Participant’s or the Division II Participant’s Dependants’ genuine financial hardship or sickness accident or other misfortune causing hardship. The payment or application of moneys by the Trustee in pursuance of this sub-Rule shall be a complete discharge to the Trustee therefor.

THIRD SCHEDULE

RULES OF DIVISION III – TIDSWELL PERSONAL PENSION PLAN

1. DEFINITIONS AND PURPOSE

1.1 Definitions

“**Regular Pension Payment**” has the meaning assigned to that expression in Rule 4.2(a).

“**Regular Pension Payment Interval**” has the meaning assigned to that expression in Rule 4.2(b).

“**Regular Pension Request**” has the meaning assigned to that expression in Rule 4.2.

“**Salary Continuance Benefit**” means the amount arranged by the Trustee to be paid to the Division III Participant in the event of the Division III Participant’s ill-health.

1.2 Purpose of Division III

Division III 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 Fund must be solely maintained.

1.3 Eligibility and Application for Participation

Participation in Division III will be restricted to Eligible Persons wishing to obtain retirement and/or other approved ancillary benefits from a Regulated Superannuation Fund in the form of a Pension.

2. RULES RELATING TO THE ADMISSION OF DIVISION III PARTICIPANTS

2.1 Form of Application

Every Applicant who is an Eligible Person and wishes to be admitted to Division III for the purpose of obtaining retirement and other approved ancillary benefits for themselves in the form of a Pension must lodge an Application with the Trustee to become a Division III Participant. At the time of lodgement of an Application the Applicant:

- (a) must complete the Benefit Specification;
- (b) must, unless the Trustee pursuant to Clause 6.3.1 has not given the Applicant a choice of investment strategies to choose from, complete an Option Nomination;
- (c) must lodge any statement or notification required to accompany a Contribution which is an Eligible Termination Payment under the Operational Standards.

2.2 Pre-conditions to acceptance

The Trustee must not:

- (a) accept an application for admission as a Division III Participant unless the Applicant has:

- (i) completed the Application;
 - (ii) completed a Benefit Specification;
 - (iii) completed the Regular Pension Request;
 - (iv) agreed in writing to be bound by and comply with the Deed and these Rules;
 - (v) where the Applicant is required to make an Option Nomination the Applicant has done so;
 - (vi) 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 Division III as the Operational Standards require in the circumstances to be given to a prospective Participant; or
- (b) approve the terms of a Regular Pension Request unless its terms and conditions meet the requirements of the Operational Standards.

2.3 Date of acceptance

An Applicant will become a Division III Participant from the date of acceptance by the Trustee of the Applicant's Application or as otherwise specified by the Trustee in the notice delivered to the Applicant pursuant to Clause 3.1.6(d).

3. CONTRIBUTIONS

3.1 Participant Contributions

Each Division III Participant must make Contributions to Division III in such manner as the Participant determines and the Trustee accepts from time to time.

3.2 Employer Contributions

In addition to the Contributions payable by or in respect of a Division III Participant pursuant to Rule 3.1, the employer of any Division III Participant may, with the consent of the Division III Participant and the Trustee contribute to Division III on account of the Participant.

3.3 Contributor must be eligible to contribute

It is a condition of acceptance of any Contributions that at the time of payment that:

- (a) the contributor is eligible pursuant to the Operational Standards to make the Contribution; and
- (b) the Division is not prohibited by the Operational Standards from accepting the Contribution.

Should it be brought to the notice of the Trustee that any Contribution paid does not satisfy the conditions of acceptance the Trustee may return the Contributions so made to the contributor or come to some other arrangement with the Division III Participant so as to comply with the Operational Standards.

4. PENSION BENEFIT PAYABLE

4.1 Pension payable to Division III Participant in accordance with Benefit Specification

Where a Division III Participant has indicated in the Benefit Specification that a Benefit becoming payable is to be paid in pension form, then the Pension shall be payable in the manner prescribed by the Benefit Specification.

4.2 Regular Pension Request

Where a Division III Participant's Benefit Specification does not prescribe the same then the person to whom the Pension is to be paid must:

- (a) nominate to the Trustee the dollar amount which the person wishes to draw on a regular basis ("**the Regular Pension Payment**");
- (b) specify the intervals at which the Regular Pension Payment is to be paid ("**the Regular Pension Payment Interval**"),

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

4.2A Style of Pension

The style of Pension provided for under a Benefit Specification in accordance with this Clause shall be any style of pension authorised by the Operational Standards as may be agreed between the Trustee and the Member.

4.3 Purchase of Annuity

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

4.4 Commutation of Pension Benefit

A Division III Participant entitled to or in receipt of a Pension Benefit may request, subject to any limits or conditions prescribed by the Operational Standards, 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 and with the consent of the Division III Participant reduce the Regular Pension Payment paid or payable annually to the Division III Participant.

5. BENEFITS FOR DIVISION III PARTICIPANTS

5.1 Benefit Payable

A Benefit becomes payable in respect of a Division III Participant:

- (a) upon, subject to the Operational Standards, the Division III Participant ceasing to be an Eligible Person other than by reason of the Division III Participant's death or Total and Permanent Disablement;

- (b) upon the Division III Participant's death;
- (c) upon the Division III Participant's Total and Permanent Disablement;
- (d) upon the Division III Participant's cessation of gainful employment due to ill-health;
- (e) where the Division III Participant has attained an age at which the Operational Standards permit a Benefit to be paid or commence to be paid in respect of the Division III Participant and the Division III Participant has requested the same and the Trustee has consented to the same; or
- (f) when otherwise prescribed by the Operational Standards.

5.2 Notification of Benefits payable

Upon receipt of a notification in writing from the Participant that a Benefit is payable the Trustee must determine the Benefit in accordance with the provisions of this Rule 5.

5.3 Deferral of Benefit payable

5.3.1 Request for Deferral

Where a Benefit becomes payable in respect of a Division III Participant the Participant may apply to the Trustee in writing to defer payment of the Benefit. The Trustee may agree to defer payment of the Benefit unless the Operational Standards require that the Benefit be paid.

5.3.2 Contributions

Where payment of a Benefit is deferred under Rule 5.3.1 the Trustee may accept Contributions for the Division III Participant where the Operational Standards permit the acceptance of the Contributions.

5.3.3 Compulsory Payment

The Trustee must pay or commence to pay the Benefit in full where the Operational Standards require that the Benefit be paid to the Division III Participant or the Division III Participant dies.

5.4 Amount of Benefit

5.4.1 Events other than death and ill-health

Upon the occurrence of an event described in Rule 5.1 other than Rules 5.1(b) or (d) the amount of the Benefit payable in respect of the Division III Participant and the circumstances in which it shall be paid must be determined by the Trustee who with the agreement of the Division III Participant and having regard to the Division III Participant's Benefit Specification must determine the level and terms and conditions pertaining to the payment of such Benefit.

5.4.2 Death

Upon the death of a Division III Participant the Trustee must have regard to:

- (a) the terms of the Division III Participant's Benefit Specification;
- (b) any Nomination made by the Division III Participant in accordance with Clause 3.5 of the Deed;
- (c) such other matters as the Trustee in its absolute discretion determines as relevant; and
- (d) the Operational Standards generally,

determine whether the Benefit payable will be paid as a lump sum or a pension or combination thereof **EXCEPT THAT** if a Member has made a Nomination which is binding in accordance with Clause 3.5 of the Deed and the Trustee determines that the Nomination is valid having regard to the Operational Standards and any conditions prescribed by the Trustee then notwithstanding this Rule 5.4.2 and any other provision of this Deed the Trustee shall pay the Benefit in accordance with the Nomination.

Where the Trustee determines that the Benefit will be paid as a lump sum the Benefit will be an amount equal to the balance outstanding to the credit of the Division III Participant's Nominated Accounts or, when no Division III Participant's Nominated Accounts are maintained in respect of the Member, the amount determined by reference to the Benefit Specification made in respect of the Division III Participant.

Where the Trustee determines that the Benefit will be paid in whole or in part as a Pension (such whole or part being defined in this Deed as "**the Reversionary Pension**") the Trustee must determine whether to pay the Reversionary Pension to the Member's Nominated Reversionary Dependant or other Dependant (the person selected by the Trustee being defined in this Deed as "**the Reversionary Dependant**") and with the consent of the Reversionary Dependant determine the value of and the terms and conditions pertaining to payment of the Reversionary Pension.

5.4.3 Ill-health

Upon a Division III Participant suffering ill-health which causes the Division III Participant's cessation of gainful employment prior to the Division III Participant otherwise becoming entitled to a Benefit under these Rules, the Division III Participant shall be entitled to receive a Salary Continuance Benefit.

5.4.4 Principles applying to calculation of Benefit

The following principles apply to the calculation of a Benefit:

- (a) Any Benefit payable shall not be greater in amount than the balance standing to the credit of the Division III Participant's Participants Account from time to time.
- (b) Any Benefit payable in the event of the death of a Division III Participant shall include the amount of any Insured Benefit.
- (c) Under no circumstances shall the Trustee be at liberty to call upon the Investments of the Division held in respect of any other Division III Participant to make good any shortfall in Benefits payable in respect of the person.

5.5 To whom Benefit payable

5.5.1 Trustee to pay Benefit

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 Division III Participant's Benefit in the manner set out in this Deed.

5.5.2 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 5.1 other than Rule 5.1(b) pay the Benefit to the Division III Participant;
- (b) upon the Division III Participant's death and where the Trustee has determined that the death Benefit will be paid as a lump sum, by a payment of the Benefit to the Nominated Person/s (if any) except that if there is no Nominated Person or the Nominated Person Notice is invalid or no longer effective then to one or more of the Division III Participant's Dependants and/or Legal Personal Representatives in such proportions as the Trustee may determine in its absolute discretion excepting that if there are no Dependants or Legal Personal Representatives of the Division III Participant then to such persons or entities as the Trustee may determine subject to the requirements of the Operational Standards;
- (c) upon the Division III Participant's death and where the Trustee has determined that the death Benefit will be paid as a Reversionary Pension, pay the Reversionary Pension to the Division III Participant's Reversionary Dependant.

5.5.3 Death of Reversionary Dependant to whom a Reversionary Pension is payable

Upon the death of the Reversionary Dependant in respect of whom a Reversionary Pension is being paid, the Trustee shall have regard to:

- (a) the balance standing to the credit of the deceased Division III Participant's Participants Account and circumstances of the other surviving Dependants of the deceased Division III Participant (if any);
- (b) the terms of the Division III Participant's Nominated Person Notice;
- (c) such matters as the Trustee determines as relevant; and
- (d) the Operational Standards generally, determine whether to:
- (e) continue to pay the Reversionary Pension to another surviving Dependant of the deceased Division III Participant as the Trustee in its absolute discretion decides; or
- (f) pay the balance of the Reversionary Pension as a lump sum to the other surviving Dependants of the deceased Division III Participant or to any one or more of them to the exclusion of the other or others of them as the Trustee in its absolute discretion determines

provided that any such Dependant must have been a Dependant of the deceased Division III Participant at the date of the Dependant's death.

In the event that the Trustee is unable to determine any Dependents of the deceased Division III Participant to whom the balance standing to the credit of the deceased Division III Participant's Participants Account or any portion thereof should be paid, such balance or portion thereof shall be paid to the Division III Participant's Legal Personal Representative.

6. PAYMENT OF REGULAR PENSION PAYMENTS

6.1 Payment of Pension Benefit

The Trustee shall, subject to the provisions of Rule 6.3 pay any Regular Pension Payment within fourteen (14) days of the end of each Regular Pension Interval.

6.2 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 Division so as to ensure that the Investments of the Division will comprise sufficient Cash from time to time to meet the amount of the Division III Participant's Regular Pension Payment.

6.3 Sale of Investments to pay Regular Pension Payment

In the event that the Division'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 Option Nomination and the provisions of Clause 6 generally realise some or all of the Division's non-Cash Investments and pay the Regular Pension Payment to the person from the proceeds.

6.4 Variation of Regular Pension Payment

A Division III Participant may, subject to the Operational Standards and in particular to the Cashing Restrictions and to the Trustee's consent to the same, vary from time to time the Division III Participant's Regular Pension Payment or Regular Pension Interval by giving notice in writing of at least twenty-one (21) days to the Trustee in the form from time to time prescribed by the Trustee.

7. FORFEITURE OF BENEFIT

7.1 Disentitling Event

(a) Any Division III Participant who:

- (i) assigns or charges or attempts to assign or charge the person's interest in Division III; or
- (ii) commits an act of bankruptcy or is adjudicated bankrupt or assigns its estate for the benefit of its creditors; or
- (iii) is declared an insane or incapable person; or

- (iv) does or attempts to do or suffers any act or if any event happens whereby if a Benefit or any part thereof were payable to the Division III Participant absolutely the Division III Participant as the case may be would be deprived of the right to receive it or any part of it or it would be disposed of or dealt with otherwise than in accordance with these Rules; or
- (v) is suffering from any physical or mental disability which in the opinion of the Trustee renders the Division III Participant unable to manage its own affairs;

shall subject to the provisions of Rule 7.2 in any such event (hereinafter called “**a Disentitling Event**”) cease to be presumptively entitled to receive any payment from Division III.

- (b) To the extent that the forfeiture of any amount under Rule 7.1 is void under any legislation regulating bankruptcy, Rule 7.1 is severed from these Rules and has no effect and the amount is deemed not to have been forfeited.

7.2 Application of Forfeited Benefit

On the occurrence of a Disentitling Event, the Trustee may in the case of a Disentitling Event apply the amount standing to the credit of the Division III Participant’s Participants Account then remaining in its hands or under its control for the maintenance and support or otherwise for the benefit of the Division III Participant and/or such one or more of the Participant’s Dependents as the Trustee may in its discretion determine provided that whilst a Division III Participant remains gainfully employed any such application by the Trustee shall upon the agreement of the Commissioner be restricted to the maintenance and support of the Division III Participant and/or the Division III Participant’s Dependents to the extent necessary to relieve the Division III Participant’s or the Division III Participant’s Dependents’ genuine financial hardship or sickness accident or other misfortune causing hardship. The payment or application of moneys by the Trustee in pursuance of this sub-Rule shall be a complete discharge to the Trustee therefor.

FOURTH SCHEDULE

RULES OF DIVISION IV – TIDSWELL RETIREMENT FUND

1. DEFINITIONS AND PURPOSE

1.1 Definitions

For the purposes of this Division IV:

“Accumulation Benefit” means that the Benefit Specification details or that the Division IV Participant has otherwise specified to the Trustee that any Benefit payable in respect of its participation is to be a value in or the total amount of the balance standing to the credit of:

- (a) in the case of a Member, the Member’s Nominated Accounts; and
- (b) in the case of a Division IV Participant who is an Eligible Person the Participants Account or, as the case requires, the Nominated Accounts maintained in respect of the Eligible Person.

“Compulsory Scheme” means any scheme introduced by the government of the Commonwealth of Australia or of an Australian State or Territory or under any industrial award or agreement or other arrangement whereby a superannuation benefit or allowance (whether as a pension or lump sum or howsoever) becomes payable to or in respect of a person who is a Member in a circumstance or on an event which in the opinion of the Trustee bears a similarity to the circumstance or event upon which a Benefit is provided to be payable pursuant to any Division and to which scheme an Employer becomes obligated to contribute directly or indirectly.

“Compulsory Scheme Benefit” means an amount payable to or in respect of a Member pursuant to a Compulsory Scheme.

“Defined Benefit” means that the Benefit Specification details or that the Division IV Participant has otherwise specified to the Trustee that any Benefit payable in respect of its participation is to be defined in terms of, or in terms that include, either or both of the following amounts:

- (a) the amount of the annual salary payable to the person in respect of whom the Benefit is payable:
 - (i) at the date of the person’s retirement from the workforce;
 - (ii) at a date prior to such retirement; averaged over a period of employment prior to such retirement;
- (b) a specified amount.

“Forfeited Benefit” has the meaning given to that expression by Rule 12.3.

“Forgone Benefit” has the meaning given to that expression by Rule 5.2.2(b).

“Normal Retirement Date” means the date on which a Member attains age 65 or such other date as the Division IV Participant and the Member agree.

“Regular Pension Payment” has the meaning assigned to that expression in Rule 6.5.4(c).

“Regular Pension Payment Interval” has the meaning assigned to that expression in Rule 6.5.4(d).

“Regular Pension Request” has the meaning assigned to that expression in Rule 6.5.4.

“Reserve Account” means any reserve account kept in accordance with Rule 5.2.

“Salary Continuance Benefit” means the amount arranged by the Trustee to be paid to a Participant or Member in the event of the Participant’s or Member’s ill-health.

“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, having regard to the relevant Benefit Specification and being as a minimum that amount vested in the person pursuant to the Operational Standards.

1.2 Purpose of Division IV

Division IV 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 Fund must be solely maintained.

1.3 Eligibility and Application for Participation

Participation in Division IV will be restricted to:

- (a) Employers wishing to provide retirement and/or other approved ancillary benefits for their Employees from a Regulated Superannuation Fund; and
- (b) Eligible Persons wishing to obtain retirement and/or other approved ancillary benefits from a Regulated Superannuation Fund.

2. RULES RELATING TO THE ADMISSION OF PARTICIPANTS WHO ARE EMPLOYERS WISHING TO PROVIDE BENEFITS FOR THEIR EMPLOYEES

2.1 Form of Application

Every Applicant who is an Employer and wishes to be admitted to Division IV for the purpose of providing retirement and other approved ancillary benefits for its Employees must lodge an Application with the Trustee to become a Division IV Participant. At the time of lodgement of an Application an Applicant:

- (a) must complete the Benefit Specification;
- (b) unless:
 - (i) the Applicant has specified pursuant to Clause 6.15 that its Employees admitted as Members of the Division are able to make Option Nominations; or

- (ii) the Trustee pursuant to Clause 6.3.1 has not given the Applicant a choice of investment strategies to choose from

then the Applicant must complete an Option Nomination and where required an Investment Authority.

2.2 Preconditions to acceptance

The Trustee must not accept an Application for admission by an Employer as a Division IV Participant unless the Applicant has:

- (a) completed the Application;
- (b) completed a Benefit Specification;
- (c) agreed in writing to be bound by and comply with the Deed and these Rules;
- (d) where the Applicant is required to make an Option Nomination the Applicant has done so; and
- (e) 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 Division IV as the Operational Standards require in the circumstances to be given to the Applicant.

2.3 Date of acceptance

An Applicant will become a Division IV Participant upon the date of acceptance by the Trustee of the Applicant's Application or as otherwise specified by the Trustee in the notice delivered to the Applicant pursuant to Clause 3.1.6(d).

2.4 Eligibility and Application for Membership

2.4.1 Eligibility

Membership of Division IV will be restricted to the Employees of a Division IV Participant or of any Associated Employer.

2.4.2 Nomination by Employer

Where a person is eligible for admission to membership in the terms prescribed by the Division IV Participant and agreed to by the Trustee or any person who is an Employee of an Associated Employer, the Division IV Participant is entitled to nominate the person for membership of Division IV.

2.4.3 Form of Application

Upon nomination by a Division IV Participant or at such other time as the Division IV Participant and Employee agree, the Employee may make application to the Trustee to become a Member of Division IV in such form as the Trustee may from time to time prescribe ("**the Employee's Application**").

2.4.4 Preconditions to acceptance

The Trustee must not accept an Employee's Application unless:

- (a) the Employee has been nominated for membership by its Division IV Participant;
- (b) the Employee is eligible pursuant to the Operational Standards to be a member of a Regulated Superannuation Fund;
- (c) the Employee has completed the Employee's Application to the satisfaction of the Trustee and agreed in writing to be bound by and comply with these Rules;
- (d) the relevant Division IV Participant has advised the Trustee in writing, having regard to the Division IV Participant's Benefit Specification, the conditions to apply in determining the Employee's Benefits; and
- (e) where the Member is entitled to make an Option Nomination the Member has done so.

2.4.5 Date of acceptance

Any Employee who has made application pursuant to Rule 2.4.3 to become a Member shall become a Member upon the date of acceptance by the Trustee of the Employee's Application or as otherwise specified by the Trustee in the notice delivered to the Member pursuant to Clause 3.2.4(b).

2.5 Admission of Members

Should at the time of acceptance of the Member there be any matter which the Division IV Participant has advised the Trustee as being pertinent to the membership of the Employee and which is at variance to the conditions specified in the Division IV Participant's Benefit Specification, the Trustee may make such arrangements about that matter as it thinks proper with the Division IV Participant or the Employee or any previous Employer of the Employee or the trustee of any Regulated Superannuation Fund of which the Employee was a member provided that in the opinion of the Trustee the matter is incidental to or consequent upon the membership of such Employee in this Division IV and the Trustee will confirm in writing with the Participant or Employee the arrangements so made.

3. RULES RELATING TO THE ADMISSION OF ELIGIBLE PERSONS WISHING TO OBTAIN BENEFITS FOR THEMSELVES

3.1 Form of Application

Every Applicant who is an Eligible Person or group of Eligible Persons and wishes to be admitted to Division IV for the purpose of obtaining retirement and other approved ancillary benefits for themselves must lodge an Application with the Trustee to become a Division IV Participant. At the time of lodgement of an Application the Applicant:

- (a) must complete the Benefit Specification;
- (b) must, unless the Trustee pursuant to Clause 6.3.1 has not given the Applicant a choice of investment strategies to choose from then the Applicant must complete an Option Nomination;

- (c) must lodge any statement or notification required to accompany a Contribution which is an Eligible Termination Payment under the Operational Standards.

3.2 Pre-conditions to acceptance

The Trustee must not:

- (a) accept an application by an Eligible Person for admission as a Division IV Participant unless the Applicant has:
 - (i) completed the Application;
 - (ii) completed a Benefit Specification;
 - (iii) in the case of an Applicant who wishes to receive its Benefit in pension form, completed the Regular Pension Request;
 - (iv) agreed in writing to be bound by and comply with the Deed and these Rules;
 - (v) where the Applicant is required to make an Option Nomination the Applicant has done so;
 - (vi) 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 Division IV as the Operational Standards require in the circumstances to be given to a prospective participant; or
- (b) approve the terms of a Regular Pension Request unless its terms and conditions meet the requirements of the Operational Standards.

3.4 Date of acceptance

An Applicant will become a Division IV Participant from the date of acceptance by the Trustee of the Applicant's Application or as otherwise specified by the Trustee in the notice delivered to the Applicant pursuant to Clause 3.1.6(d).

4. CONTRIBUTIONS

4.1 Employer Contributions

4.1.1 Required Contributions

Each Division IV Participant who is an Employer and any Associated Employer must make Contributions of such levels and upon such basis as will ensure the payment for or in respect of the relevant Members of the Benefits prescribed in the Division IV Participant's Benefit Specification.

4.1.2 Division IV Participant Discretionary Contributions

In addition to the Contributions payable by it pursuant to Rule 4.1.1 a Division IV Participant may at any time, with the consent of the Trustee, make additional Contributions to Division IV for the purpose of providing additional Benefits for any particular Member or Members.

4.2 Member Contributions

4.2.1 Required Contributions

Each Member must make Contributions of the amount specified in the relevant Division IV Participant's Benefit Specification.

4.2.2 Voluntary Contributions

In addition to the Contributions payable by it pursuant to Rule 4.2.1, a Member may with the approval of the Division IV Participant and the Trustee and subject to such terms and conditions as they agree make additional Contributions to Division IV.

4.2.3 Deduction of Contributions from remuneration

Unless the Member and its Employer otherwise agree or the law does not allow, whereupon the Member must pay its Contribution to the Employer, the Member's Contributions will be deducted from time to time by the Employer from the Member's remuneration. The Employer must pay the Member's Contributions so deducted or paid to the Trustee in such manner and at such times as are specified in the Division IV Participant's Benefit Specification or as is otherwise agreed from time to time between the Member and the Member's Employer and acceptable to the Trustee but in any event within the Prescribed Period.

4.3 Participant Contributions

Each Eligible Person or group of Eligible Persons who is not otherwise required to contribute pursuant to Rule 4.1 or 4.2 must make Contributions to Division IV in such manner as the Participant determines and the Trustee accepts from time to time provided that where the Eligible Person has been admitted to Division IV as part of a group of Eligible Persons Contributions must be of an amount which ensures the payment of the Benefits prescribed in respect of that group in the relevant Benefit Specification.

4.4 Other Discretionary Contributions

In the event that the Employer of any Member or Division IV Participant is obliged to contribute to a Regulated Superannuation Fund in respect of a Member or Division IV Participant or the Employer of any Member or Division IV Participant wishes to make Contributions on behalf of the Member or Division IV Participant, the Employer may, with the consent of:

- (a) the Division IV Participant in respect of whom the Member has been admitted to membership and the Trustee in the case of a Member; and
- (b) the Division IV Participant and the Trustee in the case of a Division IV Participant, contribute to Division IV on account of the Member or Participant.

4.5 Contributor must be eligible to contribute

It is a condition of acceptance of any Contributions that at the time of payment that:

- (a) the contributor is eligible pursuant to the Operational Standards to make the Contribution; and

- (b) the Division is not prohibited by the Operational Standards from accepting the Contribution.

Should it be brought to the notice of the Trustee that any Contribution paid does not satisfy the conditions of acceptance the Trustee may return the Contributions so made to the contributor or come to some other arrangement with the Division IV Participant so as to comply with the Operational Standards.

4.6 Reduction or suspension of Contributions

4.6.1 Division IV Participant may reduce or suspend Contributions

A Division IV Participant may reduce or suspend the Contributions payable by it or any Associated Employer to Division IV for some or all of the Members or Eligible Persons admitted in respect of the Division IV Participant.

4.6.2 Reduction or suspension of Contributions

- (a) Where the Division IV Participant gives notice of a reduction or suspension of Contributions, the Trustee:
 - (i) must where the Benefits payable are Accumulation Benefits notify any of the Members or Eligible Persons to which the suspension or reduction of Contributions applies who make personal Contributions with the intention that those Members or Eligible Persons may reduce or suspend their personal Contributions; and
 - (ii) unless the reduction or suspension of Contributions has been recommended by the Actuary, must where the Benefits payable are Defined Benefits and the Division IV Participant requests same notify any of the Members or Eligible Persons to which the suspension or reduction of Contributions applies who make personal Contributions with the intention that those Members or Eligible Persons may reduce or suspend their personal Contributions.
- (b) In the event that the Benefit Specification of the Division IV Participant prescribes that all or part of the Benefits payable are to be calculated as Defined Benefits, then the Trustee must after considering the advice of the Actuary calculate the level of Benefits to which Members or Eligible Persons will be entitled on the basis of the reduced or suspended level of Contributions.
- (c) 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 Eligible Person or the Commissioner consents to the same, reduce the amount of the Member's or Eligible Person's Vested Benefit Entitlement to that date.

5. SPECIAL PROVISIONS IN RELATION TO MEMBERS AND GROUPS OF ELIGIBLE PERSONS

5.1 Nominated Accounts

5.1.1 Establishment of Nominated Accounts

In the event that the Benefit Specification of a Division IV Participant prescribes that all or part of the Benefits payable are to be calculated as Accumulation Benefits, the Trustee must,

having regard to the terms and conditions of the Benefit Specification, keep in respect of any Members admitted in respect of the Division IV Participant in addition to the accounts described in Part 5 those Accounts nominated by the Division IV Participant in the Benefit Specification or as otherwise determined as necessary by the Trustee.

5.1.2 Distribution of Contributions between Nominated Accounts

The Division IV Participant must advise the Trustee of the proportions, if any, in which any Contributions made by or in respect of a Member admitted in respect of the Division IV Participant are to be credited to the Member's Nominated Accounts.

5.1.3 Member's Nominated Accounts

The Trustee must record to a Member's Nominated Accounts such of the following credits as the Trustee determines is appropriate:

- (a) any of the Division IV Participant's Contributions which the Division IV Participant has directed to be so credited pursuant to Rule 5.1.2;
- (b) any of the Contributions made by the Member which the Division IV Participant has directed to be so credited to the Account pursuant to Rule 5.1.2;
- (c) any of the Contributions made by the Member's Employer which the Division IV Participant has directed to be so credited to the Account pursuant to Rule 5.1.2;
- (d) any Interest Entitlement or Interim Interest Entitlement determined pursuant to Rule 5.3;
- (e) any part of the Division IV Participant's Reserve Account as determined by the Trustee and approved in writing by the Division IV Participant pursuant to Rule 5.2;
- (f) any Insured Benefit that the Division IV Participant has requested the Trustee to arrange;
- (g) any other amount that the Division IV Participant directs in writing from time to time to be so credited; and must record the following debits against that account:
- (h) any Vested Benefit Entitlement determined in respect of the Member;
- (i) any amounts which the Trustee, having regard to the Benefit Specification, determines should be debited to the Member's Nominated Accounts including any levies paid under the *Superannuation (Financial Assistance Funding) Levy Act 1993* which are in the opinion of the Trustee attributable to the Member and any cost of the kind described in Clause 10.7 and incurred in respect of any Policy Committee established in respect of the Member; and
- (j) any amount transferred pursuant to Clause 14.2 or Clause 14.5.

5.2 Division IV Reserve Account

5.2.1 Maintenance of Reserve Account

The Trustee may, subject to the terms of the Division IV Participant's Benefit Specification and to the Operational Standards generally, keep a Reserve Account in respect of a Division IV Participant for the purpose of stabilising rates of Interest Entitlement between Distribution Dates and to provide for such future contingencies as the Trustee considers appropriate.

5.2.2 Crediting of Reserve Account

The Trustee will credit to a Division IV Participant's Reserve Account:

- (a) the balance after deducting from the Income Entitlement calculated in respect of the Division IV Participant the total amounts credited to each of the Member's Nominated Accounts maintained in respect of the Division IV Participant as Interest Entitlement;
- (b) the amount of the balance, if any, remaining in the Member's Nominated Accounts maintained in respect of the Division IV Participant (other than any amount subject to a Cashing Restriction) following the payment of any Vested Benefit Entitlement ("**the Forgone Benefit**"); and
- (c) any Forfeited Benefit credited to the Account pursuant to Rule 12.3.

5.2.3 Application of balance of Reserve Account

The balance having regard to the Division IV Participant's Benefit Specification or any other written direction from the Participant regarding the determination of Interest Entitlements in respect of that Participant, in a Division IV Participant's Reserve Account must be applied by the Trustee but subject always to the following restrictions:

- (a) the balance in the Reserve Account may only be applied in a manner permitted by the Operational Standards and where the Operational Standards prescribe a time period within which any Forgone Benefit or Forfeited Benefit must be allocated or applied, the Forgone Benefit or Forfeited Benefit must be allocated or applied within the Prescribed Period;
- (b) no amount can be debited to the Reserve Account where a debiting of that amount would cause the Participant to fail to comply with any requirements of the *Superannuation Guarantee (Administration) Act 1992*.

5.3 Interest Entitlement

5.3.1 Calculation of Interest and Interim Interest Entitlements

The Trustee must:

- (a) on each Distribution Date determine the Interest Entitlement to be credited to the Member's Nominated Accounts maintained in respect of the Division IV Participant ("**the Relevant Accounts**"); and
- (b) on:
 - (i) receipt of a Termination Request in respect of the Division IV Participant;
 - (ii) receipt of a notification pursuant to Rule 7.2 or 8.2 that a Benefit is payable; and

- (iii) the giving of a Termination Notice to the Division IV Participant, determine the Interim Interest Entitlement to be credited to the Relevant Accounts.

5.3.2 Factors to be regarded in calculation of Interest and Interim Interest Entitlement

In determining:

- (a) the amount of any Interest Entitlement, the Trustee must have regard to:
 - (i) the Income Entitlement most recently determined in respect of the Division IV Participant;
 - (ii) the Investments made on the Division IV Participant's behalf pursuant to the Participant's Option Nomination and to the extent that the Participant has advised the Trustee that certain Investments made on the Participant's behalf apply in respect of any one or more of the Relevant Accounts, those Investments;
 - (iii) where any Member admitted in respect of the Division IV Participant has made an Option Nomination in lieu of the Division IV Participant, the Investments made on the Member's behalf;
 - (iv) the Expenses debited against the Division IV Participant's Participants Account since the immediately preceding Distribution Date to the extent that they have not been reimbursed by the Division IV Participant; and
 - (v) such other factors as determined by the Trustee, having regard to the Benefit Specification, and which are not otherwise inconsistent with the Operational Standards.
- (b) the amount of any Interim Interest Entitlement, the Trustee and the Division IV Participant must have regard to:
 - (i) the factors taken into account in determining the Interest Entitlement most recently determined;
 - (ii) in respect of those Investments held or made on behalf of the Division IV Participant or in respect of those Investments that the Division IV Participant has advised the Trustee that apply in respect of any one or more of the Relevant Accounts, the likely returns in respect of those Authorised Investments since the immediately preceding Distribution Date;
 - (iii) where any Member admitted in respect of the Division IV Participant has made an Option Nomination in lieu of the Division IV Participant, the Investments made on the Member's behalf;
 - (iv) the Expenses debited against the Division IV Participant's Participants Account since the immediately preceding Distribution Date to the extent that they have not been reimbursed by the Division IV Participant; and
 - (v) such other factors as agreed upon between the Trustee and the Division IV Participant and not otherwise inconsistent with the Operational Standards.

provided always that in the event that the Division IV Participant fails to respond to the Trustee's request that the Division IV Participant participate in the calculation of any Interest Entitlement or Interim Interest Entitlement as required by the Operational Standards, the Trustee is entitled to forthwith determine such Interest Entitlement or Interim Interest Entitlement.

5.3.3 Crediting of Interest Entitlement

Following determination of the Interest Entitlement or the Interim Interest Entitlement, the Trustee must credit an amount to each of the Relevant Accounts kept in respect of the Division IV Participant on account of the Interest and Interim Interest Entitlements determined having regard to:

- (i) the amount standing to the credit of each of the Relevant Accounts at the immediately preceding Distribution Date or the date of establishment of the Relevant Accounts, whichever is the later;
- (ii) the credits and debits made from time to time to each of the Relevant Accounts since the date referred to in sub-paragraph (i) hereof; and
- (iii) such further details as agreed upon between the Trustee and the Division IV Participant.

5.4 Application of this Rule to groups of Eligible Persons

Where a Division IV Participant is a group of Eligible Persons:

- (a) the references to "Division IV Participant" in this Rule 5 shall accordingly be deemed to be a reference to the group of Eligible Persons;
- (b) a reference to "Member" shall accordingly be deemed to be a reference to an "Eligible Person" and a reference to "Members" shall accordingly be deemed to be a reference to "Eligible Persons";
- (c) a reference to "Member's Nominated Accounts" shall accordingly be deemed to be a reference to an "Eligible Person's Nominated Accounts".

6. TYPES OF BENEFIT PAYABLE

6.1 Lump Sum or Pension

The Benefit Specification of each Division IV Participant must detail whether the Benefit a Member or an Eligible Person is to receive is in a lump sum or pension form or combination thereof.

6.2 Purchase of Annuity

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

6.3 Commutation of Pension Benefit

A Member or Eligible Person entitled to or in receipt of a Pension Benefit may request, subject to any limits or conditions prescribed by the Operational Standards, 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 and with the consent of the Division IV Participant reduce the Regular Pension Payment paid or payable annually to the Member or Eligible Person.

6.4 Payment of lump sum Benefit in pension form

A Member or Eligible Person entitled to a lump sum Benefit other than on the death of the Member or Eligible Person 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 or Eligible Person, as the case may be, 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 Division or purchased by the Trustee in the form of an Annuity in the name of Trustee or the Member or Eligible Person.

6.5 Pension Benefits

6.5.1 Pension payable to Member in accordance with Benefit Specification

Where a Division IV Participant has indicated in the Benefit Specification that a Benefit becoming payable in respect of a Member is to be paid in pension form then the Pension shall be payable in the manner prescribed by the Benefit Specification.

6.5.2 Pension payable to Member as a Participant

Where a Division IV Participant has not indicated in the Benefit Specification that a Benefit becoming payable in respect of a Member is to be paid in pension form or that any Pension payable in respect of a Member is to be maintained out of the Member's Nominated Accounts then where the Member wishes to take a Benefit in pension form the Member will be deemed to have made a request for deferral of the Member's Benefit pursuant to Rule 7.3.1 and the provisions of Rule 7.3.2 shall apply.

6.5.3 Pension payable to Eligible Person in accordance with Benefit Specification

Where a Division IV Participant who is an Eligible Person or group of Eligible Persons has indicated in the Benefit Specification that a Benefit becoming payable in respect of the Eligible Person or any one of the Eligible Persons is to be paid in pension form then the Pension shall be payable in the manner prescribed by the Benefit Specification.

6.5.4 Regular Pension Request

Where:

- (a) Rule 6.5.1 or Rule 6.5.3 applies and the Benefit Specification does not prescribe the same;
- or (b) Rule 6.5.2 applies, then the person to whom the Pension is to be paid must:
- (c) nominate to the Trustee the dollar amount which the person wishes to draw on a regular basis ("**the Regular Pension Payment**");

- (d) specify the intervals at which the Regular Pension Payment is to be paid (“**the Regular Pension Payment Interval**”),

such nomination and specification being defined in these Rules as the “**Regular Pension Request**”.

6.5.5 Style of Pension

The style of Pension provided for under a Benefit Specification in accordance with this Clause shall be any style of pension authorised by the Operational Standards as may be agreed between the Trustee and the Member.

7. BENEFITS FOR MEMBERS

7.1 When Benefit payable

A Benefit becomes payable in respect of a Member:

- (a) upon, subject to the Operational Standards, termination of the Member’s Service with the Member’s Employer at or after the Member’s Normal Retirement Date other than by reason of the Member’s death or Total and Permanent Disablement;
- (b) upon the Member’s death;
- (c) upon the Member’s Total and Permanent Disablement;
- (d) upon the Member’s cessation of gainful employment due to ill-health;
- (e) upon, subject to the Operational Standards, termination of the Member’s Service with the Member’s Employer prior to the Member’s Normal Retirement Date other than by reason of the Member’s death or Total and Permanent Disablement;
- (f) where the Member has attained an age in such circumstances that the Operational Standards permit a Benefit to be paid or commence to be paid in respect of the Member and the Member has requested the same and the relevant Division IV Participant and the Trustee consents to the same; or
- (g) where the Member has attained an age in such circumstances that the Operational Standards require that a Benefit be paid or commence to be paid in respect of the Member.

7.2 Notification of Benefits payable

Upon receipt of a notification in writing, that a Benefit is payable in the case of a Member by the relevant Division IV Participant the Trustee must determine the Benefit in accordance with the provisions of this Rule 7.

7.3 Deferral of Benefit payable

7.3.1 Request for deferral

Where a Benefit becomes payable in respect of a Member the Member may apply to the Trustee in writing to defer payment of the Benefit. The Trustee may agree to defer payment of the Benefit unless the Operational Standards require that the Benefit be paid.

7.3.2 Change of status

Where payment of a Benefit in respect of a Member is deferred under Rule 7.3.1 and the Division IV Participant in respect of whom the Member has been admitted to the Division does not consent to the same:

- (a) the Division IV Participant shall be deemed to have delivered a notification to the Trustee pursuant to Clause 14.4.2; and
- (b) the Trustee must make such arrangements as it considers necessary in respect of the continued membership of the Member in Division IV as a Participant or otherwise.

7.3.3 Contributions

Where payment of a Benefit is deferred under Rule 7.3.1 the Trustee may:

- (a) accept Contributions for the Member where the Operational Standards permit the acceptance of the Contributions; or
- (b) notify the Member that no Contributions will be accepted by or on behalf of the Member.

7.3.4 Compulsory payment

The Trustee must pay or commence to pay the Benefit in full where the Operational Standards require that the Benefit be paid to the Member or the Member dies.

7.4 Amount of Benefit

7.4.1 Events other than death and ill-health

Upon the occurrence of an event described in Rule 7.1 other than Rules 7.1(b) or (d) the amount of the Benefit payable in respect of the Member and the circumstances in which it must be paid shall be determined by the Trustee with, where the Operational Standards permit the same, the consent of the Division IV Participant having regard to the Benefit Specification made in respect of the Member.

7.4.2 Death

Upon the death of a Member the Trustee shall determine, with the consent of the Division IV Participant having regard to:

- (a) the terms of the Benefit Specification made in respect of the Member;
- (b) any Nomination made by the Member in accordance with Clause 3.5 of the Deed;
- (c) such other matters as the Trustee in its absolute discretion determines as relevant; and
- (d) the Operational Standards generally,

whether the Benefit payable will be paid as a lump sum or a pension or combination thereof **EXCEPT THAT** if a Member has made a Nomination which is binding in accordance with Clause 3.5 of the Deed and if the Trustee determines that the Nomination is valid having regard to the Operational Standards and any conditions prescribed by the Trustee then notwithstanding this Rule 7.4.2 and any other provision of this Deed the Trustee shall pay the Benefit in accordance with the Nomination.

Where the Trustee determines that the Benefit will be paid as a lump sum the Benefit will be an amount equal to the balance outstanding to the credit of the Member's Nominated Accounts or, when no Member's Nominated Accounts are maintained in respect of the Member, the amount determined by reference to the Benefit Specification made in respect of the Member.

Where the Trustee determines that the Benefit will be paid in whole or in part as a Pension (such whole or part being defined in this Deed as "**the Reversionary Pension**") the Trustee must determine whether to pay the Reversionary Pension to the Member's Nominated Reversionary Dependant or other Dependant (the person selected by the Trustee being defined in this Deed as "**the Reversionary Dependant**") and with the consent of the Reversionary Dependant determine the value of and the terms and conditions pertaining to payment of the Reversionary Pension.

7.4.3 Ill-health

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 shall be entitled to receive a Salary Continuance Benefit.

7.4.4 Principles Applying to calculation of Benefit

The following principles apply to the calculation of a Benefit:

- (a) The amount of the Benefit payable must not be less than the amount of the person's Vested Benefit Entitlement;
- (b) Where the Benefit or any part thereof is an Accumulation Benefit any Benefit payable shall not be greater in amount than the balance standing to the credit of the Member's Nominated Accounts.
- (c) Any Benefit payable in the event of the death or Total and Permanent Disablement of a Member shall include the amount of any Insured Benefit.
- (d) Where the Benefit or any part thereof is a Defined Benefit the amount of the Benefit must not cause a reduction of the Vested Benefit Entitlements of those other Employees of the Division IV Participant who are Members as in the opinion of the Trustee and taking into account any certificate provided by the Actuary is inequitable.
- (e) Under no circumstances shall the Trustee be at liberty to call upon the Investments of the Division held in respect of any other Member to make good any shortfall in Benefits payable in respect of the person.

7.5 To whom Benefit payable

7.5.1 Trustee to pay Benefit

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.

7.5.2 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 7.1 other than Rule 7.1(b) pay the Benefit to the Member;
- (b) upon Member's death and where the Trustee has determined that the death Benefit will be paid as a lump sum, by payment of the Benefit to the Nominated Person/s (if any) except that if there is no Nominated Person or the Nominated Person Notice is invalid or no longer effective then to one or more of the Member's Dependants and/or Legal Personal Representatives in such proportions as the Trustee may determine in its absolute discretion excepting that if there are no Dependants or Legal Personal Representative of the Member then to such persons or entities as the Trustee may determine subject to the requirements of the Operational Standards.
- (c) upon the Member's death and where the Trustee has determined that the death Benefit will be paid as a Reversionary Pension, pay the Reversionary Pension to the Member's Reversionary Dependant.

7.5.3 Death of Reversionary Dependant to whom a Reversionary Pension is payable

Upon the death of the Reversionary Dependant in respect of whom a Reversionary Pension is being paid, the Trustee shall, subject to the Member's Division IV Participant's Benefit Specification, having regard to:

- (a) the balance standing to the credit of the deceased Member's Nominated Accounts and circumstances of the other surviving Dependants of the deceased Member (if any) or where the deceased Member was entitled to a Defined Benefit the amount determined by the Actuary as the residual capital value of the Benefit;
- (b) the terms of the Member's Nominated Person Notice; and
- (c) the Operational Standards generally, determine whether to:
- (d) continue to pay the Reversionary Pension to another surviving Dependant of the deceased Member as the Trustee in its absolute discretion decides; or
- (e) pay the balance of the Reversionary Pension as a lump sum to the other surviving Dependants of the deceased Member or to any one or more of them to the exclusion of the other or others of them as the Trustee in its absolute discretion determines

provided that any such Dependant must have been a Dependant of the deceased Member at the date of the Dependant's death.

In the event that the Trustee is unable to determine any Dependants of the deceased Member to whom the balance standing to the credit of the deceased Member's Nominated Accounts or any portion thereof should be paid, such balance or portion thereof shall be paid to the Member's Legal Personal Representative.

7.6 Application of this Rule to groups of Eligible Persons

Where a Division IV Participant is a group of Eligible Persons:

- (a) the references to “Division IV Participant” in this Rule 7 shall accordingly be deemed to be a reference to the group of Eligible Persons;
- (b) a reference to “Member” shall accordingly be deemed to be a reference to an Eligible Persons;
- (c) a reference to a “Member’s Nominated Accounts” shall accordingly be deemed to a reference to an “Eligible Person’s Nominated Accounts”.

8. BENEFITS FOR ELIGIBLE PERSONS

8.1 Eligible Persons

A Benefit becomes payable in respect of a Division IV Participant who is an Eligible Person:

- (a) where, subject to the Operational Standards, the Eligible Person ceases to be an Eligible Person other than by reason of the Eligible Person’s death or Total and Permanent Disablement;
- (b) upon the Eligible Person’s death;
- (c) upon the Eligible Person’s Total and Permanent Disablement;
- (d) upon the Eligible Person’s cessation of gainful employment due to the Eligible Person’s ill-health;
- (e) where the Eligible Person has attained an age at which the Operational Standards permit a Benefit to be paid or commence to be paid in respect of the Eligible Person and the Eligible Person has requested the same and the Trustee has consented to the same; or
- (f) when otherwise prescribed by the Operational Standards.

8.2 Notification of Benefits payable

Upon receipt of a notification in writing from the Participant that a Benefit is payable the Trustee must determine the Benefit in accordance with the provisions of this Rule 8.

8.3 Amount of Benefit

8.3.1 Events other than death and ill-health

Upon the occurrence of an event described in Rule 8.1 other than Rules 8.1(b) or (d) the amount of the Benefit payable in respect of the Eligible Person and the circumstances in which it shall be paid must be determined by the Trustee who with the agreement of the Eligible Person and having regard to the Eligible Person’s Benefit Specification must determine the level and terms and conditions pertaining to the payment of such Benefit.

8.3.2 Death

Upon the death of an Eligible Person the Trustee must determine having regard to:

- (a) the terms of the Eligible Person's Benefit Specification;
- (b) any Nomination made by the Member in accordance with Clause 3.5 of the Deed;
- (c) such other matters as the Trustee in its absolute discretion determines as relevant; and
- (d) the Operational Standards generally,

whether the Benefit payable will be paid as a lump sum or a pension or combination thereof **EXCEPT THAT** if a Member has made a Nomination which is binding in accordance with Clause 3.5 of the Deed and if the Trustee determines that the Nomination is valid having regard to the Operational Standards and any conditions prescribed by the Trustee then notwithstanding this Rule 8.3.2 and other provision of this Deed the Trustee shall pay the Benefit in accordance with the Nomination.

Where the Trustee determines that the Benefit will be paid as a lump sum the Benefit will be an amount equal to the balance outstanding to the credit of the Eligible Person's Participants Account.

Where the Trustee determines that the Benefit will be paid in whole or in part as a Pension (such whole or part being defined in this Deed as "**the Reversionary Pension**") the Trustee must determine whether to pay the Reversionary Pension to the Eligible Person's Nominated Reversionary Dependant or other Dependant (the person selected by the Trustee being defined in this Deed as "**the Reversionary Dependant**") and with the consent of the Reversionary Dependant determine the value of and the terms and conditions pertaining to payment of the Reversionary Pension.

8.3.3 Ill-health

Upon an Eligible Person suffering ill-health which causes the Eligible Person's cessation of gainful employment prior to the Eligible Person otherwise becoming entitled to a Benefit under these Rules, the Eligible Person shall be entitled to receive a Salary Continuance Benefit.

8.3.4 Principles applying to calculation of Benefit

The following principles apply to the calculation of a Benefit:

- (a) Any Benefit payable shall not be greater in amount than the balance standing to the credit of the Eligible Person's Participants Account from time to time.
- (b) Any Benefit payable in the event of the death or Total and Permanent Disablement of an Eligible Person shall include the amount of any Insured Benefit.
- (c) Under no circumstances shall the Trustee be at liberty to call upon the Investments of the Division held in respect of any other Eligible Person to make good any shortfall in Benefits payable in respect of the person.

8.4 To whom Benefit payable

8.4.1 Trustee to pay Benefit

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 Eligible Person's Benefit in the manner set out in this Deed.

8.4.2 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 8.1 other than Rule 8.1(b) pay the Benefit to the Eligible Person;
- (b) upon the Eligible Person's death and where the Trustee has determined that the death Benefit will be paid as a lump sum, by payment of the Benefit to the Nominated Person/s (if any) **EXCEPT THAT** if there is no Nominated Person or the Nominated Person Notice is invalid or no longer effective then to one or more of the Eligible Persons Dependants and/or Legal Personal Representatives in such proportions as the Trustee may determine in its absolute discretion excepting that if there are no Dependants or Legal Personal Representatives of the Eligible Person then to such persons or entities as the Trustee may determine subject to the requirement of the Operational Standards.
- (c) upon the Eligible Person's death and where the Trustee has determined that the death Benefit will be paid as a Reversionary Pension, pay the Reversionary Pension to the Eligible Person's Reversionary Dependant.

8.4.3 Death of Pensioner

Upon the death of a Pensioner the Trustee shall, subject to the Eligible Person's Benefit Specification, having regard to:

- (a) the balance standing to the credit of the deceased Pensioner;
- (b) the terms of the original Eligible Person's Nominated Person Notice;
- (c) whether or not the Pensioner is the original Pensioner or a Reversionary Pensioner;
- (d) the terms and conditions of the Pension as evidenced by the Benefit Specification; and
- (e) the Operational Standards generally,

Determine whether to:-

- (f) continue to pay the Pension as a Reversionary Pension to a Dependant or Dependents of the deceased Pensioner as the Trustee may determine; or
- (g) in the case of a Pension which provides for a residual capital value or commutation payment, pay an amount standing to the credit of the deceased Pensioner referable to the Pension as a lump sum to one or more of the Dependents or Legal Person Representatives of the deceased Pensioner as the Trustee may determine; or
- (h) in the case of a Pension which does not provide for any residual capital value or commutation payment, forfeit any amount standing to the credit of the deceased

Pensioner and credit such amount to the Reserve Account in accordance with Rule 5.2.2(c).

9. DRAWDOWNS

9.1 Drawdown request

Where the Trustee has agreed to defer payment of a Benefit pursuant to these Rules or part of the balance standing to the credit of a Participant's Participants Account or Member's Nominated Accounts exists by reason of a rollover to the Division or otherwise, the relevant:

- (a) Participant;
- (b) Member; or
- (c) Eligible Person,

may, subject at all times to the Operational Standards and in particular to the Cashing Restrictions, and in such form as the Trustee may from time to time prescribes request the Trustee to draw all or part of that person's interest in the Division (such request being defined in this Deed as "**the Drawdown Request**" and the amount of the Drawdown Request as "**the Drawdown**").

9.2 Discretion to refuse

A Drawdown Request:

- (a) must be in an amount which is not less than the minimum Drawdown Amount nominated in the current Disclosure Document or such other amount as may be nominated by the Trustee from time to time; and
- (b) must not cause the balance standing to the credit of the Accounts maintained in respect of the person making the Drawdown Request to fall below the minimum Account balance nominated in the current Disclosure Document or such other amount as may be nominated by the Trustee from time to time.

9.3 Pay Drawdown

The Trustee shall, subject to the provisions of Clause 4.4.4:

- (a) unless the Trustee otherwise agrees, pay the Drawdown to the relevant person on a date not less than thirty (30) days from receipt of the Drawdown Request; and
- (b) debit the amount of the Drawdown Amount to the Accounts maintained in respect of the relevant person.

10. PAYMENT OF REGULAR PENSION PAYMENTS

10.1 Payment of Pension Benefit

The Trustee shall, subject to the provisions of Rule 10.3 pay any Regular Pension Payment within fourteen (14) days of the end of each Regular Pension Interval.

10.2 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 Division so as to ensure that the Investments of the Division will comprise sufficient Cash from time to time to meet the amount of the Eligible Person's Regular Pension Payment.

10.3 Sale of Investments to pay Regular Pension Payment

In the event that the Division'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 Option Nomination and the provisions of Clause 6 generally realise some or all of the Division's non-Cash Investments and pay the Regular Pension Payment to the person from the proceeds.

10.4 Variation of Regular Pension Payment

A Member or Eligible Person may, subject to the Operational Standards and in particular to the Cashing Restrictions and to the Trustee's consent to the same, vary from time to time the Member's or Eligible Person's Regular Pension Payment or Regular Pension Interval by giving notice in writing of at least twenty-one (21) days to the Trustee in the form from time to time prescribed by the Trustee.

11. ACTUARIAL INVESTIGATION

11.1 Requirement for actuarial investigation

In the event that the Benefit Specification of a Division IV Participant prescribes that all or part of the Benefits payable are to be calculated as Defined Benefits, the provisions of this Rule 11 will apply.

11.2 Appointment of Actuary

The Trustee must instruct an Actuary to carry out an actuarial investigation of the financial condition of Division IV as it relates to the Division IV Participant at the times required by the Operational Standards and must instruct the Actuary to report on the matters prescribed in the Operational Standards including such of the following matters as the Trustee determines appropriate:

- (a) a statement of the Assets of the Division held on behalf of the Division IV Participant;
- (b) a statement that whether or not in the Actuary's opinion the value of those Assets is adequate to meet the liabilities in respect of the relevant Vested Benefit Entitlements;
- (c) the Actuary's recommendation as to the amount of the Contributions to be made by the Division IV Participant for the three (3) year period immediately following the period to which the report relates;
- (d) a statement that in the Actuary's view the recommended Contributions to be made by the Division IV Participant together with the Assets of the Division held on behalf of the Division IV Participant and any prescribed Member Contributions will provide adequately for expected liabilities of any Benefits provided in respect of the Division IV Participant during the three (3) year period referred to in sub-Rule (c) hereof; and

- (e) such other matters as are required to meet the requirements imposed by the Operational Standards or as the Actuary may otherwise consider appropriate.

The Trustee shall provide a copy of the Actuary's report to the Division IV Participant and upon their request to the relevant Members.

11.3 Action on unsatisfactory financial condition

If:

- (a) an Employer fails at any time to make the level of Contributions recommended in the last Actuary's report; or
- (b) the Actuary having conducted an actuarial investigation reports that the Actuary is unable to provide a funding and solvency certificate as required under the Operational Standards, or the Actuary withdraws a funding and solvency certificate previously issued,

the Trustee must take whatever steps are prescribed under the Operational Standards and may consult the Actuary to determine the appropriate course of action as prescribed in the Operational Standards.

11.4 Surpluses and deficiencies

Subject to the Operational Standards and its restrictions on payments to Employer, the Trustee may upon the advice of the Actuary and with the approval of the Division IV Participant deal with any surplus or deficiency disclosed by the valuation by increasing or decreasing the rates of contributions or increasing or subject to the Operational Standards decreasing the Benefits provided for in the Benefit Specification or in any other manner including a reversion of all or a part of the surplus to one or more of the Division IV Participant or its Associated Employers where:

- (a) the Actuary has certified in writing to the Trustee that the payment will not have the effect that that part of Division IV which relates to the Division IV Participant will become technically insolvent for the purposes of the Operational Standards; and
- (b) the procedures required for authorisation of a payment to the Division IV Participant or Associated Employer under the Operational Standards are followed.

11.5 Compulsory scheme benefit

The Division IV Participant may instruct the Trustee to adjust any Benefit payable or which may become payable to or in respect of a Member to take into account a Compulsory Scheme Benefit to be paid or payable to the Member and the Trustee may with the agreement of the Trustee adjust the Contributions payable thereafter by the Division IV Participant in respect of the Member to comply with any statutory requirements in respect of the Compulsory Scheme Benefit or amounts payable to the Member generally provided that Benefits accrued to the date of the introduction of the Compulsory Scheme in respect of the Member cannot be reduced without the written consent of the Member.

12. FORFEITURE OF BENEFIT

12.1 Disentitling Event

- (a) Any:
- (i) Member who in the opinion of its Division IV Participant based on reasonable grounds commits any fraud dishonesty defalcation or gross wilful or serious misconduct in relation to the Participant or its affairs; or
 - (ii) Member or Division IV Participant who is an Eligible Person (“**Eligible Person**”) who assigns or charges or attempts to assign or charge the Member’s or Person’s interest in Division IV; or
 - (iii) Member or Eligible Person who commits an act of bankruptcy or is adjudicated bankrupt or assigns its estate for the benefit of its creditors; or
 - (iv) Member or Eligible Person who is declared an insane or incapable person; or
 - (v) Member or Eligible Person who does or attempts to do or suffers any act or if any event happens whereby if a Benefit or any part thereof were payable to the Member or Eligible Person absolutely the Member or Eligible Person as the case may be would be deprived of the right to receive it or any part of it or it would be disposed of or dealt with otherwise than in accordance with this Deed; or
 - (vi) Member or Eligible Person who is suffering from any physical or mental disability which in the opinion of the Trustee renders the Member or Eligible Person unable to manage its own affairs;
- shall subject to the provisions of Rules 12.2 and 12.3 in any such event (hereinafter called “**a Disentitling Event**”) cease to be presumptively entitled to receive any payment from Division IV.
- (b) Without prejudice to any rights an Employer may have under Rule 12.3, nothing in this Rule 12.1 shall be construed to cause or authorise the forfeiture of a Benefit which has become payable to or in respect of a Member or Division IV Participant at the time an event referred to in Rule 12.1(a)(i) occurs.
 - (c) To the extent that the forfeiture of any amount under Rule 12.1(a) is void under any legislation regulating bankruptcy, Rule 12.1(a) is severed from these Rules and has no effect and the amount is deemed not to have been forfeited.

12.2 Application of Forfeited Benefit

On the occurrence of a Disentitling Event, the Trustee may:

- (a) in the case of a Disentitling Event in respect of a Member, subject to Rule 12.3 apply the amount recorded as standing to the credit of the Member’s Nominated Accounts, then remaining in its hands or under its control for the maintenance and support or otherwise for the benefit of the Member and/or such one or more of the Member’s Dependants as the Trustee may in its discretion determine provided that whilst a Member remains in the Service of an Employer any such application by the Trustee shall be restricted to the maintenance and support of the Member and/or the Member’s Dependants to the extent necessary to relieve the Member’s or the Member’s Dependants’ genuine financial hardship or sickness accident or other misfortune

causing hardship. The payment or application of moneys by the Trustee in pursuance of this sub-Rule shall be a complete discharge to the Trustee therefor.

- (b) in the case of a Disentitling Event in respect of an Eligible Person:
 - (i) who is a Division IV Participant apply the amount standing to the credit of the Division IV Participant's Participants Account then remaining in its hands or under its control for the maintenance and support or otherwise for the benefit of the Division IV Participant and/or such one or more of the Participant's Dependants as the Trustee may in its discretion determine provided that whilst a Division IV Participant remains gainfully employed any such application by the Trustee shall upon the agreement of the Commissioner be restricted to the maintenance and support of the Division IV Participant and/or the Division IV Participant's Dependants to the extent necessary to relieve the Division IV Participant's or the Division IV Participant's Dependants' genuine financial hardship or sickness accident or other misfortune causing hardship. The payment or application of moneys by the Trustee in pursuance of this sub-Rule shall be a complete discharge to the Trustee therefor.
 - (ii) who has with other Eligible Persons been admitted as a Division IV Participant apply the amount standing to the credit of the Nominated Accounts then remaining in its hands or under its control for the maintenance and support or otherwise for the benefit of the Eligible Person and/or such one or more of the Eligible Person's Dependants as the Trustee may in its discretion determine provided that whilst a Eligible Person remains gainfully employed any such application by the Trustee shall upon the agreement of the Commissioner be restricted to the maintenance and support of the Eligible Person and/or the Eligible Person's Dependants to the extent necessary to relieve the Eligible Person's or the Eligible Person's Dependants' genuine financial hardship or sickness accident or other misfortune causing hardship. The payment or application of moneys by the Trustee in pursuance of this sub-Rule shall be a complete discharge to the Trustee therefor.

12.3 Reimbursement to Employer

On the occurrence of a Disentitling Event mentioned in paragraph (a) of Rule 12.1 the Trustee may reimburse to a Division IV Participant by payment to the Participant or to the Participant's Reserve Account out of the amount recorded as standing to the credit of the Member's Nominated Accounts pursuant to this Deed an amount not exceeding all costs and losses (including the costs of all proceedings both civil and criminal) incurred by the Division IV Participant as a result of or incidental to or arising out of the Member's fraud dishonesty defalcation or gross or wilful or serious misconduct in relation to the Division IV Participant or its affairs provided that in determining the amount of the Member's Benefit pursuant to Rule 7 available for the purpose of reimbursing the Division IV Participant no part of the Member's Vested Benefit Entitlement shall be taken into account ("**the Forfeited Benefit**").

FIFTH SCHEDULE

RULES OF DIVISION V – TIDSWELL POOLED SUPERANNUATION TRUST

1. PURPOSE OF DIVISION V

Division V is to be established and maintained as a Pooled Superannuation Trust.

2. APPLICATION AND ELIGIBILITY

2.1 Eligibility

Participation in Division V will be restricted to Eligible Investors wishing to invest in a Pooled Superannuation Trust.

2.2 Form of Application

An Applicant for admission to Division V must lodge an Application with the Trustee.

2.3 Preconditions to acceptance

The Trustee must not accept an Application for participation in Division V unless:

- (a) The Applicant has duly completed the Application and agreed in writing to be bound by and comply with these Rules;
- (b) The Applicant has lodged the Application together with:
 - (i) where the Trustee requires the same, an Option Nomination;
 - (ii) the Contribution to which the Application relates; and
 - (iii) an Eligible Investor Statement;
- (c) Where the Applicant is a person of the class described in paragraph (a) of the definition of “Eligible Investor” the Application is accompanied by a copy of the election made by the Trustee of the relevant Superannuation Fund to become a Regulated Superannuation Fund.

2.4 Date of acceptance

An Applicant will become a Division V Participant upon the date of acceptance by the Trustee of the Eligible Investor’s Application or as otherwise specified by the Trustee in the notice delivered to the Eligible Investor pursuant to Clause 3.1.6(d).

3. CONTINUING ELIGIBILITY

3.1 Trustee may request Eligible Investor Statement

The Trustee may at any time request a Division V Participant to give the Trustee an Eligible Investor Statement (“the Request”).

3.2 Trustee required to request certain Eligible Investor Statements within prescribed period of one year

Where the Trustee has received an Eligible Investor Statement from a Division V Participant who is not the trustee of a Regulated Superannuation Fund, an Approved Deposit Fund or a Pooled Superannuation Trust the Trustee must, no later than one (1) year after the date of the Eligible Investor Statement, deliver a Request to the Division V Participant.

3.3 Where Division V Participant fails to comply with request

Where the Trustee has delivered a Request and the Division V Participant fails to comply with the Request within thirty (30) days after the date of the Request the Division V Participant ceases to be eligible for participation in Division V at the end of those thirty (30) days provided that the Trustee is satisfied that the Division V Participant:

- (i) has reasonable grounds for failing to comply with the Eligible Investor Statement Request; and
- (ii) is likely to give the Trustee the Eligible Investor Statement within sixty (60) days of the date of the Notice of Proposed Termination (as that term is defined in Clause 14.1.4),

and the Division V Participant does give the Trustee the Eligible Investor Statement within sixty (60) days of the said Notice of Proposed Termination the Division V Participant is to be taken not to have ceased to be eligible for participation in this Division V.

4. CONTRIBUTIONS

4.1 Contribution Levels

Each Division V Participant is for so long as it is an Eligible Investor and subject to such minimum amounts and other conditions as the Trustee may from time to time determine, entitled to make such level of Contributions to Division V as it shall determine.

4.2 Advice to Trustee

At the time of making each Contribution, the Division V Participant must advise the Trustee in writing whether or not the Contributions relate to a Current Pension Liability of the entity in respect of which the Division V Participant is making the Contribution.

5. BENEFITS

A Division V Participant may make a Drawdown Request in respect of part or all of the balance standing to the credit of the Division V Participant's Participants Account.

6. TRANSFER OF PARTICIPANT'S INTEREST WITHIN DIVISION

Where pursuant to the governing rules of the fund or trust in respect of which a Division V Participant acts as trustee and is deemed to be an Eligible Investor the Division V Participant ("**the Transferor**") is authorised and empowered to transfer all or part of the assets of the fund or trust in respect of which it acts as trustee to the trustee of another fund or trust which trustee is an Eligible Investor and a Division V Participant ("**the Transferee**") then the Trustee shall, subject always to its duties of good faith and due diligence, where the Trustee receives a written request from the Transferor requesting and a written confirmation from the Transferee confirming the transfer of that part of the amount standing to the credit of the Transferor's Participants Account to the credit of the Transferee's Participants Account specified in the request and confirmation effect such transfer.

SIXTH SCHEDULE

RULES OF DIVISION VI – EXECUTIVE CHOICE DIVISION

SUB-DIVISION A – INTRODUCTION

1. APPLICATION AND PURPOSE

1.1 The Rules of the Executive Choice Plan are set out in this Division VI.

1.2 The Rules set out the provisions governing the operation of the Executive Choice Plan. The Trustee must administer the Executive Choice Plan:

- (a) in accordance with the Rules set out in this Division VI; and
- (b) in such a way that it satisfies the standards and conditions required by the Operational Standards.

To the extent that there is any conflict between a provision of this Division VI and the Operational Standards, the Operational Standards prevail.

1.3 The Rules are divided into five (5) sub-divisions, as follows:

- (a) Sub-division A – Introduction;
- (b) Sub-division B – General;
- (c) Sub-division C – Accumulation Members;
- (d) Sub-division D – Pension Members; and
- (e) Sub-division E – Glossary.

1.4 The Rules of Sub-divisions A and B apply to Members of both Sub-divisions C and D.

1.5 The Rules of Sub-division C apply only to Members of that Sub-division.

1.6 The Rules of the Sub-division D apply only to Members of that Sub-division.

1.7 The Rules governing each of Sub-divisions C and D identify the Members who belong to the respective Sub-divisions.

1.8 The Rules form part of the Deed and the Trustee has power to amend the Rules in the same way as it has power to amend the Deed.

1.9 Unless expressed to the contrary in this Division VI:

- (a) to the extent of any conflict between the terms of the Deed (other than the Rules set out in this Division VI) and the Rules set out in this Division VI, the Rules set out in this Division VI prevail;
- (b) to the extent of any conflict between the terms of Sub-division A and the terms of Sub-divisions B, C or D, the terms of Sub-division A prevail;

- (c) to the extent of any conflict between the terms of Sub-division B and the terms of either Sub-division C or Sub-division D, the terms of Sub-division B prevail;
 - (d) those defined terms used in the Rules that have a meaning ascribed to them under Sub-division E apply only when used in this Division VI;
 - (e) those defined terms used in the Rules that have a meaning ascribed to them under the Deed apply when used under the Deed, including when used in this Division VI, but subject to any modification of those defined terms as set out under these Rules;
 - (f) a reference in this Division VI to a particular Sub-division is a reference to that Sub-division of this Division VI.
- 1.10 Subject to Rules 1.9, 1.11 and 1.12 the provisions of the Deed (other than the First through to the Fifth Schedules, inclusive) apply in respect of the Executive Choice Plan. Notwithstanding Rule 1.9 and subject to Rule 11 of Sub-division B, to the extent of any conflict between the terms of the Rules set out in this Division VI and Clause 1.3 of the Deed, Clause 1.3 of the Deed prevails.
- 1.11 The following provisions of the Deed do not apply in respect of the Executive Choice Plan:
- (a) Clause 4.2 (Minimum Contributions);
 - (b) Clause 5.2 (Participants Account);
 - (c) Clause 7.7 (Income Entitlement); and
 - (d) Part 14.1.2 (Deemed Termination of Participation by Participant).
- 1.12 Clause 1.1 of the Deed is modified in respect of its application to the Executive Choice Plan and this Division VI as follows:
- (a) replace the definition of “Applicant” with:
“Applicant”:
 - (a) in respect of each Division other than Division VI – means a person who makes application to become a Participant in accordance with Clause 3.1 or a member in accordance with Clause 3.2; and
 - (b) in respect of Division VI – means a person who applies or is taken to apply for membership of the Executive Choice Plan.
 - (b) replace the definition of “Member” with:
“Member”:
 - (a) in respect of each Division other than Division VI – means a person who has made an application in the manner prescribed by the Trustee and has been accepted for membership in a Division; and
 - (b) in respect of Division VI – has the meaning given to that term in Division VI.
 - (c) replace the definition of “Participant” with:

“Participant”:

- (a) *in respect of each Division other than Division VI – means any person who has made application to the Trustee pursuant to Clause 3.1.1 to be admitted to participation in a Division and been admitted to participate in that Division but does not include a Member; and*
- (b) *in respect of Division VI – means a Member of the Executive Choice Plan.*

1.13 Division VI will be maintained solely for one or more of the core purposes and any ancillary purposes identified in the Act as the purposes for which a Regulated Superannuation Fund must be solely maintained.

2. SUCCESSOR FUND TRANSFER – TRANSITION

For the avoidance of doubt, the following provision apply to all persons who were members of the “Executive Choice sub-fund” under the Statewide Superannuation Trust immediately prior to 1 October 2013 and who pursuant to a Successor Fund Transfer became Members of the Executive Choice Plan on 1 October 2013:

- (a) those persons who were governed by Division 4 (“Employee Sponsored Plan”) or Division 5 (“Personal Superannuation Plan”) under the Former EC Deed are Accumulation Members with effect from 1 October 2013;
- (b) those persons who were governed by Division 6 (“Allocated Pension Plan”) under the Former EC Deed are Pension Members with effect from 1 October 2013; and
- (c) any choice, election, notice, consent, direction, claim or like act made, given or performed by Members pursuant to a provision of the Former EC Deed will, so long as the Trustee is aware of such act and it remains operative immediately prior to 1 October 2013, be taken to apply under the Division VI as if it had been made, given or performed under this Division VI and the Trustee must use reasonable endeavours to recognise such act so far as it is reasonably practicable to do so unless the Trustee is prevented from so doing by the Operational Standards.

SUB-DIVISION B – GENERAL

1. APPLICATION

This Sub-division B of the Rules applies to and in respect of all Members of the Executive Choice Plan unless expressed to the contrary under the Rules.

2. INTERPRETATION

- (a) A reference to a Member in this Sub-division B is a reference to a Member of either Sub-division C or D.
- (b) In respect of a Member, a reference to the Rules in this Sub-division B is, unless expressed to the contrary, a reference to the Rules set out in each of Sub-division A and B, and either Sub-division C or D (as applicable to the Member) and to Sub-division E.
- (c) A reference to a specific rule under this Sub-division B is, unless expressed to the contrary, a reference to a rule under this Sub-division B.

3. INVESTMENT CHOICE AND UNITISATION

- (a) The Trustee must offer a choice of Investment Options to Members in accordance with Part 6 (Investment) of the Deed.
- (b) The Trustee may divide each Investment Pool in respect of an Investment Option under the Executive Choice Plan into Units and allocate Units to a Member's Account according to the Investment Options which the Member has nominated or is taken to have nominated and to such other accounts and reserves maintained for the purposes of this Division as the Trustee determines.
- (c) No Unit confers a legal or equitable interest in any of the Assets of the Executive Choice Plan or of any of the underlying Investment Pools.
- (d) Rule 6 will govern the unitisation rules of the Executive Choice Plan.

4. DIVISION VI RESERVE ACCOUNT

4.1 Maintenance of Reserve Account

The Trustee may, subject to the Operational Standards keep a Reserve Account in respect of the Executive Choice Plan to provide for such future contingencies as the Trustee considers appropriate.

4.2 Crediting of Reserve Account

The Trustee will credit to a Division VI Reserve Account:

- (a) earnings on the Fund that are not otherwise credited to a Member's Accumulation Account or applied to meet fees, charges or Expenses;
- (b) amounts transferred or paid to the Fund which are not directly attributable to a Member or Beneficiary and for which the Trustee determines are appropriate to credit to the Division VI Reserve Account; and

- (c) such other amounts as the Trustee from time to time determines are appropriate to credit to the Division VI Reserve Account.

4.3 Application of balance of Division VI Reserve Account

The balance of the Division VI Reserve Account may be applied by the Trustee in such manner as the Trustee from time to time determines is appropriate including without limitation in respect of the payment of unforeseen expenses of the Fund, reimbursement of expenses which the Trustee has paid for out of its own moneys or to supplement income entitlements of Members or Beneficiaries, but subject always to the following restrictions:

- (a) the balance in the Division VI Reserve Account may only be applied in a manner permitted by the Operational Standards;
- (b) where the Operational Standards prescribe a time period with which any amount credited to the Division VI Reserve Account must be allocated or applied, such amount must be allocated or applied within that prescribed period.

4.4 Management strategy of Division VI Reserve Account

The Trustee must formulate an investment strategy for any balance of the Division VI Reserve Account in a manner that accords with the Operational Standards.

5. CONTRIBUTIONS

5.1 Minimum and Maximum Contributions to the Executive Choice Plan

The Trustee may set a minimum and a maximum amount of Contributions that can be paid to the Executive Choice Plan for any Member for any given period.

5.2 Refund of Payments

If any monies paid to the Executive Choice Plan, in the opinion of the Trustee, may have been paid by mistake (whether of law or of fact) or the Contributions are not able to be otherwise accepted under the Operational Standards, the Trustee may refund those monies to the person who paid them to the Executive Choice Plan or transfer them pursuant to Rule 7. Subject to the Rules, the Trustee will not be liable to pay any interest, or account for any earnings or compensate the person who paid those monies in any way and a person will not be deemed to have become an Employer or a Member merely by reason of the receipt of the Trustee of those monies.

5.3 Refund of Excess Contributions

Unless prohibited by the Operational Standards, the Trustee may after the receipt of a valid Release Authority, or any other document authorised by the Commissioner of Taxation and/or the Member, release and refund a Member's excess concessional contributions to or in respect of the Member.

5.4 Suspension of Contributions

The Trustee has the power to suspend the receipt or processing of Contributions, as may be required from time to time. Unless prohibited by the Operational Standards the Trustee may establish a suspense account for the management of the receipt and allocation of Contributions

in respect of Members. A Contribution will not be taken to be made in respect of a Member whilst it remains in such suspense account.

6. INVESTMENTS

6.1 Switching Request

- (a) A Member may make a switching request in respect of one or more Investment Options by completing an Option Nomination pursuant to Clause 6.9.2 of the Deed.
- (b) The Trustee may refuse to make the requested investment switch if the Option Nomination is not in the prescribed form or it is not provided to the Trustee in accordance with the process approved by the Trustee or if in the opinion of the Trustee it would be unfairly prejudicial to the interests of other Members in the relevant Investment Pool(s).

6.2 Minimum Switch

The Trustee may:

- (a) set a minimum amount for each switch to a new Investment Option;
- (b) vary any minimum switching amount at any time;
- (c) refuse to process any switching request for an amount less than the minimum switching amount;
- (d) if the amount remaining to the credit of the Member's Account in respect of an Investment Option ("**Remaining Amount**") after an investment switch has occurred is less than a minimum amount prescribed by the Trustee in the Disclosure Document then the Remaining Amount can be transferred by the Trustee into any one or more other Investment Options that have been nominated by the Member in order to meet any prescribed minimum amount;
- (e) unless prohibited by the Operational Standards, refund the Remaining Amount less any applicable Tax to the Member.

6.3 Valuation

- (a) The Trustee may if it thinks fit at any time whether for the purpose of calculating the issue price of an additional Unit or for any other purpose cause a valuation of the Assets of any one or more Investment Pools maintained in respect of the Investment Options for the Executive Choice Plan to be made by such competent valuers or experts as the Trustee may in its absolute discretion select.
- (b) The Trustee will not be liable to any Member or Beneficiary or any other persons for any loss or damage arising from any valuation which is incorrect unless such valuation has been made by the Trustee fraudulently, negligently or in breach of these Rules or in breach of trust.

6.4 Net Asset Value for each Investment Pool

The net asset value of each Investment Pool (**NAV(IP)**) maintained in respect of the Executive Choice Plan is to be calculated as follows:

NAV(IP) = Value of all Assets less all liabilities in respect of the relevant Investment Pool as determined by the Trustee.

Where liabilities include, but are not limited to:

- (a) the amount of any fee, cost, charge, other liability or Expense incurred or which the Trustee reasonably determines is likely to be incurred as a result of any transaction in respect of the acquisition or disposal of any investment in respect of the relevant Investment Pool; or
- (b) the amount of any fee, cost, charge, other liability or Expense which the Trustee determines to apply in connection with the administration of the Executive Choice Plan, but which is not directly debited to a Member's Account.

6.5 Unit Valuations

Subject to Rules 6.3, 6.6 and 6.7 the Unit Value of a Unit in an Investment Pool is to be calculated as follows:

$$\text{Unit Value} = \frac{\text{NAV(IP)}}{\text{Total number of Units issued in the relevant Investment Pool}}$$

6.6 Application Value and Withdrawal Value of Units

The Trustee has the discretion to determine:

- (a) the Application Value and Withdrawal Value of Units from time to time; and
- (b) whether a Buy/Sell Spread may be applied to either or both of the Application Value or Withdrawal Value in respect of any Unit.

6.7 Pension assets

The Trustee may in accordance with Rule 6.5 of Sub-division D determine a different Unit Value for an Investment Pool which supports in whole or in part current pension liabilities of the Executive Choice Plan.

7. TRANSFERS TO APPROVED BENEFIT ARRANGEMENTS

7.1 Transfers to Approved Benefit Arrangements

Where a Member joins or is eligible to join any Approved Benefit Arrangement and requests the transfer of the whole or part of the Member's entitlement in the Executive Choice 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 participant in that Approved Benefit Arrangement, and the Operational Standards enable or do not prohibit such a transfer to take place, then the Trustee may transfer the whole or any part of the amount in the Executive Choice Plan representing the Member's interest or entitlement to the trustee of the Approved Benefit Arrangement PROVIDED THAT a transfer may only be made pursuant to this Rule 7 where the Trustee is satisfied that:

- (a) the transfer is not prohibited under, and is otherwise made in accordance with, the Operational Standards; and

- (b) the rights of the Member or the Beneficiaries of the Member to receive the benefits arising from the amount transferred are fully secured by the terms of the Approved Benefit Arrangement.

7.2 **Effect and Method of Transfer Out**

- (a) The receipt of the transferred amount by the proper officer of the Approved Benefit Arrangement will be a complete discharge to the Trustee of all liabilities in respect of the transferred amount and the Trustee will have no responsibility to see to the application of the transferred amount.
- (b) Upon the completion of a payment or transfer in respect of a Member or Beneficiary under this Rule 7 all the rights and interest of that Member or Beneficiary under these Rules (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 or Beneficiary) in respect of the transferred amount will be entirely extinguished.

7.3 **Roll Over**

Where a Member wishes to effect a Roll Over Payment or Internal Roll Over in respect of all or any of the interest or entitlement of the Member in the Executive Choice Plan, the Member will:

- (a) make a request to the Trustee in writing in such form and manner as is prescribed by the Trustee nominating the Approved Benefit Arrangement (or Division for Internal Roll Overs) to which the Roll Over Payment or Internal Roll Over is to be made and the amount to be applied as the Roll Over Payment or Internal Roll Over or the percentage of the Member's Account to be applied as the Roll Over Payment or Internal Roll Over; and
- (b) complete and execute such other documentation as the Trustee requires (including any documentation that is required to be completed under the Operational Standards) to enable the Trustee to give effect to the Roll Over Payment or Internal Roll Over.

7.4 **Eligible Rollover Funds**

The Trustee may in accordance with the Operational Standards and, where required by the Operational Standards the Trustee will, transfer a Member's Benefit to an Eligible Rollover Fund and will provide any information to the trustee of the Eligible Rollover Fund at such time and in such manner as required by the Operational Standards.

8. **PAYMENT OF BENEFITS ON DEATH**

8.1 **Payments to Dependants or Legal Personal Representatives**

Subject to the Operational Standards, upon the death of a Member who had Dependants the Trustee will deal with any Benefit payable in respect of the death of the Member as follows:

- (a) if the Member was in receipt of a Pension at the time of death and had nominated a Reversionary Beneficiary in accordance with Clause 3.6 of the Deed, by payment of a Reversionary Pension to the Reversionary Beneficiary;

- (b) to the extent that paragraph (a) does not apply, if the Member had made a binding Nomination in accordance with Clause 3.5 of the Deed, by payment or application of the Benefit in accordance with that Nomination; or
- (c) otherwise pay or apply the Benefit to one or more of the Member's Dependants (including any Nominated Persons) and Legal Personal Representative in such proportions, form, manner and at such times as the Trustee will from time to time in its discretion determine subject to the Operational Standards.

8.2 **Payments to Other Persons**

Upon the death of a Member who had no Dependants, the Trustee will pay the Benefit to the Legal Personal Representative of the Member, or if there is no Legal Personal Representative, may pay or apply the Benefit in such a manner as permitted by the Operational Standards.

8.3 **Discharge of Trustee**

- (a) The receipt by a Dependant, the Legal Personal Representative, relative or other person of a Benefit paid under this Rule 8 will be a complete discharge to the Trustee in respect of any amount paid.
- (b) If a death benefit is paid in the form of a Pension it will only be paid to those Dependants or others eligible to receive the Pension in accordance with the Operational Standards.

9. **PAYMENT OF NON-PRESERVED AMOUNTS**

Notwithstanding any other provisions of these Rules which may be construed to the contrary and subject to the Operational Standards:

- (a) a Member may elect at any time to withdraw the whole or any part of the Non-Preserved Amount of that Member by giving notice to the Trustee in such form and manner as may be determined by the Trustee from time to time; and
- (b) the minimum Non-Preserved Amount which may be withdrawn by a Member pursuant to paragraph (a) will be determined by the Trustee and notified to Member.

10. **RETENTION OF BENEFIT IN EXECUTIVE CHOICE PLAN**

Where a Member or Beneficiary does not require Benefits to be immediately paid, the Trustee may in its absolute discretion retain all or any part of any Benefit otherwise payable under this Division in the Executive Choice Plan until the earliest of:

- (a) **Request**
the Member or Beneficiary entitled to such Benefit requesting that it be paid to that Member or Beneficiary;
- (b) **Death**
the death of the Member or Beneficiary in which event it will be paid in accordance with Rule 8;
- (c) **Payment otherwise required**

payment of the Benefit being required in accordance with the provisions of these Rules or the Operational Standards; or

(d) **Discretion**

the Trustee electing for whatever reason to pay the Benefit to the Member or Beneficiary or transfer it to an Approved Benefit Arrangement or Eligible Rollover Fund in accordance with these Rules.

The Benefit payable under this Rule 10 is an amount equal to the balance of the relevant Member's Account as at the date of payment.

11. FAMILY LAW REQUIREMENTS

- (a) The Trustee must comply with the Family Law Requirements.
- (b) The Trustee does not have to comply with Rule 9(a) above if the relevant fees have not been paid by the Member or Non-Member Spouse. The Trustee is entitled to debit the Member's Account with the applicable fees prior to complying with any request or order.

12. TRUSTEE CAN TRANSFER SPLITTABLE CONTRIBUTIONS

Subject to the Operational Standards:

- (a) a Member may apply to the Trustee to roll over, transfer or allot some or all of the Member's Splittable Contributions made in a financial year to the Member's Spouse;
- (b) the Trustee may accept an application to roll over, transfer or allot Splittable Contributions in any circumstance permitted by the Operational Standards or may impose such conditions as it decides on the acceptance of a contributions splitting application and may pay a Contributions-Splitting Superannuation Benefit to effect such application;
- (c) the Trustee has discretion to reject any contributions splitting application made by a Member without providing reasons;
- (d) the Trustee may accept into the Executive Choice Plan on behalf of a Member the roll over, transfer or allotment of a Contributions-Splitting Superannuation Benefit and impose any conditions on such acceptance as it decides.

13. CESSATION OF MEMBERSHIP

A person will cease to be a Member of the Executive Choice Plan in accordance with the applicable provisions of Part 14 of the Deed (other than Clause 14.1.2), provided that where a Policy providing disablement benefits has been effected in respect of the Member and in respect of which the Member has borne the cost of premiums, that Member will remain a Member for such period following resignation, dismissal or Retirement From Gainful Employment as the Trustee determines.

14. TERMINATION OF DIVISION

The Trustee may terminate and wind up the Executive Choice Plan if (and only if) the benefits in respect of each Member of this Division are first:

- (i) transferred to another Division of the Plan with the written consent of the Member;
- (ii) transferred to another Approved Benefit Arrangement with the written consent of the Member;
- (iii) transferred (without the Member's consent) to another Division of the Plan which confers on the Member equivalent rights to the rights that the Member had under this Division in respect of benefits;
- (iv) transferred (without the Member's consent) to another Approved Benefit Arrangement that is a "successor fund" (within the meaning of the Regulations) in respect of the transfer,

and (for the avoidance of doubt) the Trustee has power under this Rule 14 to effect any of the transfers referred to in this Rule 14.

15. PROMOTION

The Trustee may from time to time engage the services of a Promoter and remunerate the Promoter in respect of any advice, involvement or implementation of an activity to promote the Executive Choice Plan. The Trustee may terminate the services of a Promoter.

SUB-DIVISION C – ACCUMULATION MEMBERS

1. APPLICATION

This Sub-division C of the Rules applies to and in respect of all Accumulation Members.

2. INTERPRETATION

- (a) A reference to a Member in this Sub-division C is a reference to an Accumulation Member.
- (b) A reference to the Rules in this Sub-division C is, unless expressed to the contrary, a reference to the Rules set out in Sub-divisions C, A and B.
- (c) A reference to a specific rule under this Sub-division C is, unless expressed to the contrary, a reference to a rule under this Sub-division C.

3. MEMBERSHIP

- (a) An Eligible Person may apply to become a Member of Sub-division C by completing and providing to the Trustee an application in a form prescribed by the Trustee.
- (b) If the Trustee accepts the application, the Eligible Person becomes a Member on the date of acceptance.
- (c) The Trustee may accept a person as a Member of Sub-division C in such other circumstances as the Trustee determines appropriate, including if a person is transferred to the Plan pursuant to a Successor Fund Transfer.

4. CONTRIBUTIONS

4.1 Member Contributions

A Member may, with the agreement of the Trustee, contribute to the Executive Choice Plan such amount as the Member determines (including any Contributions for or on behalf of the Member's Spouse who is also a Member).

4.2 Spouse Contributions

The Trustee may accept Spouse Contributions in respect of a Member.

4.3 Employer Contributions

An Employer may make contributions to this Division on behalf of a Member who is its Employee.

4.4 Investment of Contributions and other moneys

The Trustee must apply Contributions or other moneys received by it in respect of a Member to apply for Units in one or more Investment Options as provided by the Trustee in its Disclosure Document and as selected by the Member in an Option Nomination. The Trustee may set aside from the Contributions or other monies received in respect of a Member, such amounts it determines are appropriate for the payment of any insurance premiums, Tax, fees or other expenses incurred in connection with the Member or the Fund.

4.5 **Other Contributions**

The Trustee may accept other amounts paid to the Fund in respect of a Member by any person to the extent receipt of such an amount would not be prohibited by the Operational Standards.

5. **ACCUMULATION ACCOUNT**

5.1 **Establishment**

The Trustee must establish a unitised Accumulation Account in respect of each Member.

5.2 **Credits to Accumulation Account**

The following amounts will be credited from time to time to the Accumulation Account maintained in respect of a Member:

- (a) any amount paid into the Executive Choice Plan in respect of the Member as a transfer or a Roll Over Payment as the Trustee considers appropriate to credit to the Accumulation Account for the Member;
- (b) any Contributions made by or in respect of the Member;
- (c) the proceeds of any Policy effected by the Trustee paid in respect of an insured event that occurs in relation to the Member to the extent that the Trustee considers appropriate to credit to the Accumulation Account for the Member (including where those proceeds have not been paid directly to a Member as all or part of a Benefit payment);
- (d) such positive investment earnings on the Fund as is determined by the Trustee to the extent they are not reflected in the Unit Values for Units allocated to the Member in respect of each Investment Option nominated by the Member;
- (e) such positive movements in Unit Values for Units allocated to the Member in respect of each Investment Option nominated by the Member;
- (f) subject to the Operational Standards, any amounts transferred from the Pension Account of a Member on full or partial commutation of a Pension in respect of the Member;
- (g) distributions of any surplus in the Expense Reserve Account maintained in respect of Division VI determined pursuant to Clause 5.3.1 of the Deed;
- (h) such other amounts as the Trustee from time to time determines are appropriate to credit to the Accumulation Account for the Member.

5.3 **Debits to Accumulation Account**

The following amounts will be debited from time to time to the Accumulation Account maintained in respect of a Member:

- (a) any amount paid out of the Executive Choice Plan in respect of the Member as a transfer or a Roll Over Payment which the Trustee considers it appropriate to debit to the Accumulation Account for the Member;
- (b) any other Benefit payments made to or in respect of the Member (other than payments from a Pension Account or which are otherwise satisfied by the payment of the proceeds of any Policy effected by the Trustee in respect of an insured event that occurs in relation to the Member and which proceeds have not been credited to the Accumulation Account for the Member);
- (c) the costs of any Policy (including the costs of administration of such Policy) effected by the Trustee which the Trustee determines to attribute to the Member (whether such Policy has been effected on a group or individual basis);
- (d) any Tax payable from the Executive Choice Plan in respect of any amounts credited or debited to the Accumulation Account for the Member and any other Tax which the Trustee determines it is appropriate to attribute to the Member;
- (e) Expenses incurred by the Trustee in connection with the Fund or the Member which the Trustee determines it is appropriate to attribute to the Member;
- (f) fees and charges determined by the Trustee in accordance with Rule 7;
- (g) such negative investment earnings as are determined by the Trustee to the extent they are not reflected in the Unit Values for Units allocated to the Member in respect of each Investment Option nominated by the Member;
- (h) such negative movements in Unit Values for Units allocated to the Member in respect of each Investment Option nominated by the Member;
- (i) subject to the Operational Standards, any amount transferred to the Pension Account of a Member for the establishment of a Pension for the Member;
- (j) any amount paid in satisfaction of a Release Authority given to the Trustee;
- (k) any amount which the Trustee determines to credit to the Expense Reserve Account maintained in respect of Division VI pursuant to Clause 5.3 of the Deed including in respect of fees and charges levied in respect of the Member;
- (l) such other amounts as the Trustee from time to time determines are appropriate to debit to the Accumulation Account for the Member.

6. BENEFITS

6.1 Leaving Employment

If a Member ceases to be an Employee, the Member is entitled to the Member's Accumulation Account balance.

6.2 Total and Permanent Disablement

If a Member ceases to be an Employee because of Total and Permanent Disablement the Member is entitled to the Member's Accumulation Account balance.

6.3 **Death**

If a Member dies, a death benefit equivalent to the Member's Accumulation Account balance is payable.

6.4 **Temporary Total Disablement**

If a Member becomes Temporarily Totally Disabled within the meaning of any Policy effected in respect of the Member then the Trustee must pay the proceeds of any Policy less any tax required to be deducted under the Operational Standards.

6.5 **Other Circumstances**

A Member is entitled to the whole or part of the Member's Accumulation Account balance in such other circumstances as permitted by the Operational Standards.

7. **FEES**

7.1 **Fees and charges**

The Trustee is entitled to debit from a Member's Accumulation Account or to apply in the determination of a Unit Value under Rule 6 of Sub-division B the following fees and charges as it determines from time to time:

- (a) Trustee fee;
- (b) Member fee;
- (c) Contribution (and Roll Over Payment) fee;
- (d) Plan fee;
- (e) administration fee;
- (f) adviser service fee;
- (g) Promoter fee;
- (h) investment switching fee;
- (i) benefit payment fee;
- (j) expense recovery fee in relation to any Expenses;
- (k) family law charge (based on activity to be performed);
- (l) insurance administration charge;

- (m) any other fee as determined by the Trustee.

7.2 Indexation

The Trustee is entitled to index annually the fees listed in Rule 7.1 to the Average Weekly Ordinary Time Earnings or to the Consumer Price Index or to such other index as it determines.

7.3 Rebate of premium

The Trustee is entitled to be paid any amounts representing a rebate, profit share or reimbursement of premium from effecting a Policy.

7.4 Buy/Sell Spread

The Trustee is entitled to retain the Buy/Sell Spread in relation to the Application Value or Withdrawal Value of Units calculated under Rule 6 of Sub-division B.

7.5 Differential fees

Notwithstanding any provisions of these Rules to the contrary, but subject to the General Fees Rules, the Trustee may (but is not obliged to) charge different levels of fees to prescribed classes of Members as it determines in its discretion.

7.6 Selection of Units on withdrawal

The Trustee, unless agreed with the Member, may select what class and type of Units it withdraws from any Investment Pools relating to Investment Options nominated by the Member in order to meet any liability of the Executive Choice Plan.

7.7 Rebate of fees

The Trustee may in its discretion rebate any fees or income received by it to Members in such proportions as it sees fit.

SUB-DIVISION D – PENSION MEMBERS

1. APPLICATION

This Sub-division D of the Rules applies to and in respect of all Pension Members.

2. INTERPRETATION

- (a) A reference to a Member in this Sub-division D is a reference to a Pension Member.
- (b) A reference to the Rules in this Sub-division D is, unless expressed to the contrary, a reference to the Rules set out in the Sub-divisions D, A and B.
- (c) A reference to a specific rule under this Sub-division D is, unless expressed to the contrary, a reference to a rule under this Sub-division D.

3. MEMBERSHIP

3.1 Membership Criteria

- (a) An Eligible Person with a Superannuation Lump Sum or Roll Over Payment may apply to become a Member of Sub-division D by completing and providing to the Trustee an application in a form prescribed by the Trustee.
- (b) If the Trustee accepts the application, the Eligible Person becomes a Member on the date of acceptance.
- (c) The Trustee may accept a person as a Member of Sub-division D in such other circumstances as the Trustee determines appropriate, including if a person is transferred to the Plan pursuant to a Successor Fund Transfer or if the person is a Reversionary Beneficiary in receipt of a Reversionary Pension.

3.2 Application of this Division

The Membership classification, Contributions payable by and in respect of, and Benefits payable in respect of Members under this Sub-division D will be exclusively determined in accordance with the provisions of these Rules.

4. SEPARATE PENSION

Unless the Trustee in its absolute discretion determines otherwise each Contribution or other amount paid to the Fund in respect of a Member of this Sub-division D who has already commenced a Pension must either:

- (a) be applied to a separate Pension Account and is then referable to a separate Pension to be provided in respect of that Member; or
- (b) be transferred to another Division and credited to an Account in respect of the Member.

5. CONTRIBUTIONS

5.1 Payment of Contributions

Subject to Rule 4, a Member of this Sub-division D may make Contributions (including a Superannuation Lump Sum) to this Sub-division as specified in the Benefit Specification of that Member and, with the consent of the Trustee, the Member may pay additional Contributions or other amounts to the Executive Choice Plan. However, the Trustee may only accept Contributions in respect of the Member for the purpose of commencing a Pension if such amount can be applied under the Operational Standards to immediately pay benefits to the Member.

5.2 Investment of Contributions and other moneys

The Trustee must apply Contributions or other moneys (including any Superannuation Lump Sum) received by it in respect of a Member to apply for Units in one or more Investment Options as provided by the Trustee in its Disclosure Document and as selected by the Member in an Option Nomination. The Trustee may set aside from the Contributions or other monies received in respect of a Member, such amounts it determines are appropriate for the payment of any insurance premiums, Tax, fees or other expenses incurred in connection with the Member or the Fund.

6. PENSION ACCOUNTS

6.1 Establishment

- (a) The Trustee must establish a Pension Account in respect of each Member for each Pension payable in respect of the Member.
- (b) A Member's entitlement to payments from the Member's Pension Account will commence from the date the Member's application is accepted by the Trustee and the Member's Pension Account is established.

6.2 Payment of Benefits and Expenses

The Trustee may pay Benefits (by way of pension payments and commutation amounts) and Expenses (including any Tax) out of the assets of Sub-division D by the withdrawal of Units from a Member's Pension Account in accordance with these Rules and the terms of the Member's Application.

6.3 Credits to Pension Account

Subject to Rule 4, to the extent applicable for the type of Pension, the following amounts will be credited to a Member's Pension Account:

- (a) any amount paid into the Executive Choice Plan in respect of the Member as a transfer or a Roll Over Payment as the Trustee considers it appropriate to credit;
- (b) a Contribution (including a Superannuation Lump Sum) made by or in respect of the Member in accordance with Rule 5.1;
- (c) the proceeds of any Policy effected by the Trustee in respect of the Member under Sub-division D and paid to the Trustee which the Trustee considers it appropriate to credit;
- (d) such positive investment earnings on the Fund as is determined by the Trustee to the extent they are not reflected in the Unit Values for Units allocated to the Member in respect of each Investment Option nominated by the Member;

- (e) such positive movements in Unit Values for Units allocated to the Member in respect of each Investment Option nominated by the Member;
- (f) any amounts which the Member directs be transferred from the Accumulation Account of the Member to the Member's Pension Account;
- (g) distributions of any surplus in the Expense Reserve Account maintained in respect of Division VI determined pursuant to Clause 5.3.1 of the Deed;
- (h) such other amounts as the Trustee from time to time determines are appropriate to credit to the Member's Pension Account.

6.4 **Debits to Pension Account**

To the extent applicable for the type of Pension, the following amounts will be debited to a Member's Pension Account:

- (a) any amount paid out of the Executive Choice Plan in respect of the Member as a transfer or a Roll Over Payment which the Trustee considers it appropriate to debit;
- (b) any payments made to or in respect of the Member or a Reversionary Beneficiary pursuant to the provisions of this Deed;
- (c) the costs of any Policy effected by the Trustee in respect of the Member which are not debited to an Accumulation Account in respect of the Member in accordance with Rule 5.3 of Sub-division C;
- (d) such proportion of any Tax payable from the Executive Choice Plan in respect of any amounts credited or debited to the Member's Pension Account as the Trustee may determine and any other Tax which the Trustee determines it is appropriate to attribute to the Member;
- (e) Expenses incurred by the Trustee in connection with the Fund or the Member which the Trustee determines it is appropriate to attribute to the Member;
- (f) fees and charges determined by the Trustee in accordance with Rule 12;
- (g) such negative investment earnings as are determined by the Trustee to the extent they are not reflected in the Unit Values for Units allocated to the Member in respect of each Investment Option nominated by the Member;
- (h) such negative movements in Unit Values for Units allocated to the Member in respect of each Investment Option nominated by the Member;
- (i) any amount transferred to the Accumulation Account of a Member by way of full or partial commutation of the Pension;
- (j) any amount paid in satisfaction of a Release Authority given to the Trustee;
- (k) any amount which the Trustee determines to credit to the Expense Reserve Account maintained in respect of Division VI pursuant to Clause 5.3 of the Deed, including in respect of fees and charges levied in respect of the Member;

- (l) such other amounts as the Trustee from time to time determines are appropriate to debit to the Member's Pension Account.

6.5 Segregation of Pension Assets

- (a) In relation to the Investment Pools supporting one or more Pensions payable under this Division the Trustee may determine to segregate assets in those Investment Pools or otherwise apportion those assets for the purpose of determining the extent to which those assets support current pension liabilities in relation to the payment of Pensions and in respect of which income earned on such assets would then qualify as exempt income under the Tax Act.
- (b) The Trustee may establish a separate class of Units for an Investment Pool in respect of which income on a portion of the assets (whether segregated or allocated as a proportion) would qualify as exempt income under the Tax Act because those assets support current pension liabilities of the Fund. The Trustee may determine that the Unit Value of such separate class of Units will take into account the exemption from income tax available to the Investment Pool as a consequence of such assets in the Investment Pool supporting current or noncurrent pension liabilities of the Fund (whether segregated or allocated as a proportion).
- (c) The Trustee may obtain such actuarial certification as it determines is necessary from time to time for the purpose of obtaining any exemption from income tax that might be available for income attributable to assets segregated from other assets of the Fund or allocated as a proportion of the Fund to discharge current pension liabilities.

7. PENSION BENEFITS

- (a) The Trustee must pay a Member a Pension:
 - (i) commencing on the dates specified in the Member's Benefit Specification which must be not later than necessary to comply with the Operational Standards;
 - (ii) terminating when all Units allocated to the Member's Pension Account have been withdrawn.
- (b) A Pension paid to a Member in this Sub-Division D must comply with all standards prescribed under the Operational Standards relating to pensions which do not have a fixed size of benefit payment. Such standards are deemed to be incorporated in these Rules so long as they continue to be standards.
- (c) If a Member dies whilst being paid a Pension, the balance of the Member's Pension Account must be dealt with in accordance with Rule 8 of Sub-division B.

8. PAYMENT OF PENSION

8.1 Frequency of Payment

The Trustee must pay the Pension to a Member at the times specified in the Member's Benefit Specification. A Member may change the frequency of the Pension payments if the change is approved by the Trustee and is in a form approved by the Trustee. If at any time a Member has not made a selection as to the frequency of the Pension payments, the Trustee must make a Pension payment at least once in each financial year.

8.2 **Minimum Annual Payment**

For so long as the Pension is payable, the Trustee must ensure that at least one (1) payment is made during each financial year and the total Pension payments to a Member must not be:

- (a) larger than the maximum prescribed limits (if any); nor (b)

smaller than the minimum prescribed limits,

as set out in the Operational Standards for account-based pension benefits (including for Pensions known as “transition to retirement” pensions).

8.3 **Notification of Level of Pension Payments**

As soon as practicable following admission to membership of this Sub-division D and as at each subsequent 1 July, the Trustee must notify the Member of the minimum and maximum levels (if any) for pension payments for that financial year. A Member may select the level of pension payments at any time during a financial year within the minimum and maximum prescribed limits (if any) in such form and manner as the Trustee prescribes.

8.4 **Default Pension Level**

- (a) If during a financial year a Member fails to make a selection in relation to the level of Pension to be paid in accordance with Rule 8.3, the Trustee may continue to pay a Pension at the level specified the previous financial year or if no direction has been given in the Member’s Benefit Specification, the Trustee may adjust the level of the Pension payable to either the minimum or the maximum (if any) in its absolute discretion or the Trustee may seek to contact the Member in order to receive the Member’s directions with respect to the Pension payment level to apply.
- (b) Notwithstanding paragraph (a), if a Member fails to make a selection under Rule 8.3 or to give the Trustee a direction under paragraph (a) in relation to the level of Pension to be paid in any financial year, the Trustee is not liable to the Member for any loss if the Member’s Pension ceases due to a minimum payment not being made by the Trustee in respect of a financial year for the Member’s Pension.

8.5 **Pension Increase**

The Trustee may increase the Pension payable for cost of living increases in its absolute discretion provided that the increase complies with the Operational Standards.

8.6 **Commutation**

- (a) A Member may commute either the whole or part of the Member’s Pension at any time by notifying the Trustee in writing in a form and such manner as is prescribed by the Trustee. The Member may specify from which Investment Option(s) the commutation will be made, otherwise the Trustee has discretion as to which Units will be withdrawn for the purposes of making the commutation.
- (b) If part of the Pension is commuted, the Pension payments must be recalculated and adjusted to take account of the portion of the Pension Account paid as a commutation.

9. NON-COMMUTABLE FORM OF PENSION

Where a Member obtains his or her Preservation Age but does not Retire From Gainful Employment the Trustee may offer a Pension on the terms specified in these Rules except the Pension cannot be commuted and cashed as an Eligible Termination Payment unless:

- (a) the purpose of the commutation is:
 - (i) to cash an unrestricted non-preserved benefit; or
 - (ii) to pay a Surcharge or like tax amount permitted to be paid via a commutation of such a Pension under the Operational Standards; or
 - (iii) to give effect to an entitlement of a Non-Member Spouse under a Payment Split; or
- (b) before the commutation the Member has satisfied a Condition of Release in respect of which the Cashing Restriction for preserved benefits and restricted non-preserved benefits is nil; or
- (c) the Operational Standards otherwise permits the Pension to be commuted.

10. ACCOUNT BASED PENSION

Where an Account Based Pension is payable from Sub-division D the following conditions will apply to the payment of the Pension and will override any other Rules of this Sub-division D to the extent of any inconsistency:

- (a) the total of any Pension payments in any year must be at least the amount required by the Operational Standards; and
- (b) the Pension is transferable only to another person on the death of the Member; and
- (c) the capital value of the Pension and the income from it cannot be used as security for a borrowing; and
- (d) upon the death of the Member the Pension must not continue to be paid as a Pension to:
 - (i) an adult Child at least 25 years of age (unless they have a disability); or
 - (ii) a Child between the ages of 18 and 24 who was not a financial dependant of the Member; or
 - (iii) the Legal Personal Representative of the estate of the Member; and
- (e) the Pension cannot be commuted in whole or in part except in the following circumstances:
 - (i) where the Member has died; or
 - (ii) where the sole purpose of the commutation is to:

- (A) pay a Surcharge or like tax amount permitted to be paid via a commutation of such a Pension under the Operational Standards ; or
- (B) give effect to an entitlement of a Non-Member Spouse under a Payment Split; or
- (C) meet the rights of a person to return a financial product under the Operational Standards; or
- (iii) where there is a partial commutation the account balance of the Pension after the commutation is equal to or greater than the minimum balance required by the Operational Standards after the commutation; or
- (iv) the minimum amount required to be paid under the Operational Standards has been paid in the financial year in which the commutation takes place; and
- (f) no minimum payment of the Pension will be required in a financial year where that Pension commences after 1 June in that financial year unless the Operational Standards otherwise requires; and
- (g) no payment by way of Contribution or by way of a Roll Over Payment will be added to the Pension Account.

11. TRANSITION TO RETIREMENT INCOME STREAM AT PRESERVATION AGE

- (a) Where a Member attains his or her Preservation Age but does not Retire From Gainful Employment the Trustee may offer an Account Based Pension on the terms specified in these Rules except that the Account Based Pension cannot be commuted to a Superannuation Lump Sum unless:
 - (i) the purpose of the commutation is:
 - A. to cash an unrestricted non-preserved benefit; or
 - B. to pay a Surcharge or like tax amount permitted to be paid via a commutation of such a Pension under the Operational Standards; or
 - C. to give effect to an entitlement of a Non-Member Spouse under a Payment Split; or
 - (ii) before the commutation the Member has satisfied a Condition of Release in respect of which the Cashing Restriction for preserved benefits and restricted non-preserved benefits is nil.
- (b) The total Pension payments made in a financial year to a Member for a Transition to Retirement Income Stream must not be more than 10% of either:
 - (i) the Pension Account balance on 1 July in the financial year in which the payment is made; or
 - (ii) if the relevant financial year is the year in which the Pension commences the Pension Account balance on the commencement day or such other amount as required under the Operational Standards,

unless the Member has satisfied a Condition of Release in respect of which the Cashing Restriction for preserved benefits and restricted non-preserved benefits is nil.

- (c) This Rule 11 overrides any other Rules of this Sub-division D to the extent of any inconsistency.

12. FEES

12.1 Fees and charges

The Trustee is entitled to debit from a Member's Pension Account or to apply in the determination of a Unit Value under Rule 6 of Sub-division B the following fees and charges as it determines from time to time:

- (a) Trustee fee;
- (b) Member fee;
- (c) Contribution (and Roll Over Payment) fee;
- (d) Plan fee;
- (e) administration fee;
- (f) adviser service fee;
- (g) Promoter fee;
- (h) investment switching fee;
- (i) benefit payment fee;
- (j) expense recovery fee in relation to any Expenses; (k) family law charge (based on activity to be performed);
- (l) any other fee as determined by the Trustee.

12.2 Indexation

The Trustee is entitled to index annually the fees listed in Rule 12.1 to the Average Weekly Ordinary Time Earnings or to the Consumer Price Index or to such other index as it determines.

12.3 Rebate of premium

The Trustee is entitled to be paid any amounts representing a rebate, profit share or reimbursement of premium from effecting a Policy.

12.4 Buy/Sell Spread

The Trustee is entitled to retain the Buy/Sell Spread in relation to the Application Value or Withdrawal Value of Units calculated under Rule 6 of Sub-division B.

12.5 Differential fees

Notwithstanding any provisions of these Rules to the contrary, the Trustee may (but is not obliged to) charge different levels of fees to prescribed classes of Members as it determines in its discretion.

12.6 Selection of Units on withdrawal

The Trustee, unless agreed with the Member, may select what class and type of Units it withdraws from any Investment Pools relating to Investment Options nominated by the Member in order to meet any liability of the Executive Choice Plan.

12.7 Rebate of fees

The Trustee may in its discretion rebate any fees or income received by it to Members in such proportions pursuant to the Operational Standards as it sees fit.

SUB-DIVISION E – GLOSSARY

1. GLOSSARY

For the purposes of these Rules and unless expressed to the contrary:

“**Account**” means an Accumulation Account or a Pension Account as the case may be;

“**Account Based Pension**” means a Pension payable on the terms stipulated in Rule 10 of Sub-division D or as otherwise payable under the terms of the Operational Standards;

“**Accumulation Account**” means in respect of a Member the account established and maintained for the Member under Rule 5 of Sub-division C;

“**Accumulation Member**” means a Member of Sub-Division C;

“**Application Value**” means the price applicable to Units subscribed for by a Member at any time as calculated pursuant to Rule 6.6 of Sub-division B;

“**Approved Benefit Arrangement**” means a fund or benefit arrangement into which or from which assets can be transferred into or from the Plan without causing the Plan to be in breach of or to fail to comply with the Operational Standards;

“**Average Weekly Ordinary Time Earnings**” means the average weekly ordinary time earnings statistics or index published from time to time by the Australian Bureau of Statistics;

“**Beneficiary**” means a person presently and absolutely entitled to receive a Benefit at the relevant time which includes a Pension Member but which does not include a person who is a Member at that time;

“**Buy/Sell Spread**” means the difference between the purchase price of units of investments and the sale price of units of investments applicable to investment switching by Members;

“**Child**” has the same meaning as in the Act;

“**Contributions-Splitting Superannuation Benefit**” has the same meaning as under the Operational Standards;

“**Executive Choice Plan**” means the sub-fund established and maintained under Division VI;

“**Expense**” means a cost referred to in paragraphs (a) to (bb) (inclusive) of Clause 5.1.3 of the Deed;

“**Family Law Act**” means the *Family Law Act 1975* as amended, re-enacted or substituted from time to time;

“**Family Law Regulations**” means the *Family Law (Superannuation) Regulations 2001* as amended or substituted from time to time;

“**Family Law Requirements**” means Part VIIIB of the Family Law Act and the Family Law Regulations;

“**Former EC Deed**” means the rules governing the Executive Choice Sub-fund under the Statewide Superannuation Trust immediately prior to 1 October 2013;

“Internal Roll Over” means the transfer pursuant to Rule 7.3 of Sub-division B of a Member’s interest or entitlement from Division VI to another Division of the Plan or to another Account in Division VI;

“Member” means a person who has been accepted (or is taken to have been accepted) by the Trustee for membership of the Executive Choice Plan as an Accumulation Member or a Pension Member in accordance with the Rules;

“Non-member Spouse” means a person who meets the definition of “non-member spouse” under the Family Law Requirements;

“Non-Preserved Amount” means an amount including a Roll Over Payment payable to or in respect of a Member or Beneficiary which is not subject to any cashing restrictions under Part 6 of the Regulations at the time of payment and is known as an “unrestricted non-preserved amount”;

“Payment Flag” has the same meaning as in the Family Law Requirements;

“Payment Split” has the same meaning as in the Family Law Requirements;

“Pension” means a pension payable under Sub-division D;

“Pension Account” means the account established in respect of a Member under Rule 6 of Sub-division D;

“Pension Member” means a Member of Sub-division D;

“Preservation Age” has the same meaning as in the Operational Standards;

“Policy” means an insurance policy effected by the Trustee under Clause 11.10.1 of the Deed;

“Promoter” means a third party appointed by the Trustee to engage in marketing, promoting, advertising or educating of any person which the Trustee considers will promote the Executive Choice Plan in order to limit the reduction in membership, to increase membership and for any other purpose the Trustee believes is in the best interests of Members;

“Promoter fee” means a fee charged in respect of a Member that relates to the cost to the Trustee of engaging a Promoter;

“Release Authority” means a documented authority issued by the Commissioner of Taxation stating the amount of excess contributions tax that a Member of the Executive Choice Plan is liable to pay or any similar document issued by the Commissioner of Taxation or pursuant to the Tax Act with respect to other tax that a Member of the Executive Choice Plan is liable to pay and for which a release of superannuation monies is permitted to fund such tax liability;

“Retire From Gainful Employment” means actual retirement by a Member from Gainful Employment or retirement as defined for the purposes of the Operational Standards to enable the payment of Benefits;

“Roll Over Payment” means any payment made by or received by the Trustee at the request of a Member or in other circumstances which satisfy the Operational Standards to or from any Approved Benefit Arrangement;

“Splittable Contribution” means a Contribution to the Executive Choice Plan or other amount stipulated under the Operational Standards allocated on or after 1 January 2006 but does not include:

- (a) an amount that has been rolled over or transferred to the Executive Choice Plan;
- (b) such other amounts as prescribed by the Operational Standards;

“Splittable Payment” has the same meaning as in the Family Law Requirements;

“Spouse” has the same meaning as in the Act;

“Superannuation Agreement” has the same meaning as in the Family Law Requirements;

“Superannuation Lump Sum” has the same meaning as in the Operational Standards;

“Temporary Total Disablement” has the meaning given to that term or an equivalent term in any Policy arranged by the Trustee and in force for the time being in respect of the Member, and **“Temporarily Totally Disabled”** has a corresponding meaning;

“Transition to Retirement Income Stream” means a Pension payable on the terms of Rule 11 of Sub-division D or as otherwise payable under the Operational Standards;

“Unit” means an undivided interest in an Investment Pool maintained in respect of an Investment Option available under the Executive Choice Plan;

“Unit Value” means the value of Units for an Investment Pool pursuant to Rule 6.5 of Sub-division B;

“Withdrawal Value” means the price of Units to be redeemed or transferred in respect of a Member at any time as calculated pursuant to Rule 6.6 of Sub-division B.

SEVENTH SCHEDULE**RULES OF DIVISION VII – AUSTRALIAN EXPATRIATE SUPERANNUATION FUND
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SUB-DIVISION E – GLOSSARY

SUB-DIVISION A – INTRODUCTION**1. APPLICATION AND PURPOSE**

1.1 The Rules of the Australian Expatriate Superannuation Fund are set out in this Division VII.

1.2 The Rules set out the provisions governing the operation of the Australian Expatriate Superannuation Fund. The Trustee must administer the Australian Expatriate

Superannuation Fund:

- (a) in accordance with the Rules set out in this Division VII; and
- (b) in such a way that it satisfies the standards and conditions required by the Operational Standards.

To the extent that there is any conflict between a provision of this Division VII and the Operational Standards, the Operational Standards prevail.

1.3 The Rules are divided into five (5) sub-divisions, as follows:

- (a) Sub-division A – Introduction;
- (b) Sub-division B – General;
- (c) Sub-division C – Accumulation Members;
- (d) Sub-division D – Pension Members; and
- (e) Sub-division E – Glossary.

1.4 The Rules of Sub-divisions A and B apply to Members of both Sub-divisions C and D.

1.5 The Rules of Sub-division C apply only to Members of that Sub-division.

1.6 The Rules of the Sub-division D apply only to Members of that Sub-division.

1.7 The Rules governing each of Sub-divisions C and D identify the Members who belong to the respective Sub-divisions.

1.8 The Rules form part of the Deed and the Trustee has power to amend the Rules in the same way as it has power to amend the Deed.

1.9 Unless expressed to the contrary in this Division VII:

- (a) to the extent of any conflict between the terms of the Deed (other than the Rules set out in this Division VII) and the Rules set out in this Division VII, the Rules set out in this Division VII prevail;
- (b) to the extent of any conflict between the terms of Sub-division A and the terms of Sub-divisions B, C or D, the terms of Sub-division A prevail;

- (c) to the extent of any conflict between the terms of Sub-division B and the terms of either Sub-division C or Sub-division D, the terms of Sub-division B prevail;

- (d) those defined terms used in the Rules that have a meaning ascribed to them under Sub-division E apply only when used in this Division VII;
 - (e) those defined terms used in the Rules that have a meaning ascribed to them under the Deed apply when used under the Deed, including when used in this Division VII, but subject to any modification of those defined terms as set out under these Rules;
 - (f) a reference in this Division VII to a particular Sub-division is a reference to that Sub-division of this Division VII.
- 1.10 Subject to Rules 1.9, 1.11 and 1.12 the provisions of the Deed (other than the First through to the Sixth Schedules, inclusive) apply in respect of the Australian Expatriate Superannuation Fund. Notwithstanding Rule 1.9 and subject to Rule 11 of Subdivision B, to the extent of any conflict between the terms of the Rules set out in this Division VII and Clause 1.3 of the Deed, Clause 1.3 of the Deed prevails.
- 1.11 The following provisions of the Deed do not apply in respect of the Australian Expatriate Superannuation Fund:
- (a) Clause 4.2 (Minimum Contributions);
 - (b) Clause 5.2 (Participants Accounts);
 - (c) Clause 7.7 (Income Entitlement);
 - (d) Clause 14.1.2 (Deemed Termination of Participation by Participant); and
 - (e) Clause 17.2 (Participants may request meeting)
- 1.12 Division VII will be maintained solely for one or more of the core purposes and any ancillary purposes identified in the Act as the purposes for which a Regulated Superannuation Fund must be solely maintained.

2. UNAUTHORISED PAYMENTS

Notwithstanding any other provision in the Rules of this Division VII or in the Trust Deed, and in so far as may be permitted by the Operational Standards, the Trustee may refuse in its absolute discretion to carry out any action in relation to an Account of a Member of the Australian Expatriate Superannuation Fund if the Trustee reasonably believes that the action would be or result in an Unauthorised Payment.

3. INDEMNITIES AND COSTS

- 3.1 A Member of the Australian Expatriate Superannuation Fund shall indemnify the Trustee against, and shall reimburse the Trustee for the following.
- (a) If there is a breach of the QROPS Rules, all taxes penalties and surcharges which the Trustee has to pay as a result of the breach and all costs and expenses reasonably incurred by the Trustee in dealing with the breach.
 - (b) All taxes, penalties, and surcharges which the Trustee has to pay under the Member Payment Charges or the Taxable Property Provisions.

- (c) In the case of any other event of any sort whatsoever relating to the Member's Account, all taxes penalties and surcharges which the Trustee has to pay arising from that event.

3.2 The Trustee may enforce the indemnity or obtain reimbursement in either or both of the following ways.

- (a) In so far as permitted by the Operational Standards and upon the Trustee electing in writing to do so and notifying the Member accordingly, by deduction from an Account held in respect of the Member. This is a contractual right only and does not amount to a charge, mortgage, lien or other encumbrance on the Account.
- (b) By recovery in legal proceedings as a debt.

4. QROPS RULES

This Division VII is subject to the QROPS Rules and to the extent of any inconsistency between this Division VII and the QROPS Rules the QROPS Rules shall prevail.

SUB-DIVISION B – GENERAL

1. APPLICATION

This Sub-division B of the Rules applies to and in respect of all Members of the Australian Expatriate Superannuation Fund unless expressed to the contrary under the Rules.

2. INTERPRETATION

- (a) A reference to a Member in this Sub-division B is a reference to a Member of either Sub-division C or D.
- (b) In respect of a Member, a reference to the Rules in this Sub-division B is, unless expressed to the contrary, a reference to the Rules set out in each of Sub-division A and B, and either Sub-division C or D (as applicable to the Member) and to Sub-division E.
- (c) A reference to a specific rule under this Sub-division B is, unless expressed to the contrary, a reference to a rule under this Sub-division B.

3. INVESTMENT CHOICE AND UNITISATION

- (a) The Trustee must offer a choice of Investment Options to Members in accordance with Part 6 (Investment) of the Deed.
- (b) The Trustee may divide each Investment Pool in respect of an Investment Option under the Australian Expatriate Superannuation Fund into Units and allocate Units to a Member's Account according to the Investment Options which the Member has nominated or is taken to have nominated and to such other accounts and reserves maintained for the purposes of this Division as the Trustee determines.
- (c) No Unit confers a legal or equitable interest in any of the Assets of the Australian Expatriate Superannuation Fund or of any of the underlying Investment Pools.
- (d) Rule 6 will govern the unitisation Rules of the Australian Expatriate Superannuation Fund.

4. DIVISION VII RESERVE ACCOUNT

4.1 Maintenance of Reserve Account

The Trustee may, subject to the Operational Standards keep a Reserve Account in respect of the Australian Expatriate Superannuation Fund to provide for such future contingencies as the Trustee considers appropriate.

4.2 Crediting of Reserve Account

The Trustee will credit to the Division VII Reserve Account:

- (a) earnings on the Fund that are not otherwise credited to a Member's Accumulation Account or applied to meet fees, charges or Expenses;

- (b) amounts transferred or paid to the Fund which are not directly attributable to a Member or Beneficiary and for which the Trustee determines are appropriate to credit to the Division VII Reserve Account; and
- (c) such other amounts as the Trustee from time to time determines are appropriate to credit to the Division VII Reserve Account.

4.3

Application of balance of Division VII Reserve Account

The balance of the Division VII Reserve Account may be applied by the Trustee in such manner as the Trustee from time to time determines is appropriate including without limitation in respect of the payment of unforeseen expenses of the Fund, reimbursement of expenses which the Trustee has paid for out of its own moneys or to supplement income entitlements of Members or Beneficiaries, but subject always to the following restrictions:

- (a) the balance in the Division VII Reserve Account may only be applied in a manner permitted by the Operational Standards;
- (b) where the Operational Standards prescribe a time period with which any amount credited to the Division VII Reserve Account must be allocated or applied, such amount must be allocated or applied within that prescribed period.

4.4

Management strategy of Division VII Reserve Account

The Trustee must formulate an investment strategy for any balance of the Division VII Reserve Account in a manner that accords with the Operational Standards.

4A QROPS MEMBER'S ACCOUNTS

4A.1

QROPS Member Suspense Account

The Trustee may, subject to the Operational Standards keep and use one or more QROPS Member's suspense accounts to be managed in accordance with clause 5A.3 of this Subdivision B so as to ensure compliance with the QROPS Rules or to avoid their breach.

4A.2

QROPS Member Segregated Assets Account

The Trustee may, subject to the Operational Standards keep and use one or more QROPS Member's segregated assets accounts to facilitate separate identification of a Member's Relevant Transfer Fund. The operation of a segregated assets account may be conducted by the Trustee by the identification and segregation of specific assets to support the account or alternatively may be conducted as a mathematical formulation whereby an amount is recorded as being retained within the account and comprised within the Member's Accumulation Account or Pension Account as the case may be.

4A.3

QROPS Member's Mirrored Pension Accounts

The Trustee may, subject to the Operational Standards keep and use one or more QROPS Member's mirrored pension accounts to facilitate compliance with the requirements of UK law for the mirroring of pensions in payment at the time of transfer.

4A.4

QROPS Member's Pension Accounts

The Trustee may, subject to the Operational Standards keep and use one or more QROPS

Member's Pension Accounts to be comprised within the Member's Pension Account to facilitate compliance with the requirements of UK law for the provision of any authorised lump sum payment or pension arrangement.

5. CONTRIBUTIONS

5.1 Minimum and Maximum Contributions to the Australian Expatriate Superannuation Fund

The Trustee may set a minimum and a maximum amount of Contributions that can be paid to the Australian Expatriate Superannuation Fund for any Member for any given period.

5.2 Refund of Payments

If any monies paid to the Australian Expatriate Superannuation Fund, in the opinion of the Trustee, may have been paid by mistake (whether of law or of fact) or the Contributions are not able to be otherwise accepted under the Operational Standards, the Trustee may refund those monies to the person who paid them to the Australian Expatriate Superannuation Fund or transfer them pursuant to Rule 7. Subject to the Rules, the Trustee will not be liable to pay any interest, or account for any earnings or compensate the person who paid those monies in any way and a person will not be deemed to have become an Employer or a Member merely by reason of the receipt of the Trustee of those monies.

5.3 Refund of Excess Contributions

Unless prohibited by the Operational Standards, the Trustee may after the receipt of a valid Release Authority, or any other document authorised by the Commissioner of Taxation and/or the Member, release and refund a Member's excess concessional contributions to or in respect of the Member.

5.4 Suspension of Contributions

The Trustee has the power to suspend the receipt or processing of Contributions, as may be required from time to time. Unless prohibited by the Operational Standards the Trustee may establish a suspense account for the management of the receipt and allocation of Contributions in respect of Members. A Contribution will not be taken to be made in respect of a Member whilst it remains in such suspense account.

5A TRANSFERS-IN

5A.1 Source of transfers-in

In addition to the source of transfers or rollovers to a Division referred to in the Trust Deed the Trustee may in its absolute discretion accept a transfer or rollover from a Foreign Superannuation Fund.

5A.2 Some transfers-in prohibited

The Trustee is prohibited from accepting a transfer or rollover in breach of the QROPS Rules.

5A.3 Dealing with a prohibited transfer-in

If any assets or money are in the possession of the Trustee as a result of a direct or indirect transfer or rollover prohibited by the QROPS Rules:-

- (a) the Trustee shall not hold them on trust for the Member in respect of whom the transfer was made whether under the Trust Deed or this Division or

under any other trust, and no such trust shall arise unless declared by the Trustee;
- (b) the Trustee shall hold them as agent for, and for the purposes of, the transferring fund or scheme;
- (c) the Trustee shall not regard them as enlarging the capital of the Plan or any of its Divisions and shall not regard them as a Contribution;
- (d) the Trustee may account for them in a QROPS Member's suspense account or in any other way as it sees fit;
- (e) the Trustee shall not accept any instructions about them from the Member in respect of whom the transfer was made;
- (f) the aforesaid agency may only come to an end by a written declaration signed by or on behalf of the Trustee; and
- (g) upon terminating the agency, the Trustee shall have absolute discretion to deal with them as it sees fit.

6. INVESTMENTS

6.1 Switching Request

- (a) A Member may make a switching request in respect of one or more Investment Options by completing an Option Nomination pursuant to Clause 6.9.2 of the Deed.
- (b) The Trustee may refuse to make the requested investment switch if the Option Nomination is not in the prescribed form or it is not provided to the Trustee in accordance with the process approved by the Trustee or if in the opinion of the Trustee it would be unfairly prejudicial to the interests of other Members in the relevant Investment Pool(s).

6.2 Minimum Switch

The Trustee may:

- (a) set a minimum amount for each switch to a new Investment Option;
- (b) vary any minimum switching amount at any time;
- (c) refuse to process any switching request for an amount less than the minimum switching amount;
- (d) if the amount remaining to the credit of the Member's Account in respect of an Investment Option ("Remaining Amount") after an investment switch has

occurred is less than a minimum amount prescribed by the Trustee in the Disclosure Document then the Remaining Amount can be transferred by the Trustee into any one or more other Investment Options that have been nominated by the Member in order to meet any prescribed minimum amount;

- (e) unless prohibited by the Operational Standards, refund the Remaining Amount less any applicable Tax to the Member.

6.3 Valuation

- (a) The Trustee may if it thinks fit at any time whether for the purpose of calculating the issue price of an additional Unit or for any other purpose cause a valuation of the Assets of any one or more Investment Pools maintained in respect of the Investment Options for the Australian Expatriate Superannuation Fund to be made by such competent valuers or experts as the Trustee may in its absolute discretion select.
- (b) The Trustee will not be liable to any Member or Beneficiary or any other persons for any loss or damage arising from any valuation which is incorrect unless such valuation has been made by the Trustee fraudulently, negligently or in breach of these Rules or in breach of trust.

6.4 Net Asset Value for each Investment Pool

The net asset value of each Investment Pool (**NAV(IP)**) maintained in respect of the Australian Expatriate Superannuation Fund is to be calculated as follows:

NAV(IP) = Value of all Assets less all liabilities in respect of the relevant Investment Pool as determined by the Trustee.

Where liabilities include, but are not limited to

- (a) the amount of any fee, cost, charge, other liability or Expense incurred or which the Trustee reasonably determines is likely to be incurred as a result of any transaction in respect of the acquisition or disposal of any investment in respect of the relevant Investment Pool; or
- (b) the amount of any fee, cost, charge, other liability or Expense which the Trustee determines to apply in connection with the administration of the Australian Expatriate Superannuation Fund, but which is not directly debited to a Member's Account.

6.5 Unit Valuations

Subject to Rules 6.3, 6.6 and 6.7 the Unit Value of a Unit in an Investment Pool is to be calculated as follows:

$$\text{Unit Value} = \frac{\text{NAV(IP)}}{\text{Total number of Units issued in the relevant Investment Pool}}$$

6.6 Application Value and Withdrawal Value of Units

The Trustee has the discretion to determine:

- (a) the Application Value and Withdrawal Value of Units from time to time; and
- (b) whether a Buy/Sell Spread may be applied to either or both of the Application Value or Withdrawal Value in respect of any Unit.

6.7 Pension assets

The Trustee may in accordance with Rule 6.5 of Sub-division D determine a different Unit Value for an Investment Pool which supports in whole or in part current pension liabilities of the Australian Expatriate Superannuation Fund.

6.8 Trustee's refusal where could be an unauthorised payment

The Trustee may refuse to accept an Option Nomination or a requested investment switch if the investment or proposed investment could be regarded as an unauthorised payment under the Taxable Property Provisions.

7. TRANSFERS TO APPROVED BENEFIT ARRANGEMENTS

7.1 Transfers to Approved Benefit Arrangements

Where a Member joins or is eligible to join any Approved Benefit Arrangement and requests the transfer of the whole or part of the Member's entitlement in the Australian Expatriate Superannuation Fund, 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 participant in that Approved Benefit Arrangement, and the Operational Standards enable or do not prohibit such a transfer to take place, then the Trustee may transfer the whole or any part of the amount in the Australian Expatriate Superannuation Fund representing the Member's interest or entitlement to the trustee of the Approved Benefit Arrangement PROVIDED THAT a transfer may only be made pursuant to this Rule 7 where the Trustee is satisfied that:

- (a) the transfer is not prohibited under, and is otherwise made in accordance with, the Operational Standards; and
- (b) the rights of the Member or the Beneficiaries of the Member to receive the benefits arising from the amount transferred are fully secured by the terms of the Approved Benefit Arrangement.

7.2 Effect and Method of Transfer Out

- (a) The receipt of the transferred amount by the proper officer of the Approved Benefit Arrangement will be a complete discharge to the Trustee of all liabilities in respect of the transferred amount and the Trustee will have no responsibility to see to the application of the transferred amount.
- (b) Upon the completion of a payment or transfer in respect of a Member or Beneficiary under this Rule 7 all the rights and interest of that Member or Beneficiary under these Rules (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 or

Beneficiary) in respect of the transferred amount will be entirely extinguished.

7.3 Roll Over

Where a Member wishes to effect a Roll Over Payment or Internal Roll Over in respect of all or any of the interest or entitlement of the Member in the Australian Expatriate Superannuation Fund, the Member will:

- (a) make a request to the Trustee in writing in such form and manner as is prescribed by the Trustee nominating the Approved Benefit Arrangement (or Division for Internal Roll Overs) to which the Roll Over Payment or Internal Roll Over is to be made and the amount to be applied as the Roll Over Payment or Internal Roll Over or the percentage of the Member's Account to be applied as the Roll Over Payment or Internal Roll Over; and
- (b) complete and execute such other documentation as the Trustee requires (including any documentation that is required to be completed under the Operational Standards) to enable the Trustee to give effect to the Roll Over Payment or Internal Roll Over.

7.4 Eligible Rollover Funds

The Trustee may in accordance with the Operational Standards and, where required by the Operational Standards the Trustee will, transfer a Member's Benefit to an Eligible Rollover Fund and will provide any information to the trustee of the Eligible Rollover Fund at such time and in such manner as required by the Operational Standards.

8. PAYMENT OF BENEFITS ON DEATH

8.1 Payments to Dependants or Legal Personal Representatives

Subject to the Operational Standards, upon the death of a Member who had Dependants the Trustee will deal with any Benefit payable in respect of the death of the Member as follows:

- (a) if the Member was in receipt of a Pension at the time of death and had nominated a Reversionary Beneficiary in accordance with Clause 3.6 of the Deed, by payment of a Reversionary Pension to the Reversionary Beneficiary;
- (b) to the extent that paragraph (a) does not apply, if the Member had made a binding Nomination in accordance with Clause 3.5 of the Deed, by payment or application of the Benefit in accordance with that Nomination; or
- (c) otherwise pay or apply the Benefit to one or more of the Member's Dependants (including any Nominated Persons) and Legal Personal Representative in such proportions, form, manner and at such times as the Trustee will from time to time in its discretion determine subject to the Operational Standards.

8.2 Payments to Other Persons

Upon the death of a Member who had no Dependants, the Trustee will pay the Benefit to the Legal Personal Representative of the Member, or if there is no Legal Personal Representative, may pay or apply the Benefit in such a manner as permitted by the Operational Standards.

8.3 Discharge of Trustee

- (a) The receipt by a Dependant, the Legal Personal Representative, relative or other person of a Benefit paid under this Rule 8 will be a complete discharge to the Trustee in respect of any amount paid.
- (b) If a death benefit is paid in the form of a Pension it will only be paid to those Dependants or others eligible to receive the Pension in accordance with the Operational Standards.

9. PAYMENT OF NON-PRESERVED AMOUNTS

Notwithstanding any other provisions of these Rules which may be construed to the contrary and subject to the Operational Standards:

- (a) a Member may elect at any time to withdraw the whole or any part of the Non-Preserved Amount of that Member by giving notice to the Trustee in such form and manner as may be determined by the Trustee from time to time; and
- (b) the minimum Non-Preserved Amount which may be withdrawn by a Member pursuant to paragraph (a) will be determined by the Trustee and notified to Member.

10. RETENTION OF BENEFIT IN AUSTRALIAN EXPATRIATE SUPERANNUATION FUND

Where a Member or Beneficiary does not require Benefits to be immediately paid, the Trustee may in its absolute discretion retain all or any part of any Benefit otherwise payable under this Division in the Australian Expatriate Superannuation Fund until the earliest of:

- (a) **Request**
the Member or Beneficiary entitled to such Benefit requesting that it be paid to that Member or Beneficiary;
- (b) **Death**
the death of the Member or Beneficiary in which event it will be paid in accordance with Rule 8;
- (c) **Payment otherwise required**
payment of the Benefit being required in accordance with the provisions of these Rules or the Operational Standards; or
- (d) **Discretion**
the Trustee electing for whatever reason to pay the Benefit to the Member or Beneficiary or transfer it to an Approved Benefit Arrangement or Eligible Rollover Fund in accordance with these Rules.

The Benefit payable under this Rule 10 is an amount equal to the balance of the relevant Member's Account as at the date of payment.

11. FAMILY LAW REQUIREMENTS

- (a) The Trustee must comply with the Family Law Requirements.
- (b) The Trustee does not have to comply with Rule 9(a) above if the relevant fees have not been paid by the Member or Non-Member Spouse. The Trustee is entitled to debit the Member's Account with the applicable fees prior to complying with any request or order.

12. TRUSTEE CAN TRANSFER SPLITTABLE CONTRIBUTIONS

Subject to the Operational Standards:

- (a) a Member may apply to the Trustee to roll over, transfer or allot some or all of the Member's Splittable Contributions made in a financial year to the Member's Spouse;
- (b) the Trustee may accept an application to roll over, transfer or allot Splittable Contributions in any circumstance permitted by the Operational Standards or may impose such conditions as it decides on the acceptance of a contributions splitting application and may pay a Contributions-Splitting Superannuation Benefit to effect such application;
- (c) the Trustee has discretion to reject any contributions splitting application made by a Member without providing reasons;
- (d) the Trustee may accept into the Australian Expatriate Superannuation Fund on behalf of a Member the roll over, transfer or allotment of a ContributionsSplitting Superannuation Benefit and impose any conditions on such acceptance as it decides.

13. CESSATION OF MEMBERSHIP

A person will cease to be a Member of the Australian Expatriate Superannuation Fund in accordance with the applicable provisions of Part 14 of the Deed (other than Clause 14.1.2), provided that where a Policy providing disablement benefits has been effected in respect of the Member and in respect of which the Member has borne the cost of premiums, that Member will remain a Member for such period following resignation, dismissal or Retirement From Gainful Employment as the Trustee determines.

14. TERMINATION OF DIVISION

The Trustee may terminate and wind up the Australian Expatriate Superannuation Fund if (and only if) the benefits in respect of each Member of this Division are first:

- (i) transferred to another Division of the Plan with the written consent of the Member;
- (ii) transferred to another Approved Benefit Arrangement with the written consent of the Member;

- (iii) transferred (without the Member's consent) to another Division of the Plan which confers on the Member equivalent rights to the rights that the Member had under this Division in respect of benefits;
- (iv) transferred (without the Member's consent) to another Approved Benefit Arrangement that is a "successor fund" (within the meaning of the Regulations) in respect of the transfer,

and (for the avoidance of doubt) the Trustee has power under this Rule 14 to effect any of the transfers referred to in this Rule 14.

15. PROMOTION

The Trustee may from time to time engage the services of a Promoter and remunerate the Promoter in respect of any advice, involvement or implementation of an activity to promote the Australian Expatriate Superannuation Fund. The Trustee may terminate the services of a Promoter.

SUB-DIVISION C – ACCUMULATION MEMBERS

1. APPLICATION

This Sub-division C of the Rules applies to and in respect of all Accumulation Members.

2. INTERPRETATION

- (a) A reference to a Member in this Sub-division C is a reference to an Accumulation Member.
- (b) A reference to the Rules in this Sub-division C is, unless expressed to the contrary, a reference to the Rules set out in Sub-divisions C, A and B.
- (c) A reference to a specific rule under this Sub-division C is, unless expressed to the contrary, a reference to a rule under this Sub-division C.

3. MEMBERSHIP

- (a) An Eligible Person may apply to become a Member of Sub-division C by completing and providing to the Trustee an application in a form prescribed by the Trustee.
- (b) If the Trustee accepts the application, the Eligible Person becomes a Member on the date of acceptance.
- (c) Notwithstanding the limitation on transfers and rollovers prescribed by clause 1.6.2 of the Deed an Eligible Person may be eligible to be admitted as a Member prior to the attainment of age 55.

4. CONTRIBUTIONS

4.1 Member Contributions

A Member may, with the agreement of the Trustee, contribute to the Australian Expatriate Superannuation Fund such amount as the Member determines (including any Contributions for or on behalf of the Member's Spouse who is also a Member).

4.2 Spouse Contributions

The Trustee may accept Spouse Contributions in respect of a Member.

4.3 Employer Contributions

An Employer may make contributions to this Division on behalf of a Member who is its Employee.

4.4 Investment of Contributions and other moneys

The Trustee must apply Contributions or other moneys received by it in respect of a Member to apply for Units in one or more Investment Options as provided by the Trustee in its Disclosure Document and as selected by the Member in an Option Nomination. The Trustee may set aside from the Contributions or other monies received in respect of a Member, such amounts it

determines are appropriate for the payment of any insurance premiums, Tax, fees or other expenses incurred in connection with the Member or the Fund.

4.5 Other Contributions

The Trustee may accept other amounts paid to the Fund in respect of a Member by any person to the extent receipt of such an amount would not be prohibited by the Operational Standards.

5. ACCUMULATION ACCOUNT

5.1 Establishment

- (a) The Trustee must establish a unitised Accumulation Account in respect of each Member.
- (b) The Trustee may establish a QROPS Member's segregated assets account for a Member to be comprised within the Member's Accumulation Account.
- (c) The Trustee may establish one or more QROPS Members' Accounts for a Member to be comprised within the Member's Accumulation Account.

5.2 Credits to Accumulation Account

The following amounts will be credited from time to time to the Accumulation Account maintained in respect of a Member:

- (a) any amount paid into the Australian Expatriate Superannuation Fund in respect of the Member as a transfer-in in accordance with clause 5A.1 of Sub-division B;
- (b) any amount, not covered by paragraph (a), paid into the Australian Expatriate Superannuation Fund in respect of the Member as a Roll Over Payment;
- (c) any Contributions made by or in respect of the Member;
- (d) the proceeds of any Policy effected by the Trustee paid in respect of an insured event that occurs in relation to the Member to the extent that the Trustee considers appropriate to credit to the Accumulation Account for the Member (including where those proceeds have not been paid directly to a Member as all or part of a Benefit payment);
- (e) such positive investment earnings on the Fund as is determined by the Trustee to the extent they are not reflected in the Unit Values for Units allocated to the Member in respect of each Investment Option nominated by the Member;
- (f) such positive movements in Unit Values for Units allocated to the Member in respect of each Investment Option nominated by the Member;
- (g) subject to the Operational Standards, any amounts transferred from the Pension Account of a Member on full or partial commutation of a Pension in respect of the Member;

- (h) distributions of any surplus in the Expense Reserve Account maintained in respect of Division VII determined pursuant to Clause 5.3.1 of the Deed;
- (i) distributions of any surplus in the Division VII Reserve Account determined pursuant to clause 4.3 of Subdivision B.
- (j) such other amounts as the Trustee from time to time determines are appropriate to credit to the Accumulation Account for the Member.

5.3 **Debits to Accumulation Account**

The following amounts will be debited from time to time to the Accumulation Account maintained in respect of a Member:

- (a) any amount paid out of the Australian Expatriate Superannuation Fund in respect of the Member as a transfer or a Roll Over Payment which the Trustee considers it appropriate to debit to the Accumulation Account for the Member;
- (b) any other Benefit payments made to or in respect of the Member (other than payments from a Pension Account or which are otherwise satisfied by the payment of the proceeds of any Policy effected by the Trustee in respect of an insured event that occurs in relation to the Member and which proceeds have not been credited to the Accumulation Account for the Member);
- (c) the costs of any Policy (including the costs of administration of such Policy) effected by the Trustee which the Trustee determines to attribute to the Member (whether such Policy has been effected on a group or individual basis);
- (d) any Tax payable from the Australian Expatriate Superannuation Fund in respect of any amounts credited or debited to the Accumulation Account for the Member and any other Tax which the Trustee determines it is appropriate to attribute to the Member;
- (e) Expenses incurred by the Trustee in connection with the Fund or the Member which the Trustee determines it is appropriate to attribute to the Member;
- (f) fees and charges determined by the Trustee in accordance with Rule 7;
- (g) such negative investment earnings as are determined by the Trustee to the extent they are not reflected in the Unit Values for Units allocated to the Member in respect of each Investment Option nominated by the Member;
- (h) such negative movements in Unit Values for Units allocated to the Member in respect of each Investment Option nominated by the Member;
- (i) subject to the Operational Standards, any amount transferred to the Pension Account of a Member for the establishment of a Pension for the Member;
- (j) any amount paid in satisfaction of a Release Authority given to the Trustee;

- (k) any amount which the Trustee determines to credit to the Expense Reserve Account maintained in respect of Division VII pursuant to Clause 5.3 of the Deed including in respect of fees and charges levied in respect of the Member;
- (l) such other amounts as the Trustee from time to time determines are appropriate to debit to the Accumulation Account for the Member;
- (m) any amount debited to a Member's Accumulation Account shall be drawn from the QROPS Member's Accounts in such manner as the QROPS Rules may require from time to time.

6. BENEFITS

6.1 Leaving Employment

If a Member ceases to be an Employee, the Member is entitled to the Member's Accumulation Account balance.

6.2 Total and Permanent Disablement

If a Member ceases to be an Employee because of Total and Permanent Disablement the Member is entitled to the Member's Accumulation Account balance.

6.3 Death

If a Member dies, a death benefit equivalent to the Member's Accumulation Account balance is payable.

6.4 Temporary Total Disablement

If a Member becomes Temporarily Totally Disabled within the meaning of any Policy effected in respect of the Member then the Trustee must pay the proceeds of any Policy less any tax required to be deducted under the Operational Standards.

6.5 Other Circumstances

A Member is entitled to the whole or part of the Member's Accumulation Account balance in such other circumstances as permitted by the Operational Standards.

7. FEES

7.1 Fees and charges

The Trustee is entitled to debit from a Member's Accumulation Account or to apply in the determination of a Unit Value under Rule 6 of Sub-division B the following fees and charges as it determines from time to time:

- (a) Trustee fee;
- (b) Member fee;
- (c) Contribution (and Roll Over Payment) fee;

- (d) Plan fee;
- (e) administration fee;
- (f) adviser service fee;
- (g) Promoter fee;
- (h) investment switching fee;
- (i) benefit payment fee;
- (j) expense recovery fee in relation to any Expenses;
- (k) family law charge (based on activity to be performed);
- (l) insurance administration charge;
- (m) any other fee as determined by the Trustee.

7.2 Indexation

The Trustee is entitled to index annually the fees listed in Rule 7.1 to the Average Weekly Ordinary Time Earnings or to the Consumer Price Index or to such other index as it determines.

7.3 Rebate of premium

The Trustee is entitled to be paid any amounts representing a rebate, profit share or reimbursement of premium from effecting a Policy.

7.4 Buy/Sell Spread

The Trustee is entitled to retain the Buy/Sell Spread in relation to the Application Value or Withdrawal Value of Units calculated under Rule 6 of Sub-division B.

7.5 Differential fees

Notwithstanding any provisions of these Rules to the contrary, but subject to the General Fees Rules, the Trustee may (but is not obliged to) charge different levels of fees to prescribed classes of Members as it determines in its discretion.

7.6 Selection of Units on withdrawal

The Trustee, unless agreed with the Member, may select what class and type of Units it withdraws from any Investment Pools relating to Investment Options nominated by the Member in order to meet any liability of the Australian Expatriate Superannuation Fund.

7.7 Rebate of fees

The Trustee may in its discretion rebate any fees or income received by it to Members in such proportions as it sees fit.

SUB-DIVISION D – PENSION MEMBERS

1. APPLICATION

This Sub-division D of the Rules applies to and in respect of all Pension Members.

2. INTERPRETATION

- (a) A reference to a Member in this Sub-division D is a reference to a Pension Member.
- (b) A reference to the Rules in this Sub-division D is, unless expressed to the contrary, a reference to the Rules set out in the Sub-divisions D, A and B.
- (c) A reference to a specific rule under this Sub-division D is, unless expressed to the contrary, a reference to a rule under this Sub-division D.

3. MEMBERSHIP

3.1 Membership Criteria

- (a) An Eligible Person with a Superannuation Lump Sum or Roll Over Payment may apply to become a Member of Sub-division D by completing and providing to the Trustee an application in a form prescribed by the Trustee.
- (b) If the Trustee accepts the application, the Eligible Person becomes a Member on the date of acceptance.
- (c) The Trustee may accept a person as a Member of Sub-division D in such other circumstances as the Trustee determines appropriate, including if the person is a Reversionary Beneficiary in respect of a Reversionary Pension.

3.2 Application of this Division

The Membership classification, Contributions payable by and in respect of, and Benefits payable in respect of Members under this Sub-division D will be exclusively determined in accordance with the provisions of these Rules.

4. SEPARATE PENSION

Unless the Trustee in its absolute discretion determines otherwise each Contribution or other amount paid to the Fund in respect of a Member of this Sub-division D who has already commenced a Pension must either:

- (a) be applied to a separate Pension Account and is then referable to a separate Pension to be provided in respect of that Member; or
- (b) be transferred to another Division and credited to an Account in respect of the Member.

5. CONTRIBUTIONS

5.1 Payment of Contributions

Subject to Rule 4, a Member of this Sub-division D may make Contributions (including a Superannuation Lump Sum) to this Sub-division as specified in the Benefit Specification of that Member and, with the consent of the Trustee, the Member may pay additional Contributions or other amounts to the Australian Expatriate Superannuation Fund. However, the Trustee may only accept Contributions in respect of the Member for the purpose of commencing a Pension if such amount can be applied under the Operational Standards to immediately pay benefits to the Member.

5.2 Investment of Contributions and other moneys

The Trustee must apply Contributions or other moneys (including any Superannuation Lump Sum) received by it in respect of a Member to apply for Units in one or more Investment Options as provided by the Trustee in its Disclosure Document and as selected by the Member in an Option Nomination. The Trustee may set aside from the Contributions or other monies received in respect of a Member, such amounts it determines are appropriate for the payment of any insurance premiums, Tax, fees or other expenses incurred in connection with the Member or the Fund.

6. PENSION ACCOUNTS

6.1 Establishment

- (a) The Trustee must establish a Pension Account in respect of each Member for each Pension payable in respect of the Member.
- (b) A Member's entitlement to payments from the Member's Pension Account will commence from the date the Member's application is accepted by the Trustee and the Member's Pension Account is established.
- (c) The Trustee may establish a QROPS segregated assets account for a Member to be comprised within the Members' Pension Account.
- (d) The Trustee may establish one or more QROPS Member's Accounts, including one or more QROPS Member's Pension Accounts in accordance with clause 4A.4 of Sub-division B for a Member to be comprised within the Members' Pension Account.

6.2 Payment of Benefits and Expenses

The Trustee may pay Benefits (by way of pension payments and commutation amounts) and Expenses (including any Tax) out of the assets of Sub-division D by the withdrawal of Units from a Member's Pension Account in accordance with these Rules and the terms of the Member's Application.

6.3 Credits to Pension Account

Subject to Rule 4, to the extent applicable for the type of Pension, the following amounts will be credited to a Member's Pension Account:

- (a) any amount paid into the Australian Expatriate Superannuation Fund in respect of the Member as a transfer-in in accordance with clause 5A.1 of Sub-division B;

- (b) any amount, not covered by paragraph (a), paid into the Australian Expatriate Superannuation Fund in respect of the Member as a Roll Over Payment;
- (c) a Contribution (including a Superannuation Lump Sum) made by or in respect of the Member in accordance with Rule 5.1;
- (d) the proceeds of any Policy effected by the Trustee in respect of the Member under Sub-division D and paid to the Trustee which the Trustee considers it appropriate to credit;
- (e) such positive investment earnings on the Fund as is determined by the Trustee to the extent they are not reflected in the Unit Values for Units allocated to the Member in respect of each Investment Option nominated by the Member;
- (f) such positive movements in Unit Values for Units allocated to the Member in respect of each Investment Option nominated by the Member;
- (g) any amounts which the Member directs be transferred from the Accumulation Account of the Member to the Member's Pension Account;
- (h) distributions of any surplus in the Expense Reserve Account maintained in respect of Division VII determined pursuant to Clause 5.3.1 of the Deed;
- (i) distribution of any surplus in the Division VII Reserve Account determined pursuant to clause 4.3 of Subdivision B;
- (j) such other amounts as the Trustee from time to time determines are appropriate to credit to the Member's Pension Account.

6.4 **Debits to Pension Account**

To the extent applicable for the type of Pension, the following amounts will be debited to a Member's Pension Account:

- (a) any amount paid out of the Australian Expatriate Superannuation Fund in respect of the Member as a transfer or a Roll Over Payment which the Trustee considers it appropriate to debit;
- (b) any payments made to or in respect of the Member or a Reversionary Beneficiary pursuant to the provisions of this Deed;
- (c) the costs of any Policy effected by the Trustee in respect of the Member which are not debited to an Accumulation Account in respect of the Member in accordance with Rule 5.3 of Sub-division C;
- (d) such proportion of any Tax payable from the Australian Expatriate Superannuation Fund in respect of any amounts credited or debited to the Member's Pension Account as the Trustee may determine and any other Tax which the Trustee determines it is appropriate to attribute to the Member;
- (e) Expenses incurred by the Trustee in connection with the Fund or the Member which the Trustee determines it is appropriate to attribute to the Member;

- (f) fees and charges determined by the Trustee in accordance with Rule 12;
- (g) such negative investment earnings as are determined by the Trustee to the extent they are not reflected in the Unit Values for Units allocated to the Member in respect of each Investment Option nominated by the Member;
- (h) such negative movements in Unit Values for Units allocated to the Member in respect of each Investment Option nominated by the Member;
- (i) any amount transferred to the Accumulation Account of a Member by way of full or partial commutation of the Pension;
- (j) any amount paid in satisfaction of a Release Authority given to the Trustee;
- (k) any amount which the Trustee determines to credit to the Expense Reserve Account maintained in respect of Division VII pursuant to Clause 5.3 of the Deed, including in respect of fees and charges levied in respect of the Member;
- (l) such other amounts as the Trustee from time to time determines are appropriate to debit to the Member's Pension Account;
- (m) any amount debited to a Member's Pension Account shall be drawn from the QROPS Members Accounts in such manner as the QROPS Rules may require from time to time.

6.5 Segregation of Pension Assets

- (a) In relation to the Investment Pools supporting one or more Pensions payable under this Division the Trustee may determine to segregate assets in those Investment Pools or otherwise apportion those assets for the purpose of determining the extent to which those assets support current pension liabilities in relation to the payment of Pensions and in respect of which income earned on such assets would then qualify as exempt income under the Tax Act.
- (b) The Trustee may establish a separate class of Units for an Investment Pool in respect of which income on a portion of the assets (whether segregated or allocated as a proportion) would qualify as exempt income under the Tax Act because those assets support current pension liabilities of the Fund. The Trustee may determine that the Unit Value of such separate class of Units will take into account the exemption from income tax available to the Investment Pool as a consequence of such assets in the Investment Pool supporting current or non- current pension liabilities of the Fund (whether segregated or allocated as a proportion).
- (c) The Trustee may obtain such actuarial certification as it determines is necessary from time to time for the purpose of obtaining any exemption from income tax that might be available for income attributable to assets segregated from other assets of the Fund or allocated as a proportion of the Fund to discharge current pension liabilities.
- (d) The Trustee may establish one or more QROPS Members Accounts for a Member in respect of the Member's Pension Account or Pension Accounts.

7. PENSION BENEFITS

- (a) The Trustee must pay a Member a Pension:
 - (i) commencing on the dates specified in the Member's Benefit Specification which must be not later than necessary to comply with the Operational Standards;
 - (ii) terminating when all Units allocated to the Member's Pension Account have been withdrawn.
- (b) A Pension paid to a Member in this Sub-Division D must comply with all standards prescribed under the Operational Standards relating to pensions which do not have a fixed size of benefit payment. Such standards are deemed to be incorporated in these Rules so long as they continue to be standards.
- (c) If a Member dies whilst being paid a Pension, the balance of the Member's Pension Account must be dealt with in accordance with Rule 8 of Subdivision B.

8. PAYMENT OF PENSION

8.1 Frequency of Payment

The Trustee must pay the Pension to a Member at the times specified in the Member's Benefit Specification. A Member may change the frequency of the Pension payments if the change is approved by the Trustee and is in a form approved by the Trustee. If at any time a Member has not made a selection as to the frequency of the Pension payments, the Trustee must make a Pension payment at least once in each financial year.

8.2 Minimum Annual Payment

For so long as the Pension is payable, the Trustee must ensure that at least one (1) payment is made during each financial year and the total Pension payments to a Member must not be:

- (a) larger than the maximum prescribed limits (if any); nor (b)

smaller than the minimum prescribed limits,

as set out in the Operational Standards for account-based pension benefits (including for Pensions known as "transition to retirement" pensions).

8.3 Notification of Level of Pension Payments

As soon as practicable following admission to membership of this Sub-division D and as at each subsequent 1 July, the Trustee must notify the Member of the minimum and maximum levels (if any) for pension payments for that financial year. A Member may select the level of pension payments at any time during a financial year within the minimum and maximum prescribed limits (if any) in such form and manner as the Trustee prescribes.

8.4 Default Pension Level

- (a) If during a financial year a Member fails to make a selection in relation to the level of Pension to be paid in accordance with Rule 8.3, the Trustee may continue to pay a Pension at the level specified the previous financial year or if no direction has been given in the Member's Benefit Specification, the Trustee may adjust the level of the Pension payable to either the minimum or the maximum (if any) in its absolute discretion or the Trustee may seek to contact the Member in order to receive the Member's directions with respect to the Pension payment level to apply.
- (b) Notwithstanding paragraph (a), if a Member fails to make a selection under Rule 8.3 or to give the Trustee a direction under paragraph (a) in relation to the level of Pension to be paid in any financial year, the Trustee is not liable to the

Member for any loss if the Member's Pension ceases due to a minimum payment not being made by the Trustee in respect of a financial year for the Member's Pension.

8.5 Pension Increase

The Trustee may increase the Pension payable for cost of living increases in its absolute discretion provided that the increase complies with the Operational Standards.

8.6 Commutation

- (a) A Member may commute either the whole or part of the Member's Pension at any time by notifying the Trustee in writing in a form and such manner as is prescribed by the Trustee. The Member may specify from which Investment Option(s) the commutation will be made, otherwise the Trustee has discretion as to which Units will be withdrawn for the purposes of making the commutation.
- (b) If part of the Pension is commuted, the Pension payments must be recalculated and adjusted to take account of the portion of the Pension Account paid as a commutation.

9. NON-COMMUTABLE FORM OF PENSION

Where a Member obtains his or her Preservation Age but does not Retire From Gainful Employment the Trustee may offer a Pension on the terms specified in these Rules except the Pension cannot be commuted and cashed as an Eligible Termination Payment unless:

- (a) the purpose of the commutation is:
 - (i) to cash an unrestricted non-preserved benefit; or
 - (ii) to pay a Surcharge or like tax amount permitted to be paid via a commutation of such a Pension under the Operational Standards; or
 - (iii) to give effect to an entitlement of a Non-Member Spouse under a Payment Split; or
- (b) before the commutation the Member has satisfied a Condition of Release in respect of which the Cashing Restriction for preserved benefits and restricted non-preserved benefits is nil; or

- (c) the Operational Standards otherwise permits the Pension to be commuted.

10. ACCOUNT BASED PENSION

Where an Account Based Pension is payable from Sub-division D the following conditions will apply to the payment of the Pension and will override any other Rules of this Sub-division D to the extent of any inconsistency:

- (a) the total of any Pension payments in any year must be at least the amount required by the Operational Standards; and
- (b) the Pension is transferable only to another person on the death of the Member; and
- (c) the capital value of the Pension and the income from it cannot be used as security for a borrowing; and
- (d) upon the death of the Member the Pension must not continue to be paid as a Pension to:
 - (i) an adult Child at least 25 years of age (unless they have a disability); or
 - (ii) a Child between the ages of 18 and 24 who was not a financial dependant of the Member; or
 - (iii) the Legal Personal Representative of the estate of the Member; and
- (e) the Pension cannot be commuted in whole or in part except in the following circumstances:
 - (i) where the Member has died; or
 - (ii) where the sole purpose of the commutation is to:
 - (A) pay a Surcharge or like tax amount permitted to be paid via a commutation of such a Pension under the Operational Standards; or
 - (B) give effect to an entitlement of a Non-Member Spouse under a Payment Split; or
 - (C) meet the rights of a person to return a financial product under the Operational Standards; or
 - (iii) where there is a partial commutation the account balance of the Pension after the commutation is equal to or greater than the minimum balance required by the Operational Standards after the commutation; or
 - (iv) the minimum amount required to be paid under the Operational Standards has been paid in the financial year in which the commutation takes place; and
- (f) no minimum payment of the Pension will be required in a financial year where that Pension commences after 1 June in that financial year unless the Operational Standards otherwise requires; and

- (g) no payment by way of Contribution or by way of a Roll Over Payment will be added to the Pension Account.

11. TRANSITION TO RETIREMENT INCOME STREAM AT PRESERVATION AGE

- (a) Where a Member attains his or her Preservation Age but does not Retire From Gainful Employment the Trustee may offer an Account Based Pension on the terms specified in these Rules except that the Account Based Pension cannot be commuted to a Superannuation Lump Sum unless:
 - (i) the purpose of the commutation is:
 - A. to cash an unrestricted non-preserved benefit; or
 - B. to pay a Surcharge or like tax amount permitted to be paid via a commutation of such a Pension under the Operational Standards; or
 - C. to give effect to an entitlement of a Non-Member Spouse under a Payment Split; or
 - (ii) before the commutation the Member has satisfied a Condition of Release in respect of which the Cashing Restriction for preserved benefits and restricted non-preserved benefits is nil.
- (b) The total Pension payments made in a financial year to a Member for a Transition to Retirement Income Stream must not be more than 10% of either:
 - (i) the Pension Account balance on 1 July in the financial year in which the payment is made; or
 - (ii) if the relevant financial year is the year in which the Pension commences the Pension Account balance on the commencement day or such other amount as required under the Operational Standards,

unless the Member has satisfied a Condition of Release in respect of which the Cashing Restriction for preserved benefits and restricted non-preserved benefits is nil.
- (c) This Rule 11 overrides any other Rules of this Sub-division D to the extent of any inconsistency.

12. FEES

12.1 Fees and charges

The Trustee is entitled to debit from a Member's Pension Account or to apply in the determination of a Unit Value under Rule 6 of Sub-division B the following fees and charges as it determines from time to time:

- (a) Trustee fee;
- (b) Member fee;

- (c) Contribution (and Roll Over Payment) fee;
- (d) Plan fee;
- (e) administration fee;
- (f) adviser service fee;
- (g) Promoter fee;
- (h) investment switching fee;
- (i) benefit payment fee;
- (j) expense recovery fee in relation to any Expenses;
- (k) family law charge (based on activity to be performed);
- (l) any other fee as determined by the Trustee.

12.2 Indexation

The Trustee is entitled to index annually the fees listed in Rule 12.1 to the Average Weekly Ordinary Time Earnings or to the Consumer Price Index or to such other index as it determines.

12.3 Rebate of premium

The Trustee is entitled to be paid any amounts representing a rebate, profit share or reimbursement of premium from effecting a Policy.

12.4 Buy/Sell Spread

The Trustee is entitled to retain the Buy/Sell Spread in relation to the Application Value or Withdrawal Value of Units calculated under Rule 6 of Sub-division B.

12.5 Differential fees

Notwithstanding any provisions of these Rules to the contrary, the Trustee may (but is not obliged to) charge different levels of fees to prescribed classes of Members as it determines in its discretion.

12.6 Selection of Units on withdrawal

The Trustee, unless agreed with the Member, may select what class and type of Units it withdraws from any Investment Pools relating to Investment Options nominated by the Member in order to meet any liability of the Australian Expatriate Superannuation Fund.

12.7 Rebate of fees

The Trustee may in its discretion rebate any fees or income received by it to Members in such proportions pursuant to the Operational Standards as it sees fit.

SUB-DIVISION E – GLOSSARY

13. GLOSSARY

For the purposes of these Rules and unless expressed to the contrary:

“Account” means an Accumulation Account or a Pension Account comprised within which there may be one or more QROPS Member’s Accounts (insofar as that such accounts applies to the Member) as the case may be;

“Account Based Pension” means a Pension payable on the terms stipulated in Rule 10 of Sub-division D or as otherwise payable under the terms of the Operational Standards;

“Accumulation Account” means in respect of a Member the account established and maintained for the Member under Rule 5 of Sub-division C;

“Accumulation Member” means a Member of Sub-Division C;

“Application Value” means the price applicable to Units subscribed for by a Member at any time as calculated pursuant to Rule 6.6 of Sub-division B;

“Approved Benefit Arrangement” means a fund or benefit arrangement into which or from which assets can be transferred into or from the Plan without causing the Plan to be in breach of or to fail to comply with the Operational Standards;

“Australian Expatriate Superannuation Fund” means the sub-fund established and maintained under Division VII;

“Average Weekly Ordinary Time Earnings” means the average weekly ordinary time earnings statistics or index published from time to time by the Australian Bureau of Statistics;

“Beneficiary” means a person presently and absolutely entitled to receive a Benefit at the relevant time which includes a Pension Member but which does not include a person who is a Member at that time;

“Buy/Sell Spread” means the difference between the purchase price of units of investments and the sale price of units of investments applicable to investment switching by Members;

“Child” has the same meaning as in the Act;

“Contributions-Splitting Superannuation Benefit” has the same meaning as under the Operational Standards;

“Expense” means a cost referred to in paragraphs (a) to (bb) (inclusive) of Clause 5.1.3 of the Deed;

“Family Law Act” means the *Family Law Act 1975* as amended, re-enacted or substituted from time to time;

“Family Law Regulations” means the *Family Law (Superannuation) Regulations 2001* as amended or substituted from time to time;

“Family Law Requirements” means Part VIIIB of the Family Law Act and the Family Law Regulations;

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“Foreign Superannuation Fund” has the meaning given by subsection 995-1(1) of the 1997 Tax Act.

“Internal Roll Over” means the transfer pursuant to Rule 7.3 of Sub-division B of a Member’s interest or entitlement from Division VII to another Division of the Plan or to another Account in Division VII;

“Member” means a person who has been accepted (or is taken to have been accepted) by the Trustee for membership of the Australian Expatriate Superannuation Fund as an Accumulation Member or a Pension Member in accordance with the Rules;

“Member Payment Charges” are the charges defined in schedule 34 of the Finance Act 2004 (UK).

“Member’s Relevant Transfer Fund” has the meaning given in schedule 34 of the Finance Act 2004 (UK) and includes a transferred-in Member’s UK Tax-Relieved fund [as defined in Schedule 34 of the Finance Act 2004 (UK)] and transferred-in sums or assets held by a UK registered pension scheme for the purposes of, or representing accrued rights under the pension scheme [within the meaning of these words in section 169(1) of the Finance Act 2004].

“Non-member Spouse” means a person who meets the definition of “non-member spouse” under the Family Law Requirements;

“Non-Preserved Amount” means an amount including a Roll Over Payment payable to or in respect of a Member or Beneficiary which is not subject to any cashing restrictions under Part 6 of the Regulations at the time of payment and is known as an “unrestricted non-preserved amount”;

“Payment Flag” has the same meaning as in the Family Law Requirements;

“Payment Split” has the same meaning as in the Family Law Requirements;

“Pension” means a pension payable under Sub-division D;

“Pension Account” means the account established in respect of a Member under Rule 6 of Sub-division D;

“Pension Member” means a Member of Sub-division D;

“Preservation Age” has the same meaning as in the Operational Standards;

“Policy” means an insurance policy effected by the Trustee under Clause 11.10.1 of the Deed;

“Promoter” means a third party appointed by the Trustee to engage in marketing, promoting, advertising or educating of any person which the Trustee considers will promote the Australian Expatriate Superannuation Fund in order to limit the reduction in membership, to increase membership and for any other purpose the Trustee believes is in the best interests of Members;

“Promoter fee” means a fee charged in respect of a Member that relates to the cost to the Trustee of engaging a Promoter;

“QROPS Members Account” is a reference to any or more of the accounts described in Clause 4A of Subdivision B.

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“QROPS Rules” are the QROPS Rules in the Trust Deed;

Release Authority” means a documented authority issued by the Commissioner of Taxation stating the amount of excess contributions tax that a Member of the Australian Expatriate Superannuation Fund is liable to pay or any similar document issued by the Commissioner of Taxation or pursuant to the Tax Act with respect to other tax that a Member of the Australian Expatriate Superannuation Fund is liable to pay and for which a release of superannuation monies is permitted to fund such tax liability;

“Reporting Obligations” are the undertakings given by the Trustee when it notifies Her Majesty’s Revenue and Customs (UK) that it was a Recognised Overseas Pension Scheme and also the information evidence and notifications which are required to be given by the Trustee from time to time to Her Majesty’s Revenue and Customs (UK) by section 169 of, and Schedules to, the Finance Act 2004 (UK) and by secondary legislation made under that Act.

“Retire From Gainful Employment” means actual retirement by a Member from Gainful Employment or retirement as defined for the purposes of the Operational Standards to enable the payment of Benefits;

“Roll Over Payment” means any payment made by or received by the Trustee at the request of a Member or in other circumstances which satisfy the Operational Standards to or from any Approved Benefit Arrangement;

“Splittable Contribution” means a Contribution to the Australian Expatriate Superannuation Fund or other amount stipulated under the Operational Standards allocated on or after 1 January 2006 but does not include:

- (a) an amount that has been rolled over or transferred to the Australian Expatriate Superannuation Fund;
- (b) such other amounts as prescribed by the Operational Standards;

“Splittable Payment” has the same meaning as in the Family Law Requirements;

“Spouse” has the same meaning as in the Act;

“Superannuation Agreement” has the same meaning as in the Family Law Requirements;

“Superannuation Lump Sum” has the same meaning as in the Operational Standards;

“Taxable Property Provisions” are the provisions of UK law which restrict the investments which can be made from the taxable asset transfer fund;

“Temporary Total Disablement” has the meaning given to that term or an equivalent term in any Policy arranged by the Trustee and in force for the time being in respect of the Member, and **“Temporarily Totally Disabled”** has a corresponding meaning;

“Transition to Retirement Income Stream” means a Pension payable on the terms of Rule 11 of Sub-division D or as otherwise payable under the Operational Standards;

“Unauthorised Payment” has the meaning given to it by Part 4 of, and the Schedules to, the Finance Act 2004 (UK), and by secondary legislation made under that Act.

“Unit” means an undivided interest in an Investment Pool maintained in respect of an

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Investment Option available under the Australian Expatriate Superannuation Fund;

Unit Value” means the value of Units for an Investment Pool pursuant to Rule 6.5 of Subdivision B;

“Withdrawal Value” means the price of Units to be redeemed or transferred in respect of a Member at any time as calculated pursuant to Rule 6.6 of Sub-division B.

EIGHTH SCHEDULE
RULES OF DIVISION VIII – MOBISUPER

PART 1 – GENERAL PROVISIONS

1. Application

- 1.1 The Rules of mobiSuper are set out in this Division.
- 1.2 The Rules set out the provisions governing the operation of mobiSuper. The Trustee must administer mobiSuper:
- (a) in accordance with the Rules set out in this Division; and
 - (b) in such a way that it satisfies the standards and conditions required by the Operational Standards.
- To the extent that there is any conflict between a provision of this Division and the Operational Standards, the Operational Standards prevail.
- 1.3 The Rules form part of the Deed and the Trustee has power to amend the Rules in the same way as it has power to amend the Deed.

2. Purpose

This Division will be maintained solely for one or more of the core purposes and any ancillary purposes identified in the Act as the purposes for which a Regulated Superannuation Fund must be solely maintained.

3. Interpretation

- 3.1 A reference to “**Participant**” in this Division is a reference to a Participant of this Division VIII.
- 3.2 A reference to “**Rules**” in this Division is a reference to the Rules set out in this Division VIII.
- 3.3 A reference to a specific rule under this Division VIII is, unless expressed to the contrary, a reference to a rule under this Division VIII.
- 3.4 Unless expressed to the contrary in this Division:
- (a) defined terms used in the Rules that have a meaning ascribed to them apply only when used in this Division;
 - (b) defined terms used in the Rules that have a meaning ascribed to them under the Deed apply when used under the Deed, including when used in this Division, but subject to any modification of those defined terms as set out under these Rules.
- 3.5 Subject to rules 3.4 and 3.6, the provisions of the Deed (other than the First through to the Seventh Schedules, inclusive) apply in respect of this Division. Notwithstanding rule 3.4, to the extent of any conflict between the terms of the Rules set out in this Division and Clause 1.3 of the Deed, Clause 1.3 of the Deed prevails.
- 3.6 The following provisions of the Deed do not apply in respect of this Division:

- (a) Clause 5.2 (Participants Account); and
- (b) Clause 17.2 (Participants may requisition meeting).

3.7 For the purposes of the Deed any reference to “**Participants Account**” shall be taken to be a reference to a Participant’s Accumulation Account or Pension Account (as the case may be) under this Division to the extent it is capable of having an equivalent application under the Deed.

4. Definitions

In this Division:

“**Account**” means an Accumulation Account or a Pension Account as the case may be;

“**Accumulation Account**” means, in respect of a Participant, the account established and maintained for the Participant under rule 15;

“**Application Value**” means the price applicable to Units subscribed for by a Participant or Pensioner at any time as calculated pursuant to rule 31;

“**Electronic Means**” means any electronic, telephonic or digital means, and includes (without limitation):

- (a) telephone;
- (b) electronic mail;
- (c) publishing to a website; and
- (d) notification via mobile data application;

“**Insurer**” means any insurance company with which the Trustee has effected a Policy;

“**Operational Standards**” includes, for the avoidance of doubt, in addition to the “*Operational Standards*” referred to in Clause 1.1 of the Deed, the *Corporations Act 2001*, the *Corporations Regulations 2001* and any relevant standard, modification, determination, ruling or instrument of relief issued or made pursuant to any legislation constituting an Operational Standard;

“**Pension Account**” means, in respect of a Pensioner, an account established and maintained for the Pensioner under rule 16;

“**Policy**” means an insurance policy issued by an Insurer to the Trustee to cover the death, TMC and/or disablement of one or more Participants;

“**Promoter**” means a third party appointed by the Trustee to engage in marketing, promoting, advertising or education of any person which the Trustee considers will promote this Division in order to limit the reduction in membership, to increase membership and for any other purpose the Trustee believes is in the best interests of Participants and Pensioners;

“**Release Authority**” means a documented authority issued by the Commissioner of Taxation stating the amount of excess contributions tax that a Participant is liable to pay or any similar document issued by the Commissioner of Taxation or pursuant to the Tax Act with respect to

other tax that a Participant is liable to pay and for which a release of superannuation monies is permitted to fund such tax liability;

“Reversionary Beneficiary” means:

- (a) a Dependant nominated by a Pensioner who is eligible to receive a Pension upon the death of a Pensioner pursuant to rule 28.1; or
- (b) a Dependant or other person to whom the Trustee determines to pay a death Benefit as a Pension pursuant to rule 28.3;

“Reversionary Pension” means a Pension paid to a Reversionary Beneficiary pursuant to rule 28;

“TMC”, in relation to a Participant:

- (a) has the meaning given to the term “terminal medical condition” or “terminal illness” or an equivalent term in any Policy arranged by the Trustee and in force for the time being in respect of the Participant; or
- (b) if in respect of a Participant at any time there is no Policy in force in respect of the Participant that gives meaning to any of those terms – has the meaning given to the term “terminal medical condition” in the Regulations;

“Total and Temporary Disablement”, in relation to a Participant, has the meaning given to that term or an equivalent term in any Policy arranged by the Trustee and in force for the time being in respect of the Participant;

“Unit” means an undivided interest in an Investment Pool maintained in respect of an Investment Option available under this Division;

“Unit Value” means the value of Units for an Investment Pool pursuant to rule 30; and

“Withdrawal Value” means the price of Units to be redeemed or transferred in respect of a Participant or Pensioner at any time as calculated pursuant to rule 31.

5. Electronic Communications

5.1 In this Division, documents, information, statements or notices shall be provided by or to the Trustee by such Electronic Means as is prescribed by the Trustee from time to time, subject to any requirements governing electronic disclosure under the Operational Standards.

5.2 Notwithstanding rule 5.1, the Trustee may in its discretion determine to provide or accept documents, information, statements or notices by means other than Electronic Means where the Trustee considers it fair and reasonable to do so and where permitted under the Operational Standards.

6. Promotion

6.1 The Trustee may from time to time engage the services of a Promoter and remunerate the Promoter in respect of any advice, involvement or implementation of an activity to promote this Division.

6.2 The Trustee may terminate the services of a Promoter.

PART 2 – PARTICIPATION

7. Participation

- 7.1 An Eligible Person may apply to become a Participant of this Division by completing and providing to the Trustee an application in a form prescribed by the Trustee.
- 7.2 If the Trustee accepts the application, the Eligible Person becomes a Participant on the date of acceptance.
- 7.3 An Eligible Person (including an existing Participant or Reversionary Beneficiary) may apply to establish a Pension Account under this Division by completing and providing to the Trustee an application in a form prescribed by the Trustee.
- 7.4 The Trustee may accept a person as a Participant or Pensioner of this Division in such other circumstances as the Trustee determines appropriate, including if a person is a Reversionary Beneficiary in receipt of a Reversionary Pension.
- 7.5 Each person upon being admitted as a Participant or Pensioner is deemed to have approved of and becomes bound by the Deed and the Rules.

8. Cooling off

- 8.1 If in accordance with the Operational Standards a Participant or Pensioner elects during the cooling off period specified by the Operational Standards to cease to be a participant of this Division, the Trustee must in the manner and to the extent required by the Operational Standards refund or otherwise deal with the balance of the Participant's or Pensioner's Account.
- 8.2 Prior to refunding or otherwise dealing with a Participant's or Pensioner's Account under this rule 8, the Trustee may deduct from the Account reasonable administration and transaction costs and other amounts unless prohibited by the Operational Standards.

9. Cessation of Participation

Upon the balance of a Participant's or Pensioner's Account being reduced to nil and subject to there being no insurance proceeds of a Policy remaining to be paid in respect of the Participant or Pensioner, the Participant or Pensioner ceases to be a Participant or Pensioner of and has no further entitlements under this Division.

PART 3 – CONTRIBUTIONS

10. Contributions to Accumulation Accounts

- 10.1 A Participant may, with the agreement of the Trustee, contribute to an Accumulation Account in this Division such amount as the Participant determines (including any Contributions for or on behalf of the Participant's Spouse who is also a Participant).
- 10.2 The Trustee may accept Spouse Contributions paid to an Accumulation Account in respect of a Participant.
- 10.3 An Employer may make contributions to an Accumulation Account in this Division on behalf of a Participant who is its Employee.

10.4 The Trustee may accept other amounts paid to an Accumulation Account in this Division in respect of a Participant by any person to the extent receipt of such an amount would not be prohibited by the Operational Standards.

11. Contributions in respect of Pensioners

11.1 Subject to rule 11.2, a Pensioner may pay Contributions or other amounts (including amounts transferred or rolled over pursuant to Clause 3.3.1 of the Deed) to this Division as specified in the Benefit Specification of that Pensioner and, with the consent of the Trustee, the Pensioner may pay additional Contributions or other amounts to this Division. However, the Trustee may only accept Contributions in respect of the Pensioner for the purpose of commencing a Pension if such amount can be applied under the Operational Standards to immediately pay benefits to the Pensioner.

11.2 Unless the Trustee in its absolute discretion determines otherwise each Contribution or other amount paid to this Division in respect of a Pensioner must either:

- (a) be applied to a separate Pension Account and is then referable to a separate Pension to be provided in respect of that Pensioner; or
- (b) be credited to an Accumulation Account maintained in respect of the Pensioner.

12. Investment of Contributions and other moneys

The Trustee must apply Contributions or other moneys received by it in respect of a Participant or Pensioner to apply for Units in one or more Investment Options as provided by the Trustee in its Disclosure Document and as selected by the Participant or Pensioner in an Option Nomination. The Trustee may set aside from the Contributions or other monies received in respect of a Participant or Pensioner, such amounts it determines are appropriate for the payment of any insurance premiums, Tax, fees or other expenses incurred in connection with the Participant or Pensioner or this Division.

13. Conditions

The Trustee may impose conditions or limits on the amounts contributed or transferred or rolled over to this Division by Participants or Pensioners or by a particular Participant or Pensioner.

14. Non-acceptance

14.1 The Trustee may refuse any Contribution or other amount paid to this Division without giving reasons.

14.2 The Trustee must refund any Contribution not allowed by the Operational Standards, after deducting taxes and expenses incurred by the Trustee in relation to the Contribution.

PART 4 – ACCOUNTS

15. Accumulation Account

15.1 The Trustee must establish a unitised Accumulation Account in respect of each Participant.

15.2 The following amounts will be credited from time to time to the Accumulation Account maintained in respect of a Participant:

- (a) any amount paid into this Division in respect of the Participant as a transfer or a roll over payment pursuant to Clause 3.3.1 which the Trustee considers appropriate to credit to the Participant's Accumulation Account;
- (b) any Contributions paid by or in respect of the Participant (other than Contributions the Participant has elected to apply towards commencement of a Pension under rule 16);
- (c) the proceeds of any Policy effected by the Trustee paid in respect of an insured event that occurs in relation to the Participant to the extent that the Trustee considers appropriate to credit to the Accumulation Account for the Participant (including where those proceeds have not been paid directly to a Participant as all or part of a Benefit payment);
- (d) such positive Income Entitlement as is determined by the Trustee in respect of the Participant's Accumulation Account to the extent that such Income Entitlement is not reflected in the Unit Values for Units allocated to the Participant in respect of each Investment Option nominated by the Participant;
- (e) such positive movements in Unit Values for Units allocated to the Participant in respect of each Investment Option nominated by the Participant;
- (f) subject to the Operational Standards, any amounts transferred from the Pension Account of a Participant on full or partial commutation of a Pension in respect of the Participant;
- (g) distributions of any surplus in the Expense Reserve Account maintained in respect of this Division determined pursuant to Clause 5.3.1 of the Deed; and
- (h) such other amounts as the Trustee from time to time determines are appropriate to credit to the Participant's Accumulation Account.

15.3 The following amounts will be debited from time to time to the Accumulation Account maintained in respect of a Participant:

- (a) any amounts paid out of this Division in respect of the Participant as a roll over or transfer pursuant to Clause 14.4A.1 which the Trustee considers appropriate to debit to the Participant's Accumulation Account;
- (b) any other Benefit payments made to or in respect of the Participant (other than payments from a Pension Account or which are otherwise satisfied by the payment of the proceeds of any Policy effected by the Trustee in respect of an insured event that occurs in relation to the Participant and which proceeds have not first been credited to the Participant's Accumulation Account);
- (c) the costs of any Policy (including the costs of administration of such Policy) effected by the Trustee which the Trustee determines to attribute to the Participant (whether such Policy has been effected on a group or individual basis);
- (d) any Tax payable from this Division in respect of any amounts credited or debited to the Participant's Accumulation Account and any other Tax which the Trustee determines it is appropriate to attribute to the Participant;

- (e) Expenses incurred by the Trustee in connection with this Division or the Participant which the Trustee determines it is appropriate to attribute to the Participant;
- (f) fees and charges determined by the Trustee in accordance with Part 8 of the Rules;
- (g) such negative Income Entitlement as is determined by the Trustee in respect of the Participant's Accumulation Account to the extent that such Income Entitlement is not reflected in the Unit Values for Units allocated to the Participant in respect of each Investment Option nominated by the Participant;
- (h) such negative movements in Unit Values for Units allocated to the Participant in respect of each Investment Option nominated by the Participant;
- (i) subject to the Operational Standards, any amount transferred to the Pension Account of a Participant for the establishment of a Pension for the Participant;
- (j) any amount paid in satisfaction of a Release Authority given to the Trustee;
- (k) any amount which the Trustee determines to credit to the Expense Reserve Account maintained in respect of this Division pursuant to Clause 5.3 of the Deed including in respect of fees and charges levied in respect of the Participant; and
- (l) such other amounts as the Trustee from time to time determines are appropriate to debit to the Participant's Accumulation Account.

16. Pension Account

- 16.1 The Trustee must establish a Pension Account in respect of each Pensioner (including a Reversionary Beneficiary) for each Pension payable in respect of the Pensioner.
- 16.2 A Pensioner may apply under rule 7.3 to establish additional Pension Accounts.
- 16.3 A Pensioner's entitlement to payments from the Pensioner's Pension Account will commence from the date the Pensioner's Pension Account is established.
- 16.4 The Trustee may pay Benefits (by way of pension payments and commutation amounts) and Expenses (including any Tax) out of the Assets of this Division by the withdrawal of Units from a Pensioner's Pension Account in accordance with these Rules and the terms of the Pensioner's Benefit Specification.
- 16.5 Subject to rule 11, to the extent applicable for the type of Pension, the following amounts will be credited to a Pensioner's Pension Account:
 - (a) any amount paid into this Division in respect of the Pensioner as a transfer or roll over payment pursuant to Clause 3.3.1 which the Trustee considers appropriate to credit to establish the Pension Account;
 - (b) a Contribution or other amount paid by or in respect of the Pensioner to establish the Pension Account in accordance with rule 11;
 - (c) the proceeds of any Policy effected by the Trustee in respect of the Pensioner under this Division and paid to the Trustee which the Trustee considers it appropriate to credit to establish the Pension Account;

- (d) such positive Income Entitlement as is determined by the Trustee in respect of the Pensioner's Pension Account to the extent that such Income Entitlement is not reflected in the Unit Values for Units allocated to the Pensioner in respect of each Investment Option nominated by the Pensioner;
- (e) such positive movements in Unit Values for Units allocated to the Pensioner in respect of each Investment Option nominated by the Pensioner;
- (f) any amounts which the Pensioner directs be transferred from the Pensioner's Accumulation Account to establish the Pension Account;
- (g) distributions of any surplus in the Expense Reserve Account maintained in respect of this Division determined pursuant to Clause 5.3.1 of the Deed;
- (h) such other amounts as the Trustee from time to time determines are appropriate to credit to the Pensioner's Pension Account.

16.6 To the extent applicable for the type of Pension, the following amounts will be debited to a Pensioner's Pension Account:

- (a) any amounts paid out of this Division in respect of the Participant as a roll over or transfer pursuant to Clause 14.4A.1 which the Trustee considers appropriate to debit;
- (b) any payments made to or in respect of the Pensioner or a Reversionary Beneficiary pursuant to the provisions of the Deed and the Rules;
- (c) the costs of any Policy effected by the Trustee in respect of the Pensioner which are not debited to an Accumulation Account in respect of the Pensioner in accordance with rule 15.3;
- (d) such proportion of any Tax payable from this Division in respect of any amounts credited or debited to the Pensioner's Pension Account as the Trustee may determine and any other Tax which the Trustee determines it is appropriate to attribute to the Pensioner;
- (e) Expenses incurred by the Trustee in connection with this Division or the Pensioner which the Trustee determines it is appropriate to attribute to the Pensioner;
- (f) fees and charges determined by the Trustee in accordance with Part 8 of the Rules;
- (g) such negative Income Entitlement as is determined by the Trustee in respect of the Participant's Pension Account to the extent that such Income Entitlement is not reflected in the Unit Values for Units allocated to the Pensioner in respect of each Investment Option nominated by the Pensioner;
- (h) such negative movements in Unit Values for Units allocated to the Pensioner in respect of each Investment Option nominated by the Pensioner;
- (i) any amount transferred to the Accumulation Account of a Pensioner by way of full or partial commutation of the Pension;
- (j) any amount paid in satisfaction of a Release Authority given to the Trustee;

- (k) any amount which the Trustee determines to credit to the Expense Reserve Account maintained in respect of this Division pursuant to Clause 5.3 of the Deed, including in respect of fees and charges levied in respect of the Pensioner; and
- (l) such other amounts as the Trustee from time to time determines are appropriate to debit to the Pensioner's Pension Account.

PART 5 – INSURANCE

17. Standard cover

The Trustee may determine to obtain a certain level of insurance cover in respect of all or any of death, disability or TMC under one or more Policies that have application in relation to Participants without any request or other application being made by particular Participants.

18. Additional cover

18.1 A Participant may apply to the Trustee in a form prescribed by the Trustee to seek to secure insurance cover for all or any of death, disability or TMC under one or more Policies that have application in respect of Participants of this Division.

18.2 If a Participant makes an application for insurance cover:

- (a) it must be completed in such form as is prescribed by the Trustee;
- (b) it must be accompanied or later supplemented by such information required by the Trustee or the Insurer; and
- (c) it may be subject to any conditions imposed by the Trustee or the Insurer.

18.3 The Trustee may accept or refuse to accept a Participant's application in full or the Trustee may accept the Participant's application in respect of part of the insurance cover applied for or subject to any conditions the Trustee or the Insurer may impose. The Trustee must refuse to accept an application for insurance cover or otherwise impose conditions limiting the insurance cover to the extent necessary to ensure consistency with the terms of the insurance cover offered by the Insurer.

19. Cancellation of cover

19.1 A Participant may apply to cancel any insurance cover under a Policy maintained in respect of the Participant in such manner as is prescribed by the Trustee from time to time.

19.2 Cancellation of insurance cover under a Policy maintained in respect of a Participant will take effect from such time as the Insurer gives effect to the cancellation in respect of the Participant or upon the Trustee determining that a Participant's Account balance is insufficient to meet the Trustee's costs of maintaining the insurance cover.

20. Limitation

A Participant is only entitled to a benefit in respect of insurance cover maintained under this Division if and to the extent that proceeds are paid by the Insurer to the Trustee in respect of the Participant's death, disability or TMC.

PART 6 – BENEFITS

21. Death

If a Participant dies, a death benefit equivalent to the Participant's Accumulation Account balance is payable.

22. Total and Permanent Disablement

If a Participant becomes Totally and Permanently Disabled the Participant is entitled to the Participant's Accumulation Account balance.

23. Temporary Total Disablement

If a Participant becomes Temporarily Totally Disabled within the meaning of any Policy effected in respect of the Participant then the Trustee must pay the proceeds of the Policy less any tax required to be deducted under the Operational Standards and other fees and charges determined by the Trustee.

24. Other Circumstances

A Participant is entitled to the whole or part of the Participant's Accumulation Account balance in such other circumstances as permitted by the Operational Standards. The Trustee is not required to pay a Participant a Benefit unless the Participant requests payment in writing.

25. Pension Benefits

25.1 The Trustee must pay a Participant a Pension:

- (a) commencing on the dates specified in the Participant's Benefit Specification which must be not later than necessary to comply with the Operational Standards; and
- (b) terminating when the Pension Account balance has been withdrawn.

25.2 If a Pensioner dies whilst in receipt of a Pension, the balance of the Pensioner's Pension Account must be dealt with in accordance with rule 28.

26. Payment of Pension

26.1 The Trustee must pay the Pension to a Pensioner at the times specified in the Pensioner's Benefit Specification. A Pensioner may change the frequency of the Pension payments if the change is approved by the Trustee and is in a form approved by the Trustee.

26.2 For so long as the Pension is payable, the Trustee must ensure that pension payments are made in accordance with the standards for account-based pension benefits as set out in the Operational Standards.

26.3 A Pensioner may select the level of pension payments at any time during a financial year in such form and manner as the Trustee prescribes and subject to rule 26.2.

26.4 If during a financial year a Pensioner fails to make a selection in relation to the level of Pension to be paid in accordance with rule 26.3, the Trustee may continue to pay a Pension at the level specified the previous financial year or if no direction has been given in the Pensioner's Benefit Specification, the Trustee may adjust the level of the Pension payable to either the minimum or the maximum (if any) in its absolute discretion or the Trustee may seek to contact

the Pensioner in order to receive the Pensioner's directions with respect to the Pension payment level to apply.

26.5 Notwithstanding rule 26.4, if a Pensioner fails to make a selection under rule 26.3 or to give the Trustee a direction under rule 26.4 in relation to the level of Pension to be paid in any financial year, the Trustee is not liable to the Pensioner for any loss if the Pensioner's Pension ceases due to a minimum payment not being made by the Trustee in respect of a financial year for the Pensioner's Pension.

27. Commutation

27.1 A Pensioner may commute either the whole or part of the Pensioner's Pension at any time by notifying the Trustee in writing in a form and such manner as is prescribed by the Trustee, subject to any limits or conditions prescribed for account-based pension benefits as set out in the Operational Standards. The Pensioner may specify from which Investment Option(s) the commutation will be made, otherwise the Trustee has discretion as to which Units will be withdrawn for the purposes of making the commutation.

27.2 If part of the Pension is commuted, the Pension payments must be recalculated and adjusted to take account of the portion of the Pension Account paid as a commutation.

28. Payments of Benefits on death

28.1 Subject to the Operational Standards, upon the death of a Participant the Trustee will deal with any Benefit payable in respect of the death of the Participant as follows:

- (a) if the Participant was in receipt of a Pension at the time of death and had nominated a Reversionary Beneficiary in accordance with Clause 3.6 of the Deed, the Trustee will pay a Reversionary Pension to the Reversionary Beneficiary;
- (b) to the extent that paragraph (a) does not apply:
 - (i) if the Participant had made a binding Nomination in accordance with Clause 3.5(d) of the Deed, the Trustee will pay or apply the Benefit in accordance with that Nomination; or
 - (ii) if the Participant had provided a Nomination in the form of a direction under Clause 3.5(f) of the Deed and the Trustee had consented in writing to the Nomination under that clause, the Trustee will pay or apply the Benefit in accordance with that Nomination; and
- (c) in all other cases the Trustee must pay or apply the Benefit:
 - (i) to one or more of the Participant's Dependants (including any Nominated Persons) and Legal Personal Representative in such proportions, form, manner and at such times as the Trustee will from time to time in its discretion determine subject to the Operational Standards; and
 - (ii) if there are no Dependants and no Legal Personal Representative, to such persons and in such proportions, form, manner and at such times as permitted by the Operational Standards.

- 28.2 The receipt by a Dependant, the Legal Personal Representative, relative or other person of a Benefit paid under this rule 28 will be a complete discharge to the Trustee in respect of any amount paid.
- 28.3 The Trustee may determine that a Benefit payable under this rule 28 will be paid in whole or in part as a Pension. If a Benefit is paid in the form of a Pension it will only be paid to those Dependents or others eligible to receive such Pension in accordance with the Operational Standards.

PART 7 – INVESTMENTS

29. Investment Choice and Unitisation

- 29.1 The Trustee must offer a choice of Investment Options to Participants and Pensioners in accordance with Part 6 (Investment) of the Deed.
- 29.2 The Trustee may divide each Investment Pool in respect of an Investment Option under this Division into Units and allocate Units to an Account according to the Investment Options the Participant or Pensioner has nominated or is taken to have nominated and to such other accounts and reserves maintained for the purposes of this Division as the Trustee determines.
- 29.3 No Unit confers a legal or equitable interest in any of the Assets of this Division or of any of the underlying Investment Pools.

30. Unit Valuations

- 30.1 Subject to rules 31 and 32 the Unit Value of a Unit in an Investment Pool is to be calculated as follows:

$$\text{Unit Value} = \frac{\text{NAV(IP)}}{\text{Total number of Units issued in the relevant Investment Pool}}$$

- 30.2 The net asset value of each Investment Pool (**NAV(IP)**) maintained in respect of this Division is to be calculated as follows:

NAV(IP) = Value of all Assets less all liabilities in respect of the relevant Investment Pool as determined by the Trustee

where liabilities include, but are not limited to:

- (a) the amount of any fee, cost, charge, other liability or Expense incurred or which the Trustee reasonably determines is likely to be incurred as a result of any transaction in respect of the acquisition or disposal of any investment in respect of the relevant Investment Pool; or
- (b) the amount of any fee, cost, charge, other liability or Expense which the Trustee determines to apply in connection with the administration of this Division, but which is not directly debited to an Account.

31. Application Value and Withdrawal Value of Units

The Trustee has the discretion to determine:

- (a) the Application Value and Withdrawal Value of Units from time to time; and
- (b) whether a Buy/Sell Spread may be applied to either or both of the Application Value or Withdrawal Value in respect of any Unit.

32. Pension assets

The Trustee may determine a different Unit Value for an Investment Pool which supports in whole or in part current pension liabilities of this Division.

PART 8 – FEES

33. Fees and charges

The Trustee is entitled to debit from an Account or apply in the determination of a Unit Value under Part 7 of these Rules the following fees and charges as it determines from time to time:

- (a) Trustee fee;
- (b) Participant fee;
- (c) Contribution (and other monies) fee;
- (d) administration fee;
- (e) adviser service fee;
- (f) Promoter fee;
- (g) investment switching fee;
- (h) benefit payment fee;
- (i) expense recovery fee in relation to any Expenses;
- (j) family law charge (based on activity to be performed);
- (k) insurance administration charge;
- (l) operational risk financial requirement reserve charge; and
- (m) any other fee as determined by the Trustee.

34. Indexation

The Trustee is entitled to index annually the fees listed in rule 33 to the Average Weekly Ordinary Time Earnings or to the Consumer Price Index or to such other index as it determines.

35. Rebate of premium

The Trustee is entitled to be paid any amounts representing a rebate, profit share or reimbursement of premium from effecting a Policy.

36. Buy/Sell Spread

The Trustee is entitled to retain the Buy/Sell Spread in relation to the Application Value or Withdrawal Value of Units calculated under Part 7 of these Rules.

37. Differential fees

Notwithstanding any provisions of these Rules to the contrary, but subject to the Operational Standards, the Trustee may (but is not obliged to) charge different levels of fees to prescribed classes of Participant or Pensioners as it determines in its discretion.

38. Selection of Units on withdrawal

The Trustee, unless agreed with the Participant or Pensioner, may select what class and type of Units it withdraws from any Investment Pools relating to Investment Options nominated by the Participant or Pensioner in order to meet any liability of this Division, including with respect to a Release Authority.

39. Rebate of fees

The Trustee may in its discretion rebate any fees or income received by it to Participants or Pensioners in such proportions as it sees fit.

NINTH SCHEDULE
RULES OF DIVISION IX – SPACESHIP

PART 1 – GENERAL PROVISIONS

1. Application

1.1 The Rules of Spaceship are set out in this Division.

1.2 The Rules set out the provisions governing the operation of Spaceship. The Trustee must administer Spaceship:

- (a) in accordance with the Rules set out in this Division; and
- (b) in such a way that it satisfies the standards and conditions required by the Operational Standards.

To the extent that there is any conflict between a provision of this Division and the Operational Standards, the Operational Standards prevail.

1.3 The Rules form part of the Deed and the Trustee has power to amend the Rules in the same way as it has power to amend the Deed.

2. Purpose

This Division will be maintained solely for one or more of the core purposes and any ancillary purposes identified in the Act as the purposes for which a Regulated Superannuation Fund must be solely maintained.

3. Interpretation

3.1 A reference to “**Participant**” in this Division is a reference to a Participant of this Division IX.

3.2 A reference to “**Rules**” in this Division is a reference to the Rules set out in this Division IX.

3.3 A reference to a specific rule under this Division IX is, unless expressed to the contrary, a reference to a rule under this Division IX.

3.4 Unless expressed to the contrary in this Division:

- (a) defined terms used in the Rules that have a meaning ascribed to them apply only when used in this Division;
- (b) defined terms used in the Rules that have a meaning ascribed to them under the Deed apply when used under the Deed, including when used in this Division, but subject to any modification of those defined terms as set out under these Rules.

3.5 Subject to rules 3.4 and 3.6, the provisions of the Deed (other than the First through to the Twelfth Schedules, inclusive) apply in respect of this Division. Notwithstanding rule 3.4, to the extent of any conflict between the terms of the Rules set out in this Division and Clause 1.3 of the Deed, Clause 1.3 of the Deed prevails.

3.6 The following provisions of the Deed do not apply in respect of this Division:

- (a) Clause 5.2 (Participants Account); and
- (b) Clause 17.2 (Participants may requisition meeting).

3.7 For the purposes of the Deed any reference to “**Participants Account**” shall be taken to be a reference to a Participant’s Accumulation Account or Pension Account (as the case may be) under this Division to the extent it is capable of having an equivalent application under the Deed.

4. Definitions

In this Division:

“**Account**” means an Accumulation Account or a Pension Account as the case may be;

“**Accumulation Account**” means, in respect of a Participant, the account established and maintained for the Participant under rule 15;

“**Application Value**” means the price applicable to Units subscribed for by a Participant or Pensioner at any time as calculated pursuant to rule 31;

“**Electronic Means**” means any electronic, telephonic or digital means, and includes (without limitation):

- (a) telephone;
- (b) electronic mail;
- (c) publishing to a website; and
- (d) notification via mobile data application;

“**Insurer**” means any insurance company with which the Trustee has effected a Policy;

“**Operational Standards**” includes, for the avoidance of doubt, in addition to the “*Operational Standards*” referred to in Clause 1.1 of the Deed, the *Corporations Act 2001*, the *Corporations Regulations 2001* and any relevant standard, modification, determination, ruling or instrument of relief issued or made pursuant to any legislation constituting an Operational Standard;

“**Pension Account**” means, in respect of a Pensioner, an account established and maintained for the Pensioner under rule 16;

“**Policy**” means an insurance policy issued by an Insurer to the Trustee to cover the death, TMC and/or disablement of one or more Participants;

“**Promoter**” means a third party appointed by the Trustee to engage in marketing, promoting, advertising or education of any person which the Trustee considers will promote this Division in order to limit the reduction in membership, to increase membership and for any other purpose the Trustee believes is in the best interests of Participants and Pensioners;

“Release Authority” means a documented authority issued by the Commissioner of Taxation stating the amount of excess contributions tax that a Participant is liable to pay or any similar document issued by the Commissioner of Taxation or pursuant to the Tax Act with respect to other tax that a Participant is liable to pay and for which a release of superannuation monies is permitted to fund such tax liability;

“Reversionary Beneficiary” means:

- (a) a Dependant nominated by a Pensioner who is eligible to receive a Pension upon the death of a Pensioner pursuant to rule 28.1; or
- (b) a Dependant or other person to whom the Trustee determines to pay a death Benefit as a Pension pursuant to rule 28.3;

“Reversionary Pension” means a Pension paid to a Reversionary Beneficiary pursuant to rule 28;

“TMC”, in relation to a Participant:

- (a) has the meaning given to the term “terminal medical condition” or “terminal illness” or an equivalent term in any Policy arranged by the Trustee and in force for the time being in respect of the Participant; or
- (b) if in respect of a Participant at any time there is no Policy in force in respect of the Participant that gives meaning to any of those terms – has the meaning given to the term “terminal medical condition” in the Regulations;

“Total and Temporary Disablement”, in relation to a Participant, has the meaning given to that term or an equivalent term in any Policy arranged by the Trustee and in force for the time being in respect of the Participant;

“Unit” means an undivided interest in an Investment Pool maintained in respect of an Investment Option available under this Division;

“Unit Value” means the value of Units for an Investment Pool pursuant to rule 30; and

“Withdrawal Value” means the price of Units to be redeemed or transferred in respect of a Participant or Pensioner at any time as calculated pursuant to rule 31.

5. Electronic Communications

5.1 In this Division, documents, information, statements or notices shall be provided by or to the Trustee by such Electronic Means as is prescribed by the Trustee from time to time, subject to any requirements governing electronic disclosure under the Operational Standards.

5.2 Notwithstanding rule 5.1, the Trustee may in its discretion determine to provide or accept documents, information, statements or notices by means other than Electronic Means where the Trustee considers it fair and reasonable to do so and where permitted under the Operational Standards.

6. Promotion

6.1 The Trustee may from time to time engage the services of a Promoter and remunerate the Promoter in respect of any advice, involvement or implementation of an activity to promote this Division.

6.2 The Trustee may terminate the services of a Promoter.

PART 2 – PARTICIPATION

7. Participation

7.1 An Eligible Person may apply to become a Participant of this Division by completing and providing to the Trustee an application in a form prescribed by the Trustee.

7.2 If the Trustee accepts the application, the Eligible Person becomes a Participant on the date of acceptance.

7.3 An Eligible Person (including an existing Participant or Reversionary Beneficiary) may apply to establish a Pension Account under this Division by completing and providing to the Trustee an application in a form prescribed by the Trustee.

7.4 The Trustee may accept a person as a Participant or Pensioner of this Division in such other circumstances as the Trustee determines appropriate, including if a person is a Reversionary Beneficiary in receipt of a Reversionary Pension.

7.5 Each person upon being admitted as a Participant or Pensioner is deemed to have approved of and becomes bound by the Deed and the Rules.

8. Cooling off

8.1 If in accordance with the Operational Standards a Participant or Pensioner elects during the cooling off period specified by the Operational Standards to cease to be a participant of this Division, the Trustee must in the manner and to the extent required by the Operational Standards refund or otherwise deal with the balance of the Participant's or Pensioner's Account.

8.2 Prior to refunding or otherwise dealing with a Participant's or Pensioner's Account under this rule 8, the Trustee may deduct from the Account reasonable administration and transaction costs and other amounts unless prohibited by the Operational Standards.

9. Cessation of Participation

Upon the balance of a Participant's or Pensioner's Account being reduced to nil and subject to there being no insurance proceeds of a Policy remaining to be paid in respect of the Participant or Pensioner, the Participant or Pensioner ceases to be a Participant or Pensioner of and has no further entitlements under this Division.

PART 3 – CONTRIBUTIONS

10. Contributions to Accumulation Accounts

- 10.1 A Participant may, with the agreement of the Trustee, contribute to an Accumulation Account in this Division such amount as the Participant determines (including any Contributions for or on behalf of the Participant's Spouse who is also a Participant).
- 10.2 The Trustee may accept Spouse Contributions paid to an Accumulation Account in respect of a Participant.
- 10.3 An Employer may make contributions to an Accumulation Account in this Division on behalf of a Participant who is its Employee.
- 10.4 The Trustee may accept other amounts paid to an Accumulation Account in this Division in respect of a Participant by any person to the extent receipt of such an amount would not be prohibited by the Operational Standards.

11. Contributions in respect of Pensioners

- 11.1 Subject to rule 11.2, a Pensioner may pay Contributions or other amounts (including amounts transferred or rolled over pursuant to Clause 3.3.1 of the Deed) to this Division as specified in the Benefit Specification of that Pensioner and, with the consent of the Trustee, the Pensioner may pay additional Contributions or other amounts to this Division. However, the Trustee may only accept Contributions in respect of the Pensioner for the purpose of commencing a Pension if such amount can be applied under the Operational Standards to immediately pay benefits to the Pensioner.
- 11.2 Unless the Trustee in its absolute discretion determines otherwise each Contribution or other amount paid to this Division in respect of a Pensioner must either:
- (a) be applied to a separate Pension Account and is then referable to a separate Pension to be provided in respect of that Pensioner; or
 - (b) be credited to an Accumulation Account maintained in respect of the Pensioner.

12. Investment of Contributions and other moneys

The Trustee must apply Contributions or other moneys received by it in respect of a Participant or Pensioner to apply for Units in one or more Investment Options as provided by the Trustee in its Disclosure Document and as selected by the Participant or Pensioner in an Option Nomination. The Trustee may set aside from the Contributions or other monies received in respect of a Participant or Pensioner, such amounts it determines are appropriate for the payment of any insurance premiums, Tax, fees or other expenses incurred in connection with the Participant or Pensioner or this Division.

13. Conditions

The Trustee may impose conditions or limits on the amounts contributed or transferred or rolled over to this Division by Participants or Pensioners or by a particular Participant or Pensioner.

14. Non-acceptance

14.1 The Trustee may refuse any Contribution or other amount paid to this Division without giving reasons.

14.2 The Trustee must refund any Contribution not allowed by the Operational Standards, after deducting taxes and expenses incurred by the Trustee in relation to the Contribution.

PART 4 – ACCOUNTS

15. Accumulation Account

15.1 The Trustee must establish a unitised Accumulation Account in respect of each Participant.

15.2 The following amounts will be credited from time to time to the Accumulation Account maintained in respect of a Participant:

- (a) any amount paid into this Division in respect of the Participant as a transfer or a roll over payment pursuant to Clause 3.3.1 which the Trustee considers appropriate to credit to the Participant's Accumulation Account;
- (b) any Contributions paid by or in respect of the Participant (other than Contributions the Participant has elected to apply towards commencement of a Pension under rule 16);
- (c) the proceeds of any Policy effected by the Trustee paid in respect of an insured event that occurs in relation to the Participant to the extent that the Trustee considers appropriate to credit to the Accumulation Account for the Participant (including where those proceeds have not been paid directly to a Participant as all or part of a Benefit payment);
- (d) such positive Income Entitlement as is determined by the Trustee in respect of the Participant's Accumulation Account to the extent that such Income Entitlement is not reflected in the Unit Values for Units allocated to the Participant in respect of each Investment Option nominated by the Participant;
- (e) such positive movements in Unit Values for Units allocated to the Participant in respect of each Investment Option nominated by the Participant;
- (f) subject to the Operational Standards, any amounts transferred from the Pension Account of a Participant on full or partial commutation of a Pension in respect of the Participant;
- (g) distributions of any surplus in the Expense Reserve Account maintained in respect of this Division determined pursuant to Clause 5.3.1 of the Deed; and
- (h) such other amounts as the Trustee from time to time determines are appropriate to credit to the Participant's Accumulation Account.

15.3 The following amounts will be debited from time to time to the Accumulation Account maintained in respect of a Participant:

- (a) any amounts paid out of this Division in respect of the Participant as a roll over or transfer pursuant to Clause 14.4A.1 which the Trustee considers appropriate to debit to the Participant's Accumulation Account;
- (b) any other Benefit payments made to or in respect of the Participant (other than payments from a Pension Account or which are otherwise satisfied by the payment of the proceeds of any Policy effected by the Trustee in respect of an insured event that occurs in relation to the Participant and which proceeds have not first been credited to the Participant's Accumulation Account);
- (c) the costs of any Policy (including the costs of administration of such Policy) effected by the Trustee which the Trustee determines to attribute to the Participant (whether such Policy has been effected on a group or individual basis);
- (d) any Tax payable from this Division in respect of any amounts credited or debited to the Participant's Accumulation Account and any other Tax which the Trustee determines it is appropriate to attribute to the Participant;
- (e) Expenses incurred by the Trustee in connection with this Division or the Participant which the Trustee determines it is appropriate to attribute to the Participant;
- (f) fees and charges determined by the Trustee in accordance with Part 8 of the Rules;
- (g) such negative Income Entitlement as is determined by the Trustee in respect of the Participant's Accumulation Account to the extent that such Income Entitlement is not reflected in the Unit Values for Units allocated to the Participant in respect of each Investment Option nominated by the Participant;
- (h) such negative movements in Unit Values for Units allocated to the Participant in respect of each Investment Option nominated by the Participant;
- (i) subject to the Operational Standards, any amount transferred to the Pension Account of a Participant for the establishment of a Pension for the Participant;
- (j) any amount paid in satisfaction of a Release Authority given to the Trustee;
- (k) any amount which the Trustee determines to credit to the Expense Reserve Account maintained in respect of this Division pursuant to Clause 5.3 of the Deed including in respect of fees and charges levied in respect of the Participant; and
- (l) such other amounts as the Trustee from time to time determines are appropriate to debit to the Participant's Accumulation Account.

16. Pension Account

16.1 The Trustee must establish a Pension Account in respect of each Pensioner (including a Reversionary Beneficiary) for each Pension payable in respect of the Pensioner.

16.2 A Pensioner may apply under rule 7.3 to establish additional Pension Accounts.

16.3 A Pensioner's entitlement to payments from the Pensioner's Pension Account will commence from the date the Pensioner's Pension Account is established.

16.4 The Trustee may pay Benefits (by way of pension payments and commutation amounts) and Expenses (including any Tax) out of the Assets of this Division by the withdrawal of Units from a Pensioner's Pension Account in accordance with these Rules and the terms of the Pensioner's Benefit Specification.

16.5 Subject to rule 11, to the extent applicable for the type of Pension, the following amounts will be credited to a Pensioner's Pension Account:

- (a) any amount paid into this Division in respect of the Pensioner as a transfer or roll over payment pursuant to Clause 3.3.1 which the Trustee considers appropriate to credit to establish the Pension Account;
- (b) a Contribution or other amount paid by or in respect of the Pensioner to establish the Pension Account in accordance with rule 11;
- (c) the proceeds of any Policy effected by the Trustee in respect of the Pensioner under this Division and paid to the Trustee which the Trustee considers it appropriate to credit to establish the Pension Account;
- (d) such positive Income Entitlement as is determined by the Trustee in respect of the Pensioner's Pension Account to the extent that such Income Entitlement is not reflected in the Unit Values for Units allocated to the Pensioner in respect of each Investment Option nominated by the Pensioner;
- (e) such positive movements in Unit Values for Units allocated to the Pensioner in respect of each Investment Option nominated by the Pensioner;
- (f) any amounts which the Pensioner directs be transferred from the Pensioner's Accumulation Account to establish the Pension Account;
- (g) distributions of any surplus in the Expense Reserve Account maintained in respect of this Division determined pursuant to Clause 5.3.1 of the Deed;
- (h) such other amounts as the Trustee from time to time determines are appropriate to credit to the Pensioner's Pension Account.

16.6 To the extent applicable for the type of Pension, the following amounts will be debited to a Pensioner's Pension Account:

- (a) any amounts paid out of this Division in respect of the Participant as a roll over or transfer pursuant to Clause 14.4A.1 which the Trustee considers appropriate to debit;
- (b) any payments made to or in respect of the Pensioner or a Reversionary Beneficiary pursuant to the provisions of the Deed and the Rules;
- (c) the costs of any Policy effected by the Trustee in respect of the Pensioner which are not debited to an Accumulation Account in respect of the Pensioner in accordance with rule 15.3;
- (d) such proportion of any Tax payable from this Division in respect of any amounts credited or debited to the Pensioner's Pension Account as the Trustee may determine and any other Tax which the Trustee determines it is appropriate to attribute to the Pensioner;

- (e) Expenses incurred by the Trustee in connection with this Division or the Pensioner which the Trustee determines it is appropriate to attribute to the Pensioner;
- (f) fees and charges determined by the Trustee in accordance with Part 8 of the Rules;
- (g) such negative Income Entitlement as is determined by the Trustee in respect of the Participant's Pension Account to the extent that such Income Entitlement is not reflected in the Unit Values for Units allocated to the Pensioner in respect of each Investment Option nominated by the Pensioner;
- (h) such negative movements in Unit Values for Units allocated to the Pensioner in respect of each Investment Option nominated by the Pensioner;
- (i) any amount transferred to the Accumulation Account of a Pensioner by way of full or partial commutation of the Pension;
- (j) any amount paid in satisfaction of a Release Authority given to the Trustee;
- (k) any amount which the Trustee determines to credit to the Expense Reserve Account maintained in respect of this Division pursuant to Clause 5.3 of the Deed, including in respect of fees and charges levied in respect of the Pensioner; and
- (l) such other amounts as the Trustee from time to time determines are appropriate to debit to the Pensioner's Pension Account.

PART 5 – INSURANCE

17. Standard cover

The Trustee may determine to obtain a certain level of insurance cover in respect of all or any of death, disability or TMC under one or more Policies that have application in relation to Participants without any request or other application being made by particular Participants.

18. Additional cover

18.1 A Participant may apply to the Trustee in a form prescribed by the Trustee to seek to secure insurance cover for all or any of death, disability or TMC under one or more Policies that have application in respect of Participants of this Division.

18.2 If a Participant makes an application for insurance cover:

- (a) it must be completed in such form as is prescribed by the Trustee;
- (b) it must be accompanied or later supplemented by such information required by the Trustee or the Insurer; and
- (c) it may be subject to any conditions imposed by the Trustee or the Insurer.

18.3 The Trustee may accept or refuse to accept a Participant's application in full or the Trustee may accept the Participant's application in respect of part of the insurance cover applied for or subject to any conditions the Trustee or the Insurer may impose. The Trustee must refuse to accept an application for insurance cover or otherwise impose conditions limiting the

insurance cover to the extent necessary to ensure consistency with the terms of the insurance cover offered by the Insurer.

19. Cancellation of cover

- 19.1 A Participant may apply to cancel any insurance cover under a Policy maintained in respect of the Participant in such manner as is prescribed by the Trustee from time to time.
- 19.2 Cancellation of insurance cover under a Policy maintained in respect of a Participant will take effect from such time as the Insurer gives effect to the cancellation in respect of the Participant or upon the Trustee determining that a Participant's Account balance is insufficient to meet the Trustee's costs of maintaining the insurance cover.

20. Limitation

A Participant is only entitled to a benefit in respect of insurance cover maintained under this Division if and to the extent that proceeds are paid by the Insurer to the Trustee in respect of the Participant's death, disability or TMC.

PART 6 – BENEFITS

21. Death

If a Participant dies, a death benefit equivalent to the Participant's Accumulation Account balance is payable.

22. Total and Permanent Disablement

If a Participant becomes Totally and Permanently Disabled the Participant is entitled to the Participant's Accumulation Account balance.

23. Temporary Total Disablement

If a Participant becomes Temporarily Totally Disabled within the meaning of any Policy effected in respect of the Participant then the Trustee must pay the proceeds of the Policy less any tax required to be deducted under the Operational Standards and other fees and charges determined by the Trustee.

24. Other Circumstances

A Participant is entitled to the whole or part of the Participant's Accumulation Account balance in such other circumstances as permitted by the Operational Standards. The Trustee is not required to pay a Participant a Benefit unless the Participant requests payment in writing.

25. Pension Benefits

25.1 The Trustee must pay a Participant a Pension:

- (a) commencing on the dates specified in the Participant's Benefit Specification which must be not later than necessary to comply with the Operational Standards; and
- (b) terminating when the Pension Account balance has been withdrawn.

25.2 If a Pensioner dies whilst in receipt of a Pension, the balance of the Pensioner's Pension Account must be dealt with in accordance with rule 28.

26. Payment of Pension

26.1 The Trustee must pay the Pension to a Pensioner at the times specified in the Pensioner's Benefit Specification. A Pensioner may change the frequency of the Pension payments if the change is approved by the Trustee and is in a form approved by the Trustee.

26.2 For so long as the Pension is payable, the Trustee must ensure that pension payments are made in accordance with the standards for account-based pension benefits as set out in the Operational Standards.

26.3 A Pensioner may select the level of pension payments at any time during a financial year in such form and manner as the Trustee prescribes and subject to rule 26.2.

26.4 If during a financial year a Pensioner fails to make a selection in relation to the level of Pension to be paid in accordance with rule 26.3, the Trustee may continue to pay a Pension at the level specified the previous financial year or if no direction has been given in the Pensioner's Benefit Specification, the Trustee may adjust the level of the Pension payable to either the minimum or the maximum (if any) in its absolute discretion or the Trustee may seek to contact the Pensioner in order to receive the Pensioner's directions with respect to the Pension payment level to apply.

26.5 Notwithstanding rule 26.4, if a Pensioner fails to make a selection under rule 26.3 or to give the Trustee a direction under rule 26.4 in relation to the level of Pension to be paid in any financial year, the Trustee is not liable to the Pensioner for any loss if the Pensioner's Pension ceases due to a minimum payment not being made by the Trustee in respect of a financial year for the Pensioner's Pension.

27. Commutation

27.1 A Pensioner may commute either the whole or part of the Pensioner's Pension at any time by notifying the Trustee in writing in a form and such manner as is prescribed by the Trustee, subject to any limits or conditions prescribed for account-based pension benefits as set out in the Operational Standards. The Pensioner may specify from which Investment Option(s) the commutation will be made, otherwise the Trustee has discretion as to which Units will be withdrawn for the purposes of making the commutation.

27.2 If part of the Pension is commuted, the Pension payments must be recalculated and adjusted to take account of the portion of the Pension Account paid as a commutation.

28. Payments of Benefits on death

28.1 Subject to the Operational Standards, upon the death of a Participant the Trustee will deal with any Benefit payable in respect of the death of the Participant as follows:

- (a) if the Participant was in receipt of a Pension at the time of death and had nominated a Reversionary Beneficiary in accordance with Clause 3.6 of the Deed, the Trustee will pay a Reversionary Pension to the Reversionary Beneficiary;
- (b) to the extent that paragraph (a) does not apply:

- (i) if the Participant had made a binding Nomination in accordance with Clause 3.5(d) of the Deed, the Trustee will pay or apply the Benefit in accordance with that Nomination; or
 - (ii) if the Participant had provided a Nomination in the form of a direction under Clause 3.5(f) of the Deed and the Trustee had consented in writing to the Nomination under that clause, the Trustee will pay or apply the Benefit in accordance with that Nomination; and
 - (c) in all other cases the Trustee must pay or apply the Benefit:
 - (i) to one or more of the Participant's Dependants (including any Nominated Persons) and Legal Personal Representative in such proportions, form, manner and at such times as the Trustee will from time to time in its discretion determine subject to the Operational Standards; and
 - (ii) if there are no Dependants and no Legal Personal Representative, to such persons and in such proportions, form, manner and at such times as permitted by the Operational Standards.
- 28.2 The receipt by a Dependant, the Legal Personal Representative, relative or other person of a Benefit paid under this rule 28 will be a complete discharge to the Trustee in respect of any amount paid.
- 28.3 The Trustee may determine that a Benefit payable under this rule 28 will be paid in whole or in part as a Pension. If a Benefit is paid in the form of a Pension it will only be paid to those Dependants or others eligible to receive such Pension in accordance with the Operational Standards.

PART 7 – INVESTMENTS

29. Investment Choice and Unitisation

- 29.1 The Trustee must offer a choice of Investment Options to Participants and Pensioners in accordance with Part 6 (Investment) of the Deed.
- 29.2 The Trustee may divide each Investment Pool in respect of an Investment Option under this Division into Units and allocate Units to an Account according to the Investment Options the Participant or Pensioner has nominated or is taken to have nominated and to such other accounts and reserves maintained for the purposes of this Division as the Trustee determines.
- 29.3 No Unit confers a legal or equitable interest in any of the Assets of this Division or of any of the underlying Investment Pools.

30. Unit Valuations

- 30.1 Subject to rules 31 and 32 the Unit Value of a Unit in an Investment Pool is to be calculated as follows:

$$\text{Unit Value} = \frac{\text{NAV(IP)}}{\text{Total number of Units issued in the relevant Investment Pool}}$$

30.2 The net asset value of each Investment Pool (**NAV(IP)**) maintained in respect of this Division is to be calculated as follows:

NAV(IP) = Value of all Assets less all liabilities in respect of the relevant Investment Pool as determined by the Trustee

where liabilities include, but are not limited to:

- (a) the amount of any fee, cost, charge, other liability or Expense incurred or which the Trustee reasonably determines is likely to be incurred as a result of any transaction in respect of the acquisition or disposal of any investment in respect of the relevant Investment Pool; or
- (b) the amount of any fee, cost, charge, other liability or Expense which the Trustee determines to apply in connection with the administration of this Division, but which is not directly debited to an Account.

31. Application Value and Withdrawal Value of Units

The Trustee has the discretion to determine:

- (a) the Application Value and Withdrawal Value of Units from time to time; and
- (b) whether a Buy/Sell Spread may be applied to either or both of the Application Value or Withdrawal Value in respect of any Unit.

32. Pension assets

The Trustee may determine a different Unit Value for an Investment Pool which supports in whole or in part current pension liabilities of this Division.

PART 8 – FEES

33. Fees and charges

The Trustee is entitled to debit from an Account or apply in the determination of a Unit Value under Part 7 of these Rules the following fees and charges as it determines from time to time:

- (a) Trustee fee;
- (b) Participant fee;
- (c) Contribution (and other monies) fee;
- (d) administration fee;
- (e) adviser service fee;
- (f) Promoter fee;
- (g) investment switching fee;
- (h) benefit payment fee;

- (i) expense recovery fee in relation to any Expenses;
- (j) family law charge (based on activity to be performed);
- (k) insurance administration charge;
- (l) operational risk financial requirement reserve charge; and
- (m) any other fee as determined by the Trustee.

34. Indexation

The Trustee is entitled to index annually the fees listed in rule 33 to the Average Weekly Ordinary Time Earnings or to the Consumer Price Index or to such other index as it determines.

35. Rebate of premium

The Trustee is entitled to be paid any amounts representing a rebate, profit share or reimbursement of premium from effecting a Policy.

36. Buy/Sell Spread

The Trustee is entitled to retain the Buy/Sell Spread in relation to the Application Value or Withdrawal Value of Units calculated under Part 7 of these Rules.

37. Differential fees

Notwithstanding any provisions of these Rules to the contrary, but subject to the Operational Standards, the Trustee may (but is not obliged to) charge different levels of fees to prescribed classes of Participant or Pensioners as it determines in its discretion.

38. Selection of Units on withdrawal

The Trustee, unless agreed with the Participant or Pensioner, may select what class and type of Units it withdraws from any Investment Pools relating to Investment Options nominated by the Participant or Pensioner in order to meet any liability of this Division, including with respect to a Release Authority.

39. Rebate of fees

The Trustee may in its discretion rebate any fees or income received by it to Participants or Pensioners in such proportions as it sees fit.

TENTH SCHEDULE

RULES OF DIVISION X – STUDENT SUPER PROFESSIONAL SUPER

PART 1 – GENERAL PROVISIONS

1. Application

1.1 The Rules of Student Super Professional Super are set out in this Division.

1.2 The Rules set out the provisions governing the operation of Student Super Professional Super. The Trustee must administer Student Super Professional Super:

- (a) in accordance with the Rules set out in this Division; and
- (b) in such a way that it satisfies the standards and conditions required by the Operational Standards.

To the extent that there is any conflict between a provision of this Division and the Operational Standards, the Operational Standards prevail.

1.3 The Rules form part of the Deed and the Trustee has power to amend the Rules in the same way as it has power to amend the Deed.

2. Purpose

This Division will be maintained solely for one or more of the core purposes and any ancillary purposes identified in the Act as the purposes for which a Regulated Superannuation Fund must be solely maintained.

3. Interpretation

3.1 A reference to “**Participant**” in this Division is a reference to a Participant of this Division X.

3.2 A reference to “**Rules**” in this Division is a reference to the Rules set out in this Division X.

3.3 A reference to a specific rule under this Division X is, unless expressed to the contrary, a reference to a rule under this Division X.

3.4 Unless expressed to the contrary in this Division:

- (a) defined terms used in the Rules that have a meaning ascribed to them apply only when used in this Division;
- (b) defined terms used in the Rules that have a meaning ascribed to them under the Deed apply when used under the Deed, including when used in this Division, but subject to any modification of those defined terms as set out under these Rules.

3.7 Subject to rules 3.4 and 3.6, the provisions of the Deed (other than the First through to the Twelfth Schedules, inclusive) apply in respect of this Division. Notwithstanding rule 3.4, to the extent of any conflict between the terms of the Rules set out in this Division and Clause 1.3 of the Deed, Clause 1.3 of the Deed prevails.

3.8 The following provisions of the Deed do not apply in respect of this Division:

- (a) Clause 5.2 (Participants Account); and
- (b) Clause 17.2 (Participants may requisition meeting).

3.7 For the purposes of the Deed any reference to “**Participants Account**” shall be taken to be a reference to a Participant’s Accumulation Account or Pension Account (as the case may be) under this Division to the extent it is capable of having an equivalent application under the Deed.

4. Definitions

In this Division:

“**Account**” means an Accumulation Account or a Pension Account as the case may be;

“**Accumulation Account**” means, in respect of a Participant, the account established and maintained for the Participant under rule 15;

“**Application Value**” means the price applicable to Units subscribed for by a Participant or Pensioner at any time as calculated pursuant to rule 31;

“**Electronic Means**” means any electronic, telephonic or digital means, and includes (without limitation):

- (a) telephone;
- (b) electronic mail;
- (c) publishing to a website; and
- (d) notification via mobile data application;

“**Insurer**” means any insurance company with which the Trustee has effected a Policy;

“**Operational Standards**” includes, for the avoidance of doubt, in addition to the “*Operational Standards*” referred to in Clause 1.1 of the Deed, the *Corporations Act 2001*, the *Corporations Regulations 2001* and any relevant standard, modification, determination, ruling or instrument of relief issued or made pursuant to any legislation constituting an Operational Standard;

“**Pension Account**” means, in respect of a Pensioner, an account established and maintained for the Pensioner under rule 16;

“**Policy**” means an insurance policy issued by an Insurer to the Trustee to cover the death, TMC and/or disablement of one or more Participants;

“**Promoter**” means a third party appointed by the Trustee to engage in marketing, promoting, advertising or education of any person which the Trustee considers will promote this Division in order to limit the reduction in membership, to increase membership and for any other purpose the Trustee believes is in the best interests of Participants and Pensioners;

“Release Authority” means a documented authority issued by the Commissioner of Taxation stating the amount of excess contributions tax that a Participant is liable to pay or any similar document issued by the Commissioner of Taxation or pursuant to the Tax Act with respect to other tax that a Participant is liable to pay and for which a release of superannuation monies is permitted to fund such tax liability;

“Reversionary Beneficiary” means:

- (a) a Dependant nominated by a Pensioner who is eligible to receive a Pension upon the death of a Pensioner pursuant to rule 28.1; or
- (b) a Dependant or other person to whom the Trustee determines to pay a death Benefit as a Pension pursuant to rule 28.3;

“Reversionary Pension” means a Pension paid to a Reversionary Beneficiary pursuant to rule 28;

“TMC”, in relation to a Participant:

- (a) has the meaning given to the term “terminal medical condition” or “terminal illness” or an equivalent term in any Policy arranged by the Trustee and in force for the time being in respect of the Participant; or
- (b) if in respect of a Participant at any time there is no Policy in force in respect of the Participant that gives meaning to any of those terms – has the meaning given to the term “terminal medical condition” in the Regulations;

“Total and Temporary Disablement”, in relation to a Participant, has the meaning given to that term or an equivalent term in any Policy arranged by the Trustee and in force for the time being in respect of the Participant;

“Unit” means an undivided interest in an Investment Pool maintained in respect of an Investment Option available under this Division;

“Unit Value” means the value of Units for an Investment Pool pursuant to rule 30; and

“Withdrawal Value” means the price of Units to be redeemed or transferred in respect of a Participant or Pensioner at any time as calculated pursuant to rule 31.

5. Electronic Communications

5.1 In this Division, documents, information, statements or notices shall be provided by or to the Trustee by such Electronic Means as is prescribed by the Trustee from time to time, subject to any requirements governing electronic disclosure under the Operational Standards.

5.2 Notwithstanding rule 5.1, the Trustee may in its discretion determine to provide or accept documents, information, statements or notices by means other than Electronic Means where the Trustee considers it fair and reasonable to do so and where permitted under the Operational Standards.

6. Promotion

6.1 The Trustee may from time to time engage the services of a Promoter and remunerate the Promoter in respect of any advice, involvement or implementation of an activity to promote this Division.

6.2 The Trustee may terminate the services of a Promoter.

PART 2 – PARTICIPATION

7. Participation

7.1 An Eligible Person may apply to become a Participant of this Division by completing and providing to the Trustee an application in a form prescribed by the Trustee.

7.2 If the Trustee accepts the application, the Eligible Person becomes a Participant on the date of acceptance.

7.3 An Eligible Person (including an existing Participant or Reversionary Beneficiary) may apply to establish a Pension Account under this Division by completing and providing to the Trustee an application in a form prescribed by the Trustee.

7.4 The Trustee may accept a person as a Participant or Pensioner of this Division in such other circumstances as the Trustee determines appropriate, including if a person is a Reversionary Beneficiary in receipt of a Reversionary Pension.

7.5 Each person upon being admitted as a Participant or Pensioner is deemed to have approved of and becomes bound by the Deed and the Rules.

8. Cooling off

8.1 If in accordance with the Operational Standards a Participant or Pensioner elects during the cooling off period specified by the Operational Standards to cease to be a participant of this Division, the Trustee must in the manner and to the extent required by the Operational Standards refund or otherwise deal with the balance of the Participant's or Pensioner's Account.

8.2 Prior to refunding or otherwise dealing with a Participant's or Pensioner's Account under this rule 8, the Trustee may deduct from the Account reasonable administration and transaction costs and other amounts unless prohibited by the Operational Standards.

9. Cessation of Participation

Upon the balance of a Participant's or Pensioner's Account being reduced to nil and subject to there being no insurance proceeds of a Policy remaining to be paid in respect of the Participant or Pensioner, the Participant or Pensioner ceases to be a Participant or Pensioner of and has no further entitlements under this Division.

PART 3 – CONTRIBUTIONS

10. Contributions to Accumulation Accounts

- 10.1 A Participant may, with the agreement of the Trustee, contribute to an Accumulation Account in this Division such amount as the Participant determines (including any Contributions for or on behalf of the Participant's Spouse who is also a Participant).
- 10.2 The Trustee may accept Spouse Contributions paid to an Accumulation Account in respect of a Participant.
- 10.3 An Employer may make contributions to an Accumulation Account in this Division on behalf of a Participant who is its Employee.
- 10.4 The Trustee may accept other amounts paid to an Accumulation Account in this Division in respect of a Participant by any person to the extent receipt of such an amount would not be prohibited by the Operational Standards.

11. Contributions in respect of Pensioners

- 11.1 Subject to rule 11.2, a Pensioner may pay Contributions or other amounts (including amounts transferred or rolled over pursuant to Clause 3.3.1 of the Deed) to this Division as specified in the Benefit Specification of that Pensioner and, with the consent of the Trustee, the Pensioner may pay additional Contributions or other amounts to this Division. However, the Trustee may only accept Contributions in respect of the Pensioner for the purpose of commencing a Pension if such amount can be applied under the Operational Standards to immediately pay benefits to the Pensioner.
- 11.2 Unless the Trustee in its absolute discretion determines otherwise each Contribution or other amount paid to this Division in respect of a Pensioner must either:
- (c) be applied to a separate Pension Account and is then referable to a separate Pension to be provided in respect of that Pensioner; or
 - (d) be credited to an Accumulation Account maintained in respect of the Pensioner.

12. Investment of Contributions and other moneys

The Trustee must apply Contributions or other moneys received by it in respect of a Participant or Pensioner to apply for Units in one or more Investment Options as provided by the Trustee in its Disclosure Document and as selected by the Participant or Pensioner in an Option Nomination. The Trustee may set aside from the Contributions or other monies received in respect of a Participant or Pensioner, such amounts it determines are appropriate for the payment of any insurance premiums, Tax, fees or other expenses incurred in connection with the Participant or Pensioner or this Division.

13. Conditions

The Trustee may impose conditions or limits on the amounts contributed or transferred or rolled over to this Division by Participants or Pensioners or by a particular Participant or Pensioner.

14. Non-acceptance

14.1 The Trustee may refuse any Contribution or other amount paid to this Division without giving reasons.

14.2 The Trustee must refund any Contribution not allowed by the Operational Standards, after deducting taxes and expenses incurred by the Trustee in relation to the Contribution.

PART 4 – ACCOUNTS

15. Accumulation Account

15.1 The Trustee must establish a unitised Accumulation Account in respect of each Participant.

15.2 The following amounts will be credited from time to time to the Accumulation Account maintained in respect of a Participant:

- (a) any amount paid into this Division in respect of the Participant as a transfer or a roll over payment pursuant to Clause 3.3.1 which the Trustee considers appropriate to credit to the Participant's Accumulation Account;
- (b) any Contributions paid by or in respect of the Participant (other than Contributions the Participant has elected to apply towards commencement of a Pension under rule 16);
- (c) the proceeds of any Policy effected by the Trustee paid in respect of an insured event that occurs in relation to the Participant to the extent that the Trustee considers appropriate to credit to the Accumulation Account for the Participant (including where those proceeds have not been paid directly to a Participant as all or part of a Benefit payment);
- (d) such positive Income Entitlement as is determined by the Trustee in respect of the Participant's Accumulation Account to the extent that such Income Entitlement is not reflected in the Unit Values for Units allocated to the Participant in respect of each Investment Option nominated by the Participant;
- (e) such positive movements in Unit Values for Units allocated to the Participant in respect of each Investment Option nominated by the Participant;
- (f) subject to the Operational Standards, any amounts transferred from the Pension Account of a Participant on full or partial commutation of a Pension in respect of the Participant;
- (g) distributions of any surplus in the Expense Reserve Account maintained in respect of this Division determined pursuant to Clause 5.3.1 of the Deed; and
- (h) such other amounts as the Trustee from time to time determines are appropriate to credit to the Participant's Accumulation Account.

15.3 The following amounts will be debited from time to time to the Accumulation Account maintained in respect of a Participant:

- (a) any amounts paid out of this Division in respect of the Participant as a roll over or transfer pursuant to Clause 14.4A.1 which the Trustee considers appropriate to debit to the Participant's Accumulation Account;
- (b) any other Benefit payments made to or in respect of the Participant (other than payments from a Pension Account or which are otherwise satisfied by the payment of the proceeds of any Policy effected by the Trustee in respect of an insured event that occurs in relation to the Participant and which proceeds have not first been credited to the Participant's Accumulation Account);
- (c) the costs of any Policy (including the costs of administration of such Policy) effected by the Trustee which the Trustee determines to attribute to the Participant (whether such Policy has been effected on a group or individual basis);
- (d) any Tax payable from this Division in respect of any amounts credited or debited to the Participant's Accumulation Account and any other Tax which the Trustee determines it is appropriate to attribute to the Participant;
- (e) Expenses incurred by the Trustee in connection with this Division or the Participant which the Trustee determines it is appropriate to attribute to the Participant;
- (f) fees and charges determined by the Trustee in accordance with Part 8 of the Rules;
- (g) such negative Income Entitlement as is determined by the Trustee in respect of the Participant's Accumulation Account to the extent that such Income Entitlement is not reflected in the Unit Values for Units allocated to the Participant in respect of each Investment Option nominated by the Participant;
- (h) such negative movements in Unit Values for Units allocated to the Participant in respect of each Investment Option nominated by the Participant;
- (i) subject to the Operational Standards, any amount transferred to the Pension Account of a Participant for the establishment of a Pension for the Participant;
- (j) any amount paid in satisfaction of a Release Authority given to the Trustee;
- (k) any amount which the Trustee determines to credit to the Expense Reserve Account maintained in respect of this Division pursuant to Clause 5.3 of the Deed including in respect of fees and charges levied in respect of the Participant; and
- (l) such other amounts as the Trustee from time to time determines are appropriate to debit to the Participant's Accumulation Account.

16. Pension Account

16.1 The Trustee must establish a Pension Account in respect of each Pensioner (including a Reversionary Beneficiary) for each Pension payable in respect of the Pensioner.

16.2 A Pensioner may apply under rule 7.3 to establish additional Pension Accounts.

16.3 A Pensioner's entitlement to payments from the Pensioner's Pension Account will commence from the date the Pensioner's Pension Account is established.

16.4 The Trustee may pay Benefits (by way of pension payments and commutation amounts) and Expenses (including any Tax) out of the Assets of this Division by the withdrawal of Units from a Pensioner's Pension Account in accordance with these Rules and the terms of the Pensioner's Benefit Specification.

16.5 Subject to rule 11, to the extent applicable for the type of Pension, the following amounts will be credited to a Pensioner's Pension Account:

- (a) any amount paid into this Division in respect of the Pensioner as a transfer or roll over payment pursuant to Clause 3.3.1 which the Trustee considers appropriate to credit to establish the Pension Account;
- (b) a Contribution or other amount paid by or in respect of the Pensioner to establish the Pension Account in accordance with rule 11;
- (c) the proceeds of any Policy effected by the Trustee in respect of the Pensioner under this Division and paid to the Trustee which the Trustee considers it appropriate to credit to establish the Pension Account;
- (d) such positive Income Entitlement as is determined by the Trustee in respect of the Pensioner's Pension Account to the extent that such Income Entitlement is not reflected in the Unit Values for Units allocated to the Pensioner in respect of each Investment Option nominated by the Pensioner;
- (e) such positive movements in Unit Values for Units allocated to the Pensioner in respect of each Investment Option nominated by the Pensioner;
- (f) any amounts which the Pensioner directs be transferred from the Pensioner's Accumulation Account to establish the Pension Account;
- (g) distributions of any surplus in the Expense Reserve Account maintained in respect of this Division determined pursuant to Clause 5.3.1 of the Deed;
- (h) such other amounts as the Trustee from time to time determines are appropriate to credit to the Pensioner's Pension Account.

16.6 To the extent applicable for the type of Pension, the following amounts will be debited to a Pensioner's Pension Account:

- (a) any amounts paid out of this Division in respect of the Participant as a roll over or transfer pursuant to Clause 14.4A.1 which the Trustee considers appropriate to debit;
- (b) any payments made to or in respect of the Pensioner or a Reversionary Beneficiary pursuant to the provisions of the Deed and the Rules;
- (c) the costs of any Policy effected by the Trustee in respect of the Pensioner which are not debited to an Accumulation Account in respect of the Pensioner in accordance with rule 15.3;
- (d) such proportion of any Tax payable from this Division in respect of any amounts credited or debited to the Pensioner's Pension Account as the Trustee may determine and any other Tax which the Trustee determines it is appropriate to attribute to the Pensioner;

- (e) Expenses incurred by the Trustee in connection with this Division or the Pensioner which the Trustee determines it is appropriate to attribute to the Pensioner;
- (f) fees and charges determined by the Trustee in accordance with Part 8 of the Rules;
- (g) such negative Income Entitlement as is determined by the Trustee in respect of the Participant's Pension Account to the extent that such Income Entitlement is not reflected in the Unit Values for Units allocated to the Pensioner in respect of each Investment Option nominated by the Pensioner;
- (h) such negative movements in Unit Values for Units allocated to the Pensioner in respect of each Investment Option nominated by the Pensioner;
- (i) any amount transferred to the Accumulation Account of a Pensioner by way of full or partial commutation of the Pension;
- (j) any amount paid in satisfaction of a Release Authority given to the Trustee;
- (k) any amount which the Trustee determines to credit to the Expense Reserve Account maintained in respect of this Division pursuant to Clause 5.3 of the Deed, including in respect of fees and charges levied in respect of the Pensioner; and
- (l) such other amounts as the Trustee from time to time determines are appropriate to debit to the Pensioner's Pension Account.

PART 5 – INSURANCE

17. Standard cover

The Trustee may determine to obtain a certain level of insurance cover in respect of all or any of death, disability or TMC under one or more Policies that have application in relation to Participants without any request or other application being made by particular Participants.

18. Additional cover

18.1 A Participant may apply to the Trustee in a form prescribed by the Trustee to seek to secure insurance cover for all or any of death, disability or TMC under one or more Policies that have application in respect of Participants of this Division.

18.2 If a Participant makes an application for insurance cover:

- (a) it must be completed in such form as is prescribed by the Trustee;
- (b) it must be accompanied or later supplemented by such information required by the Trustee or the Insurer; and
- (c) it may be subject to any conditions imposed by the Trustee or the Insurer.

18.3 The Trustee may accept or refuse to accept a Participant's application in full or the Trustee may accept the Participant's application in respect of part of the insurance cover applied for or subject to any conditions the Trustee or the Insurer may impose. The Trustee must refuse to accept an application for insurance cover or otherwise impose conditions limiting the

insurance cover to the extent necessary to ensure consistency with the terms of the insurance cover offered by the Insurer.

19. Cancellation of cover

- 19.1 A Participant may apply to cancel any insurance cover under a Policy maintained in respect of the Participant in such manner as is prescribed by the Trustee from time to time.
- 19.2 Cancellation of insurance cover under a Policy maintained in respect of a Participant will take effect from such time as the Insurer gives effect to the cancellation in respect of the Participant or upon the Trustee determining that a Participant's Account balance is insufficient to meet the Trustee's costs of maintaining the insurance cover.

20. Limitation

A Participant is only entitled to a benefit in respect of insurance cover maintained under this Division if and to the extent that proceeds are paid by the Insurer to the Trustee in respect of the Participant's death, disability or TMC.

PART 6 – BENEFITS

21. Death

If a Participant dies, a death benefit equivalent to the Participant's Accumulation Account balance is payable.

22. Total and Permanent Disablement

If a Participant becomes Totally and Permanently Disabled the Participant is entitled to the Participant's Accumulation Account balance.

23. Temporary Total Disablement

If a Participant becomes Temporarily Totally Disabled within the meaning of any Policy effected in respect of the Participant then the Trustee must pay the proceeds of the Policy less any tax required to be deducted under the Operational Standards and other fees and charges determined by the Trustee.

24. Other Circumstances

A Participant is entitled to the whole or part of the Participant's Accumulation Account balance in such other circumstances as permitted by the Operational Standards. The Trustee is not required to pay a Participant a Benefit unless the Participant requests payment in writing.

25. Pension Benefits

25.1 The Trustee must pay a Participant a Pension:

- (a) commencing on the dates specified in the Participant's Benefit Specification which must be not later than necessary to comply with the Operational Standards; and
- (b) terminating when the Pension Account balance has been withdrawn.

25.2 If a Pensioner dies whilst in receipt of a Pension, the balance of the Pensioner's Pension Account must be dealt with in accordance with rule 28.

26. Payment of Pension

26.1 The Trustee must pay the Pension to a Pensioner at the times specified in the Pensioner's Benefit Specification. A Pensioner may change the frequency of the Pension payments if the change is approved by the Trustee and is in a form approved by the Trustee.

26.2 For so long as the Pension is payable, the Trustee must ensure that pension payments are made in accordance with the standards for account-based pension benefits as set out in the Operational Standards.

26.3 A Pensioner may select the level of pension payments at any time during a financial year in such form and manner as the Trustee prescribes and subject to rule 26.2.

26.4 If during a financial year a Pensioner fails to make a selection in relation to the level of Pension to be paid in accordance with rule 26.3, the Trustee may continue to pay a Pension at the level specified the previous financial year or if no direction has been given in the Pensioner's Benefit Specification, the Trustee may adjust the level of the Pension payable to either the minimum or the maximum (if any) in its absolute discretion or the Trustee may seek to contact the Pensioner in order to receive the Pensioner's directions with respect to the Pension payment level to apply.

26.5 Notwithstanding rule 26.4, if a Pensioner fails to make a selection under rule 26.3 or to give the Trustee a direction under rule 26.4 in relation to the level of Pension to be paid in any financial year, the Trustee is not liable to the Pensioner for any loss if the Pensioner's Pension ceases due to a minimum payment not being made by the Trustee in respect of a financial year for the Pensioner's Pension.

27. Commutation

27.1 A Pensioner may commute either the whole or part of the Pensioner's Pension at any time by notifying the Trustee in writing in a form and such manner as is prescribed by the Trustee, subject to any limits or conditions prescribed for account-based pension benefits as set out in the Operational Standards. The Pensioner may specify from which Investment Option(s) the commutation will be made, otherwise the Trustee has discretion as to which Units will be withdrawn for the purposes of making the commutation.

27.2 If part of the Pension is commuted, the Pension payments must be recalculated and adjusted to take account of the portion of the Pension Account paid as a commutation.

28. Payments of Benefits on death

28.1 Subject to the Operational Standards, upon the death of a Participant the Trustee will deal with any Benefit payable in respect of the death of the Participant as follows:

- (a) if the Participant was in receipt of a Pension at the time of death and had nominated a Reversionary Beneficiary in accordance with Clause 3.6 of the Deed, the Trustee will pay a Reversionary Pension to the Reversionary Beneficiary;
- (b) to the extent that paragraph (a) does not apply:

- (i) if the Participant had made a binding Nomination in accordance with Clause 3.5(d) of the Deed, the Trustee will pay or apply the Benefit in accordance with that Nomination; or
 - (ii) if the Participant had provided a Nomination in the form of a direction under Clause 3.5(f) of the Deed and the Trustee had consented in writing to the Nomination under that clause, the Trustee will pay or apply the Benefit in accordance with that Nomination; and
 - (c) in all other cases the Trustee must pay or apply the Benefit:
 - (i) to one or more of the Participant's Dependants (including any Nominated Persons) and Legal Personal Representative in such proportions, form, manner and at such times as the Trustee will from time to time in its discretion determine subject to the Operational Standards; and
 - (ii) if there are no Dependants and no Legal Personal Representative, to such persons and in such proportions, form, manner and at such times as permitted by the Operational Standards.
- 28.4 The receipt by a Dependant, the Legal Personal Representative, relative or other person of a Benefit paid under this rule 28 will be a complete discharge to the Trustee in respect of any amount paid.
- 28.5 The Trustee may determine that a Benefit payable under this rule 28 will be paid in whole or in part as a Pension. If a Benefit is paid in the form of a Pension it will only be paid to those Dependants or others eligible to receive such Pension in accordance with the Operational Standards.

PART 7 – INVESTMENTS

29. Investment Choice and Unitisation

- 29.1 The Trustee must offer a choice of Investment Options to Participants and Pensioners in accordance with Part 6 (Investment) of the Deed.
- 29.2 The Trustee may divide each Investment Pool in respect of an Investment Option under this Division into Units and allocate Units to an Account according to the Investment Options the Participant or Pensioner has nominated or is taken to have nominated and to such other accounts and reserves maintained for the purposes of this Division as the Trustee determines.
- 29.3 No Unit confers a legal or equitable interest in any of the Assets of this Division or of any of the underlying Investment Pools.

30. Unit Valuations

- 30.1 Subject to rules 31 and 32 the Unit Value of a Unit in an Investment Pool is to be calculated as follows:

$$\text{Unit Value} = \frac{\text{NAV(IP)}}{\text{Total number of Units issued in the relevant Investment Pool}}$$

30.2 The net asset value of each Investment Pool (**NAV(IP)**) maintained in respect of this Division is to be calculated as follows:

NAV(IP) = Value of all Assets less all liabilities in respect of the relevant Investment Pool as determined by the Trustee

where liabilities include, but are not limited to:

- (a) the amount of any fee, cost, charge, other liability or Expense incurred or which the Trustee reasonably determines is likely to be incurred as a result of any transaction in respect of the acquisition or disposal of any investment in respect of the relevant Investment Pool; or
- (b) the amount of any fee, cost, charge, other liability or Expense which the Trustee determines to apply in connection with the administration of this Division, but which is not directly debited to an Account.

31. Application Value and Withdrawal Value of Units

The Trustee has the discretion to determine:

- (a) the Application Value and Withdrawal Value of Units from time to time; and
- (b) whether a Buy/Sell Spread may be applied to either or both of the Application Value or Withdrawal Value in respect of any Unit.

32. Pension assets

The Trustee may determine a different Unit Value for an Investment Pool which supports in whole or in part current pension liabilities of this Division.

PART 8 – FEES

33. Fees and charges

The Trustee is entitled to debit from an Account or apply in the determination of a Unit Value under Part 7 of these Rules the following fees and charges as it determines from time to time:

- (a) Trustee fee;
- (b) Participant fee;
- (c) Contribution (and other monies) fee;
- (d) administration fee;
- (e) adviser service fee;
- (f) Promoter fee;
- (g) investment switching fee;
- (h) benefit payment fee;

- (i) expense recovery fee in relation to any Expenses;
- (j) family law charge (based on activity to be performed);
- (k) insurance administration charge;
- (l) operational risk financial requirement reserve charge; and
- (m) any other fee as determined by the Trustee.

34. Indexation

The Trustee is entitled to index annually the fees listed in rule 33 to the Average Weekly Ordinary Time Earnings or to the Consumer Price Index or to such other index as it determines.

35. Rebate of premium

The Trustee is entitled to be paid any amounts representing a rebate, profit share or reimbursement of premium from effecting a Policy.

36. Buy/Sell Spread

The Trustee is entitled to retain the Buy/Sell Spread in relation to the Application Value or Withdrawal Value of Units calculated under Part 7 of these Rules.

37. Differential fees

Notwithstanding any provisions of these Rules to the contrary, but subject to the Operational Standards, the Trustee may (but is not obliged to) charge different levels of fees to prescribed classes of Participant or Pensioners as it determines in its discretion.

38. Selection of Units on withdrawal

The Trustee, unless agreed with the Participant or Pensioner, may select what class and type of Units it withdraws from any Investment Pools relating to Investment Options nominated by the Participant or Pensioner in order to meet any liability of this Division, including with respect to a Release Authority.

39. Rebate of fees

The Trustee may in its discretion rebate any fees or income received by it to Participants or Pensioners in such proportions as it sees fit.

ELEVENTH SCHEDULE
RULES OF DIVISION XI – SUPERESTATE

PART 1 – GENERAL PROVISIONS

1. Application

- 1.1 The Rules of Superestate are set out in this Division.
- 1.2 The Rules set out the provisions governing the operation of Superestate. The Trustee must administer Superestate:
- (a) in accordance with the Rules set out in this Division; and
 - (b) in such a way that it satisfies the standards and conditions required by the Operational Standards.
- To the extent that there is any conflict between a provision of this Division and the Operational Standards, the Operational Standards prevail.
- 1.3 The Rules form part of the Deed and the Trustee has power to amend the Rules in the same way as it has power to amend the Deed.

2. Purpose

This Division will be maintained solely for one or more of the core purposes and any ancillary purposes identified in the Act as the purposes for which a Regulated Superannuation Fund must be solely maintained.

3. Interpretation

- 3.1 A reference to “**Participant**” in this Division is a reference to a Participant of this Division XI.
- 3.2 A reference to “**Rules**” in this Division is a reference to the Rules set out in this Division XI.
- 3.3 A reference to a specific rule under this Division XI is, unless expressed to the contrary, a reference to a rule under this Division XI.
- 3.4 Unless expressed to the contrary in this Division:
- (a) defined terms used in the Rules that have a meaning ascribed to them apply only when used in this Division;
 - (b) defined terms used in the Rules that have a meaning ascribed to them under the Deed apply when used under the Deed, including when used in this Division, but subject to any modification of those defined terms as set out under these Rules.
- 3.9 Subject to rules 3.4 and 3.6, the provisions of the Deed (other than the First through to the Twelfth Schedules, inclusive) apply in respect of this Division. Notwithstanding rule 3.4, to the extent of any conflict between the terms of the Rules set out in this Division and Clause 1.3 of the Deed, Clause 1.3 of the Deed prevails.

3.10 The following provisions of the Deed do not apply in respect of this Division:

- (a) Clause 5.2 (Participants Account); and
- (b) Clause 17.2 (Participants may requisition meeting).

3.7 For the purposes of the Deed any reference to “**Participants Account**” shall be taken to be a reference to a Participant’s Accumulation Account or Pension Account (as the case may be) under this Division to the extent it is capable of having an equivalent application under the Deed.

4. Definitions

In this Division:

“**Account**” means an Accumulation Account or a Pension Account as the case may be;

“**Accumulation Account**” means, in respect of a Participant, the account established and maintained for the Participant under rule 15;

“**Application Value**” means the price applicable to Units subscribed for by a Participant or Pensioner at any time as calculated pursuant to rule 31;

“**Electronic Means**” means any electronic, telephonic or digital means, and includes (without limitation):

- (a) telephone;
- (b) electronic mail;
- (c) publishing to a website; and
- (d) notification via mobile data application;

“**Insurer**” means any insurance company with which the Trustee has effected a Policy;

“**Operational Standards**” includes, for the avoidance of doubt, in addition to the “*Operational Standards*” referred to in Clause 1.1 of the Deed, the *Corporations Act 2001*, the *Corporations Regulations 2001* and any relevant standard, modification, determination, ruling or instrument of relief issued or made pursuant to any legislation constituting an Operational Standard;

“**Pension Account**” means, in respect of a Pensioner, an account established and maintained for the Pensioner under rule 16;

“**Policy**” means an insurance policy issued by an Insurer to the Trustee to cover the death, TMC and/or disablement of one or more Participants;

“**Promoter**” means a third party appointed by the Trustee to engage in marketing, promoting, advertising or education of any person which the Trustee considers will promote this Division in order to limit the reduction in membership, to increase membership and for any other purpose the Trustee believes is in the best interests of Participants and Pensioners;

“Release Authority” means a documented authority issued by the Commissioner of Taxation stating the amount of excess contributions tax that a Participant is liable to pay or any similar document issued by the Commissioner of Taxation or pursuant to the Tax Act with respect to other tax that a Participant is liable to pay and for which a release of superannuation monies is permitted to fund such tax liability;

“Reversionary Beneficiary” means:

- (a) a Dependant nominated by a Pensioner who is eligible to receive a Pension upon the death of a Pensioner pursuant to rule 28.1; or
- (b) a Dependant or other person to whom the Trustee determines to pay a death Benefit as a Pension pursuant to rule 28.3;

“Reversionary Pension” means a Pension paid to a Reversionary Beneficiary pursuant to rule 28;

“TMC”, in relation to a Participant:

- (a) has the meaning given to the term “terminal medical condition” or “terminal illness” or an equivalent term in any Policy arranged by the Trustee and in force for the time being in respect of the Participant; or
- (b) if in respect of a Participant at any time there is no Policy in force in respect of the Participant that gives meaning to any of those terms – has the meaning given to the term “terminal medical condition” in the Regulations;

“Total and Temporary Disablement”, in relation to a Participant, has the meaning given to that term or an equivalent term in any Policy arranged by the Trustee and in force for the time being in respect of the Participant;

“Unit” means an undivided interest in an Investment Pool maintained in respect of an Investment Option available under this Division;

“Unit Value” means the value of Units for an Investment Pool pursuant to rule 30; and

“Withdrawal Value” means the price of Units to be redeemed or transferred in respect of a Participant or Pensioner at any time as calculated pursuant to rule 31.

5. Electronic Communications

5.1 In this Division, documents, information, statements or notices shall be provided by or to the Trustee by such Electronic Means as is prescribed by the Trustee from time to time, subject to any requirements governing electronic disclosure under the Operational Standards.

5.2 Notwithstanding rule 5.1, the Trustee may in its discretion determine to provide or accept documents, information, statements or notices by means other than Electronic Means where the Trustee considers it fair and reasonable to do so and where permitted under the Operational Standards.

6. Promotion

6.1 The Trustee may from time to time engage the services of a Promoter and remunerate the Promoter in respect of any advice, involvement or implementation of an activity to promote this Division.

6.2 The Trustee may terminate the services of a Promoter.

PART 2 – PARTICIPATION

7. Participation

7.1 An Eligible Person may apply to become a Participant of this Division by completing and providing to the Trustee an application in a form prescribed by the Trustee.

7.2 If the Trustee accepts the application, the Eligible Person becomes a Participant on the date of acceptance.

7.3 An Eligible Person (including an existing Participant or Reversionary Beneficiary) may apply to establish a Pension Account under this Division by completing and providing to the Trustee an application in a form prescribed by the Trustee.

7.4 The Trustee may accept a person as a Participant or Pensioner of this Division in such other circumstances as the Trustee determines appropriate, including if a person is a Reversionary Beneficiary in receipt of a Reversionary Pension.

7.5 Each person upon being admitted as a Participant or Pensioner is deemed to have approved of and becomes bound by the Deed and the Rules.

8. Cooling off

8.1 If in accordance with the Operational Standards a Participant or Pensioner elects during the cooling off period specified by the Operational Standards to cease to be a participant of this Division, the Trustee must in the manner and to the extent required by the Operational Standards refund or otherwise deal with the balance of the Participant's or Pensioner's Account.

8.2 Prior to refunding or otherwise dealing with a Participant's or Pensioner's Account under this rule 8, the Trustee may deduct from the Account reasonable administration and transaction costs and other amounts unless prohibited by the Operational Standards.

9. Cessation of Participation

Upon the balance of a Participant's or Pensioner's Account being reduced to nil and subject to there being no insurance proceeds of a Policy remaining to be paid in respect of the Participant or Pensioner, the Participant or Pensioner ceases to be a Participant or Pensioner of and has no further entitlements under this Division.

PART 3 – CONTRIBUTIONS

10. Contributions to Accumulation Accounts

- 10.1 A Participant may, with the agreement of the Trustee, contribute to an Accumulation Account in this Division such amount as the Participant determines (including any Contributions for or on behalf of the Participant's Spouse who is also a Participant).
- 10.2 The Trustee may accept Spouse Contributions paid to an Accumulation Account in respect of a Participant.
- 10.3 An Employer may make contributions to an Accumulation Account in this Division on behalf of a Participant who is its Employee.
- 10.4 The Trustee may accept other amounts paid to an Accumulation Account in this Division in respect of a Participant by any person to the extent receipt of such an amount would not be prohibited by the Operational Standards.

11. Contributions in respect of Pensioners

- 11.1 Subject to rule 11.2, a Pensioner may pay Contributions or other amounts (including amounts transferred or rolled over pursuant to Clause 3.3.1 of the Deed) to this Division as specified in the Benefit Specification of that Pensioner and, with the consent of the Trustee, the Pensioner may pay additional Contributions or other amounts to this Division. However, the Trustee may only accept Contributions in respect of the Pensioner for the purpose of commencing a Pension if such amount can be applied under the Operational Standards to immediately pay benefits to the Pensioner.
- 11.2 Unless the Trustee in its absolute discretion determines otherwise each Contribution or other amount paid to this Division in respect of a Pensioner must either:
- (a) be applied to a separate Pension Account and is then referable to a separate Pension to be provided in respect of that Pensioner; or
 - (b) be credited to an Accumulation Account maintained in respect of the Pensioner.

12. Investment of Contributions and other moneys

The Trustee must apply Contributions or other moneys received by it in respect of a Participant or Pensioner to apply for Units in one or more Investment Options as provided by the Trustee in its Disclosure Document and as selected by the Participant or Pensioner in an Option Nomination. The Trustee may set aside from the Contributions or other monies received in respect of a Participant or Pensioner, such amounts it determines are appropriate for the payment of any insurance premiums, Tax, fees or other expenses incurred in connection with the Participant or Pensioner or this Division.

13. Conditions

The Trustee may impose conditions or limits on the amounts contributed or transferred or rolled over to this Division by Participants or Pensioners or by a particular Participant or Pensioner.

14. Non-acceptance

14.1 The Trustee may refuse any Contribution or other amount paid to this Division without giving reasons.

14.2 The Trustee must refund any Contribution not allowed by the Operational Standards, after deducting taxes and expenses incurred by the Trustee in relation to the Contribution.

PART 4 – ACCOUNTS

15. Accumulation Account

15.1 The Trustee must establish a unitised Accumulation Account in respect of each Participant.

15.2 The following amounts will be credited from time to time to the Accumulation Account maintained in respect of a Participant:

- (a) any amount paid into this Division in respect of the Participant as a transfer or a roll over payment pursuant to Clause 3.3.1 which the Trustee considers appropriate to credit to the Participant's Accumulation Account;
- (b) any Contributions paid by or in respect of the Participant (other than Contributions the Participant has elected to apply towards commencement of a Pension under rule 16);
- (c) the proceeds of any Policy effected by the Trustee paid in respect of an insured event that occurs in relation to the Participant to the extent that the Trustee considers appropriate to credit to the Accumulation Account for the Participant (including where those proceeds have not been paid directly to a Participant as all or part of a Benefit payment);
- (d) such positive Income Entitlement as is determined by the Trustee in respect of the Participant's Accumulation Account to the extent that such Income Entitlement is not reflected in the Unit Values for Units allocated to the Participant in respect of each Investment Option nominated by the Participant;
- (e) such positive movements in Unit Values for Units allocated to the Participant in respect of each Investment Option nominated by the Participant;
- (f) subject to the Operational Standards, any amounts transferred from the Pension Account of a Participant on full or partial commutation of a Pension in respect of the Participant;
- (g) distributions of any surplus in the Expense Reserve Account maintained in respect of this Division determined pursuant to Clause 5.3.1 of the Deed; and
- (h) such other amounts as the Trustee from time to time determines are appropriate to credit to the Participant's Accumulation Account.

15.3 The following amounts will be debited from time to time to the Accumulation Account maintained in respect of a Participant:

- (a) any amounts paid out of this Division in respect of the Participant as a roll over or transfer pursuant to Clause 14.4A.1 which the Trustee considers appropriate to debit to the Participant's Accumulation Account;
- (b) any other Benefit payments made to or in respect of the Participant (other than payments from a Pension Account or which are otherwise satisfied by the payment of the proceeds of any Policy effected by the Trustee in respect of an insured event that occurs in relation to the Participant and which proceeds have not first been credited to the Participant's Accumulation Account);
- (c) the costs of any Policy (including the costs of administration of such Policy) effected by the Trustee which the Trustee determines to attribute to the Participant (whether such Policy has been effected on a group or individual basis);
- (d) any Tax payable from this Division in respect of any amounts credited or debited to the Participant's Accumulation Account and any other Tax which the Trustee determines it is appropriate to attribute to the Participant;
- (e) Expenses incurred by the Trustee in connection with this Division or the Participant which the Trustee determines it is appropriate to attribute to the Participant;
- (f) fees and charges determined by the Trustee in accordance with Part 8 of the Rules;
- (g) such negative Income Entitlement as is determined by the Trustee in respect of the Participant's Accumulation Account to the extent that such Income Entitlement is not reflected in the Unit Values for Units allocated to the Participant in respect of each Investment Option nominated by the Participant;
- (h) such negative movements in Unit Values for Units allocated to the Participant in respect of each Investment Option nominated by the Participant;
- (i) subject to the Operational Standards, any amount transferred to the Pension Account of a Participant for the establishment of a Pension for the Participant;
- (j) any amount paid in satisfaction of a Release Authority given to the Trustee;
- (k) any amount which the Trustee determines to credit to the Expense Reserve Account maintained in respect of this Division pursuant to Clause 5.3 of the Deed including in respect of fees and charges levied in respect of the Participant; and
- (l) such other amounts as the Trustee from time to time determines are appropriate to debit to the Participant's Accumulation Account.

16. Pension Account

16.1 The Trustee must establish a Pension Account in respect of each Pensioner (including a Reversionary Beneficiary) for each Pension payable in respect of the Pensioner.

16.2 A Pensioner may apply under rule 7.3 to establish additional Pension Accounts.

16.3 A Pensioner's entitlement to payments from the Pensioner's Pension Account will commence from the date the Pensioner's Pension Account is established.

16.4 The Trustee may pay Benefits (by way of pension payments and commutation amounts) and Expenses (including any Tax) out of the Assets of this Division by the withdrawal of Units from a Pensioner's Pension Account in accordance with these Rules and the terms of the Pensioner's Benefit Specification.

16.5 Subject to rule 11, to the extent applicable for the type of Pension, the following amounts will be credited to a Pensioner's Pension Account:

- (a) any amount paid into this Division in respect of the Pensioner as a transfer or roll over payment pursuant to Clause 3.3.1 which the Trustee considers appropriate to credit to establish the Pension Account;
- (b) a Contribution or other amount paid by or in respect of the Pensioner to establish the Pension Account in accordance with rule 11;
- (c) the proceeds of any Policy effected by the Trustee in respect of the Pensioner under this Division and paid to the Trustee which the Trustee considers it appropriate to credit to establish the Pension Account;
- (d) such positive Income Entitlement as is determined by the Trustee in respect of the Pensioner's Pension Account to the extent that such Income Entitlement is not reflected in the Unit Values for Units allocated to the Pensioner in respect of each Investment Option nominated by the Pensioner;
- (e) such positive movements in Unit Values for Units allocated to the Pensioner in respect of each Investment Option nominated by the Pensioner;
- (f) any amounts which the Pensioner directs be transferred from the Pensioner's Accumulation Account to establish the Pension Account;
- (g) distributions of any surplus in the Expense Reserve Account maintained in respect of this Division determined pursuant to Clause 5.3.1 of the Deed;
- (h) such other amounts as the Trustee from time to time determines are appropriate to credit to the Pensioner's Pension Account.

16.6 To the extent applicable for the type of Pension, the following amounts will be debited to a Pensioner's Pension Account:

- (a) any amounts paid out of this Division in respect of the Participant as a roll over or transfer pursuant to Clause 14.4A.1 which the Trustee considers appropriate to debit;
- (b) any payments made to or in respect of the Pensioner or a Reversionary Beneficiary pursuant to the provisions of the Deed and the Rules;
- (c) the costs of any Policy effected by the Trustee in respect of the Pensioner which are not debited to an Accumulation Account in respect of the Pensioner in accordance with rule 15.3;
- (d) such proportion of any Tax payable from this Division in respect of any amounts credited or debited to the Pensioner's Pension Account as the Trustee may determine and any other Tax which the Trustee determines it is appropriate to attribute to the Pensioner;

- (e) Expenses incurred by the Trustee in connection with this Division or the Pensioner which the Trustee determines it is appropriate to attribute to the Pensioner;
- (f) fees and charges determined by the Trustee in accordance with Part 8 of the Rules;
- (g) such negative Income Entitlement as is determined by the Trustee in respect of the Participant's Pension Account to the extent that such Income Entitlement is not reflected in the Unit Values for Units allocated to the Pensioner in respect of each Investment Option nominated by the Pensioner;
- (h) such negative movements in Unit Values for Units allocated to the Pensioner in respect of each Investment Option nominated by the Pensioner;
- (i) any amount transferred to the Accumulation Account of a Pensioner by way of full or partial commutation of the Pension;
- (j) any amount paid in satisfaction of a Release Authority given to the Trustee;
- (k) any amount which the Trustee determines to credit to the Expense Reserve Account maintained in respect of this Division pursuant to Clause 5.3 of the Deed, including in respect of fees and charges levied in respect of the Pensioner; and
- (l) such other amounts as the Trustee from time to time determines are appropriate to debit to the Pensioner's Pension Account.

PART 5 – INSURANCE

17. Standard cover

The Trustee may determine to obtain a certain level of insurance cover in respect of all or any of death, disability or TMC under one or more Policies that have application in relation to Participants without any request or other application being made by particular Participants.

18. Additional cover

18.1 A Participant may apply to the Trustee in a form prescribed by the Trustee to seek to secure insurance cover for all or any of death, disability or TMC under one or more Policies that have application in respect of Participants of this Division.

18.2 If a Participant makes an application for insurance cover:

- (a) it must be completed in such form as is prescribed by the Trustee;
- (b) it must be accompanied or later supplemented by such information required by the Trustee or the Insurer; and
- (c) it may be subject to any conditions imposed by the Trustee or the Insurer.

18.3 The Trustee may accept or refuse to accept a Participant's application in full or the Trustee may accept the Participant's application in respect of part of the insurance cover applied for or subject to any conditions the Trustee or the Insurer may impose. The Trustee must refuse to accept an application for insurance cover or otherwise impose conditions limiting the

insurance cover to the extent necessary to ensure consistency with the terms of the insurance cover offered by the Insurer.

19. Cancellation of cover

- 19.1 A Participant may apply to cancel any insurance cover under a Policy maintained in respect of the Participant in such manner as is prescribed by the Trustee from time to time.
- 19.2 Cancellation of insurance cover under a Policy maintained in respect of a Participant will take effect from such time as the Insurer gives effect to the cancellation in respect of the Participant or upon the Trustee determining that a Participant's Account balance is insufficient to meet the Trustee's costs of maintaining the insurance cover.

20. Limitation

A Participant is only entitled to a benefit in respect of insurance cover maintained under this Division if and to the extent that proceeds are paid by the Insurer to the Trustee in respect of the Participant's death, disability or TMC.

PART 6 – BENEFITS

21. Death

If a Participant dies, a death benefit equivalent to the Participant's Accumulation Account balance is payable.

22. Total and Permanent Disablement

If a Participant becomes Totally and Permanently Disabled the Participant is entitled to the Participant's Accumulation Account balance.

23. Temporary Total Disablement

If a Participant becomes Temporarily Totally Disabled within the meaning of any Policy effected in respect of the Participant then the Trustee must pay the proceeds of the Policy less any tax required to be deducted under the Operational Standards and other fees and charges determined by the Trustee.

24. Other Circumstances

A Participant is entitled to the whole or part of the Participant's Accumulation Account balance in such other circumstances as permitted by the Operational Standards. The Trustee is not required to pay a Participant a Benefit unless the Participant requests payment in writing.

25. Pension Benefits

25.1 The Trustee must pay a Participant a Pension:

- (a) commencing on the dates specified in the Participant's Benefit Specification which must be not later than necessary to comply with the Operational Standards; and
- (b) terminating when the Pension Account balance has been withdrawn.

25.2 If a Pensioner dies whilst in receipt of a Pension, the balance of the Pensioner's Pension Account must be dealt with in accordance with rule 28.

26. Payment of Pension

26.1 The Trustee must pay the Pension to a Pensioner at the times specified in the Pensioner's Benefit Specification. A Pensioner may change the frequency of the Pension payments if the change is approved by the Trustee and is in a form approved by the Trustee.

26.2 For so long as the Pension is payable, the Trustee must ensure that pension payments are made in accordance with the standards for account-based pension benefits as set out in the Operational Standards.

26.3 A Pensioner may select the level of pension payments at any time during a financial year in such form and manner as the Trustee prescribes and subject to rule 26.2.

26.4 If during a financial year a Pensioner fails to make a selection in relation to the level of Pension to be paid in accordance with rule 26.3, the Trustee may continue to pay a Pension at the level specified the previous financial year or if no direction has been given in the Pensioner's Benefit Specification, the Trustee may adjust the level of the Pension payable to either the minimum or the maximum (if any) in its absolute discretion or the Trustee may seek to contact the Pensioner in order to receive the Pensioner's directions with respect to the Pension payment level to apply.

26.5 Notwithstanding rule 26.4, if a Pensioner fails to make a selection under rule 26.3 or to give the Trustee a direction under rule 26.4 in relation to the level of Pension to be paid in any financial year, the Trustee is not liable to the Pensioner for any loss if the Pensioner's Pension ceases due to a minimum payment not being made by the Trustee in respect of a financial year for the Pensioner's Pension.

27. Commutation

27.1 A Pensioner may commute either the whole or part of the Pensioner's Pension at any time by notifying the Trustee in writing in a form and such manner as is prescribed by the Trustee, subject to any limits or conditions prescribed for account-based pension benefits as set out in the Operational Standards. The Pensioner may specify from which Investment Option(s) the commutation will be made, otherwise the Trustee has discretion as to which Units will be withdrawn for the purposes of making the commutation.

27.2 If part of the Pension is commuted, the Pension payments must be recalculated and adjusted to take account of the portion of the Pension Account paid as a commutation.

28. Payments of Benefits on death

28.1 Subject to the Operational Standards, upon the death of a Participant the Trustee will deal with any Benefit payable in respect of the death of the Participant as follows:

- (a) if the Participant was in receipt of a Pension at the time of death and had nominated a Reversionary Beneficiary in accordance with Clause 3.6 of the Deed, the Trustee will pay a Reversionary Pension to the Reversionary Beneficiary;
- (b) to the extent that paragraph (a) does not apply:

- (i) if the Participant had made a binding Nomination in accordance with Clause 3.5(d) of the Deed, the Trustee will pay or apply the Benefit in accordance with that Nomination; or
 - (ii) if the Participant had provided a Nomination in the form of a direction under Clause 3.5(f) of the Deed and the Trustee had consented in writing to the Nomination under that clause, the Trustee will pay or apply the Benefit in accordance with that Nomination; and
 - (c) in all other cases the Trustee must pay or apply the Benefit:
 - (i) to one or more of the Participant's Dependants (including any Nominated Persons) and Legal Personal Representative in such proportions, form, manner and at such times as the Trustee will from time to time in its discretion determine subject to the Operational Standards; and
 - (ii) if there are no Dependants and no Legal Personal Representative, to such persons and in such proportions, form, manner and at such times as permitted by the Operational Standards.
- 28.6 The receipt by a Dependant, the Legal Personal Representative, relative or other person of a Benefit paid under this rule 28 will be a complete discharge to the Trustee in respect of any amount paid.
- 28.7 The Trustee may determine that a Benefit payable under this rule 28 will be paid in whole or in part as a Pension. If a Benefit is paid in the form of a Pension it will only be paid to those Dependants or others eligible to receive such Pension in accordance with the Operational Standards.

PART 7 – INVESTMENTS

29. Investment Choice and Unitisation

- 29.1 The Trustee must offer a choice of Investment Options to Participants and Pensioners in accordance with Part 6 (Investment) of the Deed.
- 29.2 The Trustee may divide each Investment Pool in respect of an Investment Option under this Division into Units and allocate Units to an Account according to the Investment Options the Participant or Pensioner has nominated or is taken to have nominated and to such other accounts and reserves maintained for the purposes of this Division as the Trustee determines.
- 29.3 No Unit confers a legal or equitable interest in any of the Assets of this Division or of any of the underlying Investment Pools.

30. Unit Valuations

- 30.1 Subject to rules 31 and 32 the Unit Value of a Unit in an Investment Pool is to be calculated as follows:

$$\text{Unit Value} = \frac{\text{NAV(IP)}}{\text{Total number of Units issued in the relevant Investment Pool}}$$

30.2 The net asset value of each Investment Pool (**NAV(IP)**) maintained in respect of this Division is to be calculated as follows:

NAV(IP) = Value of all Assets less all liabilities in respect of the relevant Investment Pool as determined by the Trustee

where liabilities include, but are not limited to:

- (a) the amount of any fee, cost, charge, other liability or Expense incurred or which the Trustee reasonably determines is likely to be incurred as a result of any transaction in respect of the acquisition or disposal of any investment in respect of the relevant Investment Pool; or
- (b) the amount of any fee, cost, charge, other liability or Expense which the Trustee determines to apply in connection with the administration of this Division, but which is not directly debited to an Account.

31. Application Value and Withdrawal Value of Units

The Trustee has the discretion to determine:

- (a) the Application Value and Withdrawal Value of Units from time to time; and
- (b) whether a Buy/Sell Spread may be applied to either or both of the Application Value or Withdrawal Value in respect of any Unit.

32. Pension assets

The Trustee may determine a different Unit Value for an Investment Pool which supports in whole or in part current pension liabilities of this Division.

PART 8 – FEES

33. Fees and charges

The Trustee is entitled to debit from an Account or apply in the determination of a Unit Value under Part 7 of these Rules the following fees and charges as it determines from time to time:

- (a) Trustee fee;
- (b) Participant fee;
- (c) Contribution (and other monies) fee;
- (d) administration fee;
- (e) adviser service fee;
- (f) Promoter fee;
- (g) investment switching fee;
- (h) benefit payment fee;

- (i) expense recovery fee in relation to any Expenses;
- (j) family law charge (based on activity to be performed);
- (k) insurance administration charge;
- (l) operational risk financial requirement reserve charge; and
- (m) any other fee as determined by the Trustee.

34. Indexation

The Trustee is entitled to index annually the fees listed in rule 33 to the Average Weekly Ordinary Time Earnings or to the Consumer Price Index or to such other index as it determines.

35. Rebate of premium

The Trustee is entitled to be paid any amounts representing a rebate, profit share or reimbursement of premium from effecting a Policy.

36. Buy/Sell Spread

The Trustee is entitled to retain the Buy/Sell Spread in relation to the Application Value or Withdrawal Value of Units calculated under Part 7 of these Rules.

37. Differential fees

Notwithstanding any provisions of these Rules to the contrary, but subject to the Operational Standards, the Trustee may (but is not obliged to) charge different levels of fees to prescribed classes of Participant or Pensioners as it determines in its discretion.

38. Selection of Units on withdrawal

The Trustee, unless agreed with the Participant or Pensioner, may select what class and type of Units it withdraws from any Investment Pools relating to Investment Options nominated by the Participant or Pensioner in order to meet any liability of this Division, including with respect to a Release Authority.

39. Rebate of fees

The Trustee may in its discretion rebate any fees or income received by it to Participants or Pensioners in such proportions as it sees fit.

TWELFTH SCHEDULE
RULES OF DIVISION XII – PPS MUTUAL

PART 1 – GENERAL PROVISIONS

1. Application

- 1.1 The Rules of PPS Mutual are set out in this Division.
- 1.2 The Rules set out the provisions governing the operation of PPS Mutual. The Trustee must administer PPS Mutual:
- (a) in accordance with the Rules set out in this Division; and
 - (b) in such a way that it satisfies the standards and conditions required by the Operational Standards.
- To the extent that there is any conflict between a provision of this Division and the Operational Standards, the Operational Standards prevail.
- 1.3 The Rules form part of the Deed and the Trustee has power to amend the Rules in the same way as it has power to amend the Deed.

2. Purpose

This Division will be maintained solely for one or more of the core purposes and any ancillary purposes identified in the Act as the purposes for which a Regulated Superannuation Fund must be solely maintained.

3. Interpretation

- 3.1 A reference to “**Participant**” in this Division is a reference to a Participant of this Division XII.
- 3.2 A reference to “**Rules**” in this Division is a reference to the Rules set out in this Division XII.
- 3.3 A reference to a specific rule under this Division XII is, unless expressed to the contrary, a reference to a rule under this Division XII.
- 3.4 Unless expressed to the contrary in this Division:
- (a) defined terms used in the Rules that have a meaning ascribed to them apply only when used in this Division;
 - (b) defined terms used in the Rules that have a meaning ascribed to them under the Deed apply when used under the Deed, including when used in this Division, but subject to any modification of those defined terms as set out under these Rules.
- 3.11 Subject to rules 3.4 and 3.6, the provisions of the Deed (other than the First through to the Twelfth Schedules, inclusive) apply in respect of this Division. Notwithstanding rule 3.4, to the extent of any conflict between the terms of the Rules set out in this Division and Clause 1.3 of the Deed, Clause 1.3 of the Deed prevails.

3.12 The following provisions of the Deed do not apply in respect of this Division:

- (a) Clause 5.2 (Participants Account); and
- (b) Clause 17.2 (Participants may requisition meeting).

3.7 For the purposes of the Deed any reference to “**Participants Account**” shall be taken to be a reference to a Participant’s Accumulation Account under this Division to the extent it is capable of having an equivalent application under the Deed.

4. Definitions

In this Division:

“**Account**” means an Accumulation Account;

“**Accumulation Account**” means, in respect of a Participant, the account established and maintained for the Participant under rule 15;

“**Electronic Means**” means any electronic, telephonic or digital means, and includes (without limitation):

- (a) telephone;
- (b) electronic mail;
- (c) publishing to a website; and
- (d) notification via mobile data application;

“**Insurer**” means any insurance company with which the Trustee has effected a Policy;

“**Operational Standards**” includes, for the avoidance of doubt, in addition to the “*Operational Standards*” referred to in Clause 1.1 of the Deed, the *Corporations Act 2001*, the *Corporations Regulations 2001* and any relevant standard, modification, determination, ruling or instrument of relief issued or made pursuant to any legislation constituting an Operational Standard;

“**Policy**” means an insurance policy issued by an Insurer to the Trustee to cover the death, TMC and/or disablement of one or more Participants;

“**Promoter**” means a third party appointed by the Trustee to engage in marketing, promoting, advertising or education of any person which the Trustee considers will promote this Division in order to limit the reduction in membership, to increase membership and for any other purpose the Trustee believes is in the best interests of Participants;

“**Release Authority**” means a documented authority issued by the Commissioner of Taxation stating the amount of excess contributions tax that a Participant is liable to pay or any similar document issued by the Commissioner of Taxation or pursuant to the Tax Act with respect to other tax that a Participant is liable to pay and for which a release of superannuation monies is permitted to fund such tax liability;

“Risk Life Policy” means the insurance policy issued by the Insurer to the Trustee on the life of a Member of this Division XII and includes any interim or limited cover provided by the Insurer while an application for cover is being assessed.

“TMC”, in relation to a Participant:

- (a) has the meaning given to the term “terminal medical condition” or “terminal illness” or an equivalent term in any Policy arranged by the Trustee and in force for the time being in respect of the Participant; or
- (b) if in respect of a Participant at any time there is no Policy in force in respect of the Participant that gives meaning to any of those terms – has the meaning given to the term “terminal medical condition” in the Regulations;

“Total and Temporary Disablement”, in relation to a Participant, has the meaning given to that term or an equivalent term in any Policy arranged by the Trustee and in force for the time being in respect of the Participant; and

5. Electronic Communications

5.1 In this Division, documents, information, statements or notices shall be provided by or to the Trustee by such Electronic Means as is prescribed by the Trustee from time to time, subject to any requirements governing electronic disclosure under the Operational Standards.

5.2 Notwithstanding rule 5.1, the Trustee may in its discretion determine to provide or accept documents, information, statements or notices by means other than Electronic Means where the Trustee considers it fair and reasonable to do so and where permitted under the Operational Standards.

6. Promotion

6.1 The Trustee may from time to time engage the services of a Promoter and remunerate the Promoter in respect of any advice, involvement or implementation of an activity to promote this Division.

6.2 The Trustee may terminate the services of a Promoter.

PART 2 – PARTICIPATION

7. Participation

7.1 An Eligible Person may apply to become a Participant of this Division by completing and providing to the Trustee an application in a form prescribed by the Trustee.

7.2 If the Trustee accepts the application, the Eligible Person becomes a Participant on the date of acceptance.

8. Cooling off

8.1 If in accordance with the Operational Standards a Participant elects during the cooling off period specified by the Operational Standards to cease to be a participant of this Division, the Trustee must in the manner and to the extent required by the Operational Standards refund or otherwise deal with the balance of the Participant’s Account.

8.2 Prior to refunding or otherwise dealing with a Participant's Account under this rule 8, the Trustee may deduct from the Account reasonable administration and transaction costs and other amounts unless prohibited by the Operational Standards.

9. Cessation of Participation

Upon the balance of a Participant's being reduced to nil and subject to there being no insurance proceeds of a Policy remaining to be paid in respect of the Participant, the Participant ceases to be a Participant of and has no further entitlements under this Division.

PART 3 – CONTRIBUTIONS

10. Contributions to Accumulation Accounts

- 10.1 A Participant may, with the agreement of the Trustee, contribute to an Accumulation Account in this Division such amount as the Participant determines (including any Contributions for or on behalf of the Participant's Spouse who is also a Participant).
- 10.2 The Trustee may accept Spouse Contributions paid to an Accumulation Account in respect of a Participant.
- 10.3 An Employer may make contributions to an Accumulation Account in this Division on behalf of a Participant who is its Employee.
- 10.4 The Trustee may accept other amounts paid to an Accumulation Account in this Division in respect of a Participant by any person to the extent receipt of such an amount would not be prohibited by the Operational Standards.

11. Investment of Contributions and other moneys

The Trustee must apply Contributions or other moneys received by it in respect of a Participant to pay the premiums due under a Risk Life Policy on the life of that Participant. The Trustee may set aside from the Contributions or other monies received in respect of a Participant such amounts it determines are appropriate for the payment of any Tax, fees or other expenses incurred in connection with the Participant or this Division.

12. Conditions

The Trustee may impose conditions or limits on the amounts contributed or transferred or rolled over to this Division by Participants or by a particular Participant.

13. Non-acceptance

- 13.1 The Trustee may refuse any Contribution or other amount paid to this Division without giving reasons.
- 13.2 The Trustee must refund any Contribution not allowed by the Operational Standards, after deducting taxes and expenses incurred by the Trustee in relation to the Contribution.

PART 4 – ACCOUNTS

14. Accumulation Account

- 14.1 The Trustee must establish an Accumulation Account in respect of each Participant.
- 14.2 The following amounts will be credited from time to time to the Accumulation Account maintained in respect of a Participant:
- (a) any amount paid into this Division in respect of the Participant as a transfer or a roll over payment pursuant to Clause 3.3.1 which the Trustee considers appropriate to credit to the Participant's Accumulation Account;

- (b) any Contributions paid by or in respect of the Participant;
- (c) the proceeds of any Policy effected by the Trustee paid in respect of an insured event that occurs in relation to the Participant to the extent that the Trustee considers appropriate to credit to the Accumulation Account for the Participant (including where those proceeds have not been paid directly to a Participant as all or part of a Benefit payment);
- (d) such other amounts as the Trustee from time to time determines are appropriate to credit to the Participant's Accumulation Account.

14.3 The following amounts will be debited from time to time to the Accumulation Account maintained in respect of a Participant:

- (a) any amounts paid out of this Division in respect of the Participant as a roll over or transfer pursuant to Clause 14.4A.1 which the Trustee considers appropriate to debit to the Participant's Accumulation Account;
- (b) any other Benefit payments made to or in respect of the Participant (other than payments which are otherwise satisfied by the payment of the proceeds of any Policy effected by the Trustee in respect of an insured event that occurs in relation to the Participant and which proceeds have not first been credited to the Participant's Accumulation Account);
- (c) the costs of any Policy (including the costs of administration of such Policy) effected by the Trustee which the Trustee determines to attribute to the Participant (whether such Policy has been effected on a group or individual basis);
- (d) any Tax payable from this Division in respect of any amounts credited or debited to the Participant's Accumulation Account and any other Tax which the Trustee determines it is appropriate to attribute to the Participant;
- (e) Expenses incurred by the Trustee in connection with this Division or the Participant which the Trustee determines it is appropriate to attribute to the Participant;
- (f) fees and charges determined by the Trustee in accordance with Part 8 of the Rules;
- (g) any amount paid in satisfaction of a Release Authority given to the Trustee; and
- (h) such other amounts as the Trustee from time to time determines are appropriate to debit to the Participant's Accumulation Account.

PART 5 – INSURANCE

15. Standard cover

The Trustee may determine to obtain a certain level of insurance cover in respect of all or any of death, disability or TMC under one or more Policies that have application in relation to Participants without any request or other application being made by particular Participants.

16. Additional cover

16.1 A Participant may apply to the Trustee in a form prescribed by the Trustee to seek to secure insurance cover for all or any of death, disability or TMC under one or more Policies that have application in respect of Participants of this Division.

16.2 If a Participant makes an application for insurance cover:

- (a) it must be completed in such form as is prescribed by the Trustee;
- (b) it must be accompanied or later supplemented by such information required by the Trustee or the Insurer; and
- (c) it may be subject to any conditions imposed by the Trustee or the Insurer.

16.3 The Trustee may accept or refuse to accept a Participant's application in full or the Trustee may accept the Participant's application in respect of part of the insurance cover applied for or subject to any conditions the Trustee or the Insurer may impose. The Trustee must refuse to accept an application for insurance cover or otherwise impose conditions limiting the insurance cover to the extent necessary to ensure consistency with the terms of the insurance cover offered by the Insurer.

17. Cancellation of cover

17.1 A Participant may apply to cancel any insurance cover under a Policy maintained in respect of the Participant in such manner as is prescribed by the Trustee from time to time.

17.2 Cancellation of insurance cover under a Policy maintained in respect of a Participant will take effect from such time as the Insurer gives effect to the cancellation in respect of the Participant or upon the Trustee determining that a Participant's Account balance is insufficient to meet the Trustee's costs of maintaining the insurance cover.

18. Limitation

A Participant is only entitled to a benefit in respect of insurance cover maintained under this Division if and to the extent that proceeds are paid by the Insurer to the Trustee in respect of the Participant's death, disability or TMC.

PART 6 – BENEFITS

19. Death

If a Participant dies, a death benefit equivalent to the Participant's Accumulation Account balance is payable.

20. Total and Permanent Disablement

If a Participant becomes Totally and Permanently Disabled the Participant is entitled to the Participant's Accumulation Account balance.

21. Temporary Total Disablement

If a Participant becomes Temporarily Totally Disabled within the meaning of any Policy effected in respect of the Participant then the Trustee must pay the proceeds of the Policy less any tax required to be deducted under the Operational Standards and other fees and charges determined by the Trustee.

22. Other Circumstances

A Participant is entitled to the whole or part of the Participant's Accumulation Account balance in such other circumstances as permitted by the Operational Standards. The Trustee is not required to pay a Participant a Benefit unless the Participant requests payment in writing.

23. Payments of Benefits on death

23.1 Subject to the Operational Standards, upon the death of a Participant the Trustee will deal with any Benefit payable in respect of the death of the Participant as follows:

- (a) if the Participant had made a binding Nomination in accordance with Clause 3.5(d) of the Deed, the Trustee will pay or apply the Benefit in accordance with that Nomination; or
- (b) if the Participant had provided a Nomination in the form of a direction under Clause 3.5(f) of the Deed and the Trustee had consented in writing to the Nomination under that clause, the Trustee will pay or apply the Benefit in accordance with that Nomination; and
- (c) in all other cases the Trustee must pay or apply the Benefit:
 - (i) to one or more of the Participant's Dependants (including any Nominated Persons) and Legal Personal Representative in such proportions, form, manner and at such times as the Trustee will from time to time in its discretion determine subject to the Operational Standards; and
 - (ii) if there are no Dependants and no Legal Personal Representative, to such persons and in such proportions, form, manner and at such times as permitted by the Operational Standards.

23.2 The receipt by a Dependant, the Legal Personal Representative, relative or other person of a Benefit paid under this rule 28 will be a complete discharge to the Trustee in respect of any amount paid.

PART 7 – FEES**24. Fees and charges**

The Trustee is entitled to debit from an Account the following fees and charges as it determines from time to time:

- (a) Trustee fee;
- (b) Participant fee;

- (c) Contribution (and other monies) fee;
- (d) administration fee;
- (e) adviser service fee;
- (f) Promoter fee;
- (g) investment switching fee;
- (h) benefit payment fee;
- (i) expense recovery fee in relation to any Expenses;
- (j) family law charge (based on activity to be performed);
- (k) insurance administration charge;
- (l) operational risk financial requirement reserve charge; and
- (m) any other fee as determined by the Trustee.

25. Indexation

The Trustee is entitled to index annually the fees listed in rule 33 to the Average Weekly Ordinary Time Earnings or to the Consumer Price Index or to such other index as it determines.

26. Rebate of premium

The Trustee is entitled to be paid any amounts representing a rebate, profit share or reimbursement of premium from effecting a Policy.

27. Differential fees

Notwithstanding any provisions of these Rules to the contrary, but subject to the Operational Standards, the Trustee may (but is not obliged to) charge different levels of fees to prescribed classes of Participant as it determines in its discretion.

28. Rebate of fees

The Trustee may in its discretion rebate any fees or income received by it to Participants in such proportions as it sees fit.

THIRTEENTH SCHEDULE

RULES OF DIVISION XIII – NEOS SUPER PLAN 2

PART 1 – GENERAL PROVISIONS

1. Application

1.1 The Rules of NEOS Super Plan 2 are set out in this Division.

1.2 The Rules set out the provisions governing the operation of NEOS Super Plan 2. The Trustee must administer NEOS Super Plan 2:

- (a) in accordance with the Rules set out in this Division; and
- (b) in such a way that it satisfies the standards and conditions required by the Operational Standards.

To the extent that there is any conflict between a provision of this Division and the Operational Standards, the Operational Standards prevail.

1.3 The Rules form part of the Deed and the Trustee has power to amend the Rules in the same way as it has power to amend the Deed.

2. Purpose

This Division will be maintained solely for one or more of the core purposes and any ancillary purposes identified in the Act as the purposes for which a Regulated Superannuation Fund must be solely maintained.

3. Interpretation

3.1 A reference to “**Participant**” in this Division is a reference to a Participant of this Division XIII.

3.2 A reference to “**Rules**” in this Division is a reference to the Rules set out in this Division XIII.

3.3 A reference to a specific rule under this Division XIII is, unless expressed to the contrary, a reference to a rule under this Division XIII.

3.4 Unless expressed to the contrary in this Division:

- (a) defined terms used in the Rules that have a meaning ascribed to them apply only when used in this Division;
- (b) defined terms used in the Rules that have a meaning ascribed to them under the Deed apply when used under the Deed, including when used in this Division, but subject to any modification of those defined terms as set out under these Rules.

3.5 Subject to rules 3.4 and 3.6, the provisions of the Deed (other than the First through to the Thirteenth Schedules, inclusive) apply in respect of this Division. Notwithstanding rule 3.4, to the extent of any conflict between the terms of the Rules set out in this Division and Clause 1.3 of the Deed, Clause 1.3 of the Deed prevails.

3.6 The following provisions of the Deed do not apply in respect of this Division:

- (a) Clause 5.2 (Participants Account); and
- (b) Clause 17.2 (Participants may requisition meeting).

3.7 For the purposes of the Deed any reference to “**Participants Account**” shall be taken to be a reference to a Participant’s Accumulation Account under this Division to the extent it is capable of having an equivalent application under the Deed.

4. Definitions

In this Division:

“**Account**” means an Accumulation Account;

“**Accumulation Account**” means, in respect of a Participant, the account established and maintained for the Participant under rule 15;

“**Electronic Means**” means any electronic, telephonic or digital means, and includes (without limitation):

- (a) telephone;
- (b) electronic mail;
- (c) publishing to a website; and
- (d) notification via mobile data application;

“**Insurer**” means any insurance company with which the Trustee has effected a Policy;

“**Operational Standards**” includes, for the avoidance of doubt, in addition to the “*Operational Standards*” referred to in Clause 1.1 of the Deed, the *Corporations Act 2001*, the *Corporations Regulations 2001* and any relevant standard, modification, determination, ruling or instrument of relief issued or made pursuant to any legislation constituting an Operational Standard;

“**Policy**” means an insurance policy issued by an Insurer to the Trustee to cover the death, TMC and/or disablement of one or more Participants;

“**Promoter**” means a third party appointed by the Trustee to engage in marketing, promoting, advertising or education of any person which the Trustee considers will promote this Division in order to limit the reduction in membership, to increase membership and for any other purpose the Trustee believes is in the best interests of Participants;

“**Release Authority**” means a documented authority issued by the Commissioner of Taxation stating the amount of excess contributions tax that a Participant is liable to pay or any similar document issued by the Commissioner of Taxation or pursuant to the Tax Act with respect to other tax that a Participant is liable to pay and for which a release of superannuation monies is permitted to fund such tax liability;

“Risk Life Policy” means the insurance policy issued by the Insurer to the Trustee on the life of a Member of this Division XIII and includes any interim or limited cover provided by the Insurer while an application for cover is being assessed.

“TMC”, in relation to a Participant:

- (a) has the meaning given to the term “terminal medical condition” or “terminal illness” or an equivalent term in any Policy arranged by the Trustee and in force for the time being in respect of the Participant; or
- (b) if in respect of a Participant at any time there is no Policy in force in respect of the Participant that gives meaning to any of those terms – has the meaning given to the term “terminal medical condition” in the Regulations;

“Total and Temporary Disablement”, in relation to a Participant, has the meaning given to that term or an equivalent term in any Policy arranged by the Trustee and in force for the time being in respect of the Participant; and

5. Electronic Communications

- 5.1 In this Division, documents, information, statements or notices shall be provided by or to the Trustee by such Electronic Means as is prescribed by the Trustee from time to time, subject to any requirements governing electronic disclosure under the Operational Standards.
- 5.2 Notwithstanding rule 5.1, the Trustee may in its discretion determine to provide or accept documents, information, statements or notices by means other than Electronic Means where the Trustee considers it fair and reasonable to do so and where permitted under the Operational Standards.

6. Promotion

- 6.1 The Trustee may from time to time engage the services of a Promoter and remunerate the Promoter in respect of any advice, involvement or implementation of an activity to promote this Division.
- 6.2 The Trustee may terminate the services of a Promoter.

PART 2 – PARTICIPATION

7. Participation

- 7.1 An Eligible Person may apply to become a Participant of this Division by completing and providing to the Trustee an application in a form prescribed by the Trustee.
- 7.2 If the Trustee accepts the application, the Eligible Person becomes a Participant on the date of acceptance.

8. Cooling off

- 8.1 If in accordance with the Operational Standards a Participant elects during the cooling off period specified by the Operational Standards to cease to be a participant of this Division, the Trustee must in the manner and to the extent required by the Operational Standards refund or otherwise deal with the balance of the Participant’s Account.

- 8.2 Prior to refunding or otherwise dealing with a Participant's Account under this rule 8, the Trustee may deduct from the Account reasonable administration and transaction costs and other amounts unless prohibited by the Operational Standards.

9. Cessation of Participation

Upon the balance of a Participant's being reduced to nil and subject to there being no insurance proceeds of a Policy remaining to be paid in respect of the Participant, the Participant ceases to be a Participant of and has no further entitlements under this Division.

PART 3 – CONTRIBUTIONS

10. Contributions to Accumulation Accounts

- 10.1 A Participant may, with the agreement of the Trustee, contribute to an Accumulation Account in this Division such amount as the Participant determines (excluding any Contributions for or on behalf of the Participant's Spouse who is also a Participant).
- 10.2 The Trustee may accept Spouse Contributions paid to an Accumulation Account in respect of a Participant.
- 10.3 An Employer may make contributions to an Accumulation Account in this Division on behalf of a Participant who is its Employee.
- 10.4 The Trustee may accept other amounts paid to an Accumulation Account in this Division in respect of a Participant by any person to the extent receipt of such an amount would not be prohibited by the Operational Standards.

11. Investment of Contributions and other moneys

The Trustee must apply Contributions or other moneys received by it in respect of a Participant to pay the premiums due under a Risk Life Policy on the life of that Participant. The Trustee may set aside from the Contributions or other monies received in respect of a Participant such amounts it determines are appropriate for the payment of any Tax, fees or other expenses incurred in connection with the Participant or this Division.

12. Conditions

The Trustee may impose conditions or limits on the amounts contributed or transferred or rolled over to this Division by Participants or by a particular Participant.

13. Non-acceptance

- 13.1 The Trustee may refuse any Contribution or other amount paid to this Division without giving reasons.
- 13.2 The Trustee must refund any Contribution not allowed by the Operational Standards, after deducting taxes and expenses incurred by the Trustee in relation to the Contribution.

PART 4 – ACCOUNTS

14. Accumulation Account

- 14.1 The Trustee must establish an Accumulation Account in respect of each Participant.
- 14.2 The following amounts will be credited from time to time to the Accumulation Account maintained in respect of a Participant:
- (a) any amount paid into this Division in respect of the Participant as a transfer or a roll over payment pursuant to Clause 3.3.1 which the Trustee considers appropriate to credit to the Participant's Accumulation Account;
 - (b) any Contributions paid by or in respect of the Participant;
 - (c) the proceeds of any Policy effected by the Trustee paid in respect of an insured event that occurs in relation to the Participant to the extent that the Trustee considers appropriate to credit to the Accumulation Account for the Participant (including where those proceeds have not been paid directly to a Participant as all or part of a Benefit payment);
 - (d) such other amounts as the Trustee from time to time determines are appropriate to credit to the Participant's Accumulation Account.
- 14.3 The following amounts will be debited from time to time to the Accumulation Account maintained in respect of a Participant:
- (a) any amounts paid out of this Division in respect of the Participant as a roll over or transfer pursuant to Clause 14.4A.1 which the Trustee considers appropriate to debit to the Participant's Accumulation Account;
 - (b) any other Benefit payments made to or in respect of the Participant (other than payments which are otherwise satisfied by the payment of the proceeds of any Policy effected by the Trustee in respect of an insured event that occurs in relation to the Participant and which proceeds have not first been credited to the Participant's Accumulation Account);
 - (c) the costs of any Policy (including the costs of administration of such Policy) effected by the Trustee which the Trustee determines to attribute to the Participant (whether such Policy has been effected on a group or individual basis);
 - (d) any Tax payable from this Division in respect of any amounts credited or debited to the Participant's Accumulation Account and any other Tax which the Trustee determines it is appropriate to attribute to the Participant;
 - (e) Expenses incurred by the Trustee in connection with this Division or the Participant which the Trustee determines it is appropriate to attribute to the Participant;
 - (f) fees and charges determined by the Trustee in accordance with Part 8 of the Rules;
 - (g) any amount paid in satisfaction of a Release Authority given to the Trustee; and

- (h) such other amounts as the Trustee from time to time determines are appropriate to debit to the Participant's Accumulation Account.

PART 5 – INSURANCE

15. Standard cover

The Trustee may determine to obtain a certain level of insurance cover in respect of all or any of death, disability or TMC under one or more Policies that have application in relation to Participants without any request or other application being made by particular Participants.

16. Additional cover

- 16.1 A Participant may apply to the Trustee in a form prescribed by the Trustee to seek to secure insurance cover for all or any of death, disability or TMC under one or more Policies that have application in respect of Participants of this Division.

- 16.2 If a Participant makes an application for insurance cover:

- (a) it must be completed in such form as is prescribed by the Trustee;
- (b) it must be accompanied or later supplemented by such information required by the Trustee or the Insurer; and
- (c) it may be subject to any conditions imposed by the Trustee or the Insurer.

- 16.3 The Trustee may accept or refuse to accept a Participant's application in full or the Trustee may accept the Participant's application in respect of part of the insurance cover applied for or subject to any conditions the Trustee or the Insurer may impose. The Trustee must refuse to accept an application for insurance cover or otherwise impose conditions limiting the insurance cover to the extent necessary to ensure consistency with the terms of the insurance cover offered by the Insurer.

17. Cancellation of cover

- 17.1 A Participant may apply to cancel any insurance cover under a Policy maintained in respect of the Participant in such manner as is prescribed by the Trustee from time to time.
- 17.2 Cancellation of insurance cover under a Policy maintained in respect of a Participant will take effect from such time as the Insurer gives effect to the cancellation in respect of the Participant or upon the Trustee determining that a Participant's Account balance is insufficient to meet the Trustee's costs of maintaining the insurance cover.

18. Limitation

A Participant is only entitled to a benefit in respect of insurance cover maintained under this Division if and to the extent that proceeds are paid by the Insurer to the Trustee in respect of the Participant's death, disability or TMC.

PART 6 – BENEFITS

19. Death

If a Participant dies, a death benefit equivalent to the Participant's Accumulation Account balance is payable.

20. Total and Permanent Disablement

If a Participant becomes Totally and Permanently Disabled the Participant is entitled to the Participant's Accumulation Account balance.

21. Temporary Total or Partial Disablement

If a Participant becomes Temporarily Totally Disabled or Partially Disabled within the meaning of any Policy effected in respect of the Participant then the Trustee must pay the proceeds of the Policy as set out in the Policy, less any tax required to be deducted under the Operational Standards and other fees and charges determined by the Trustee.

22. Other Circumstances

A Participant is entitled to the whole or part of the Participant's Accumulation Account balance in such other circumstances as permitted by the Operational Standards. The Trustee is not required to pay a Participant a Benefit unless the Participant requests payment in writing.

23. Payments of Benefits on death

23.1 Subject to the Operational Standards, upon the death of a Participant the Trustee will deal with any Benefit payable in respect of the death of the Participant as follows:

- (a) if the Participant had made a binding Nomination in accordance with Clause 3.5(d) of the Deed, the Trustee will pay or apply the Benefit in accordance with that Nomination; or
- (b) if the Participant had provided a Nomination in the form of a direction under Clause 3.5(f) of the Deed and the Trustee had consented in writing to the Nomination under that clause, the Trustee will pay or apply the Benefit in accordance with that Nomination; and
- (c) in all other cases the Trustee must pay or apply the Benefit:
 - (i) to one or more of the Participant's Dependants (including any Nominated Persons) and Legal Personal Representative in such proportions, form, manner and at such times as the Trustee will from time to time in its discretion determine subject to the Operational Standards; and
 - (ii) if there are no Dependants and no Legal Personal Representative, to such persons and in such proportions, form, manner and at such times as permitted by the Operational Standards.

23.2 The receipt by a Dependant, the Legal Personal Representative, relative or other person of a Benefit paid under this rule 28 will be a complete discharge to the Trustee in respect of any amount paid.

PART 7 – FEES

24. Fees and charges

The Trustee is entitled to debit from an Account the following fees and charges as it determines from time to time:

- (a) Trustee fee;
- (b) Participant fee;
- (c) Contribution (and other monies) fee;
- (d) administration fee;
- (e) adviser service fee;
- (f) Promoter fee;
- (g) investment switching fee;
- (h) benefit payment fee;
- (i) expense recovery fee in relation to any Expenses;
- (j) family law charge (based on activity to be performed);
- (k) insurance administration charge;
- (l) operational risk financial requirement reserve charge; and
- (m) any other fee as determined by the Trustee.

25. Indexation

The Trustee is entitled to index annually the fees listed in rule 24 - to the Average Weekly Ordinary Time Earnings or to the Consumer Price Index or to such other index as it determines.

26. Rebate of premium

The Trustee is entitled to be paid any amounts representing a rebate, profit share or reimbursement of premium from effecting a Policy.

27. Differential fees

Notwithstanding any provisions of these Rules to the contrary, but subject to the Operational Standards, the Trustee may (but is not obliged to) charge different levels of fees to prescribed classes of Participant as it determines in its discretion.

28. Rebate of fees

The Trustee may in its discretion rebate any fees or income received by it to Participants in such proportions as it sees fit.