

CLUB PLUS QLD. PTY. LTD.

**CLUB SUPER
CONSOLIDATED TRUST DEED**

ESTABLISHED BY TRUST DEED DATED 1 JUNE 1989
As “Club Plus Portable Superannuation Plan”

CONSOLIDATION COMPRISING:

Trust Deed provisions adopted by Deed of Variation dated 30 June 1994

Rules adopted by Deed of Variation 30 November 2016

As amended by:

- **Deed of Variation dated 7 September 2017**

TRUST DEED

1 NAME OF PLAN

The name of the Plan is **CLUB SUPER**.

2 DECLARATION OF TRUST

The Trustee declares that it holds on the trusts set out in this Deed:

- (a) any contributions paid to and accepted by it for the purposes of the Plan;
and
- (b) any property acquired by it on the investment of contributions made to the Plan.

3 RULES

3.1 Definition

“**Rules**” means the Rules annexed to this Deed as amended from time to time.

3.2 Effect of Rules

The Rules have effect as if set out in this Deed.

3.3 Administration of Plan

The Plan must be administered in accordance with the Rules.

3.4 Replacement of Trustee

The Trustee may be removed and a new trustee appointed in accordance with the Rules.

3.5 Amendment

This Deed may be amended in accordance with the Rules.

4 PROPER LAW

The rights, liabilities and obligations inter se of the Trustee, the Employers and the Members under this Deed shall be governed by the law of the State of Queensland and any proceedings to enforce such rights, liabilities or obligations may be taken in the Courts of that State.

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RULES

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In the interpretation of this Deed, the following words and phrases have the following meanings, unless the context otherwise requires:

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

“**Assets of the Plan**” means any property held by the Trustee upon the trusts of this Deed, including cash and rights. Assets of a sub-fund or Investment Portfolio refers to the Assets of the Plan attributed to that sub-fund or Investment Portfolio as applicable.

“**Benefit**” means any amount paid or payable pursuant to this Deed to or in respect of a Member.

“**Binding Nomination**” means a notice to the Trustee given by an applicant or Member directing the Trustee to pay all or part of the Benefit payable on their death to a person or persons nominated in the notice, and the notice complies with the following:

- (a) each person nominated is within a class of persons the Trustee has prescribed as eligible to be nominated in a Binding Nomination;
- (b) the notice is in a form prescribed by the Trustee for a Binding Nomination;
- (c) the notice otherwise complies with form and content requirements prescribed by the Trustee for a Binding Nomination; and
- (d) the notice was given or confirmed within the period before the Member’s death prescribed by the Trustee for a Binding Nomination.

“**Charging Rules**” means all of the rules set out in the Operational Standards prescribing the manner in which fees and charges payable in respect of a Member who holds a MySuper Interest may or must be calculated and allocated to Members holding MySuper Interests.

“**Death Benefit Instruction**” means a notice to the Trustee given by an applicant or Member directing the Trustee to pay all or part of the Benefit payable on their death to a person or persons nominated in the notice, and the notice complies with the following:

- (a) each person nominated is within a class of persons the Trustee has prescribed as eligible to be nominated in a Death Benefit Instruction;
- (b) the notice is in the form prescribed by the Trustee for a Death Benefit Instruction;

- (c) the notice otherwise complies with form and content requirements prescribed by the Trustee for a Death Benefit Instruction.

“Deed” or **“this Deed”** means the trust deed regulating the Plan and includes the Rules and Schedules to the Rules.

“Disqualified Person” has the meaning assigned to that expression in relation to an individual or a body corporate in section 120 of the Act.

“Distribution Date” means the last day of each Financial Year and such other dates determined by the Trustee for the determination of an Earning Rate.

“Distribution Period” means a period commencing, for the first Distribution Period on the date of execution of the Deed, and for each succeeding Distribution Period the day after a Distribution Date, and ending on the next Distribution Date.

“Earning Rate” means a rate of net change in value of the Assets of the Plan, a sub-fund or an Investment Portfolio, determined under Rule 4.3(b).

“Eligible Person” means any person who is eligible under the Operational Standards to join and remain a member of a Regulated Superannuation Fund.

“Employee” means a person who:

- (a) is in the employment of an Employer whether on a full-time, part-time or casual basis; or
- (b) is classified by the Employer as an Employee for the purposes of the Plan,

and where the Employer is a corporation includes a director, manager or secretary of the corporation.

“Employer” has the meaning given to that term in section 15A of the Act, and in relation to a Member, or former Member, at any time, means an employer of that Member at that time.

“Employer Mandated Contribution” means a contribution made for a Member by an Employer:

- (a) in or towards satisfaction of the Employer’s obligation under an agreement certified or an award made on or after 1 July 1986 by an industrial authority; or
- (b) for the purpose of ensuring the Employer does not have any liability under the Superannuation Guarantee Charge Act 1992, or as a shortfall component as defined in the Superannuation Guarantee (Administration) Act 1992; or
- (c) which is otherwise prescribed under or made pursuant to or for the purposes of a requirement imposed by any legislation.

“Financial Year” means each successive period of twelve (12) months commencing on the 1st day of July and ending on the 30th day of June or any part of such a period that may occur at the commencement or termination of the Plan.

“Insured Benefit” means the proceeds payable in respect of a Member under a Policy of Insurance.

“Investment Portfolio” means a portfolio established by the Trustee under Rule 6.3(b)(i).

“Large Participating Employer” has the meaning given to that term in Rule 2.13(a)(i).

“Legal Personal Representative” means the executor or administrator of the estate of a deceased Member.

“Lifecycle Exception” means, in relation to a MySuper Investment Portfolio, that gains and losses from different classes of asset may be streamed to different subclasses of Members who hold a MySuper Interest:

- (a) on the basis, and only on the basis, of the age of those Members;
- (b) on the basis of the age of those Members and other factors prescribed under the Operational Standards; or
- (c) on the basis of the age of those Members and other factors prescribed in circumstances prescribed under the Operational Standards.

“Member” means a person who has been accepted for membership of the Plan and not ceased to be a Member. The term **“Member”** includes former Employees who continue to have rights or contingent rights to Benefits.

“Member Account” means the account kept for a Member pursuant to Rule 4.1.

“MySuper Class” has the meaning given to that term in Rule 2.12.

“MySuper Interest” of a Member means a beneficial interest of the Member in a MySuper Class.

“MySuper Investment Portfolio” has the meaning given to that term in Rule 2.12(a).

“Operational Standards” means a requirement of any law or a Regulator:

- (a) prescribed for the operation of Regulated Superannuation Funds; or
- (b) which must be complied with in order to:
 - (i) obtain the maximum tax concessions available to Regulated Superannuation Funds; or
 - (ii) avoid any penalty.

“Participation Agreement” has the meaning given to that term in Rule 2.13(e).

“Participating Employer” means:

- (a) the Principal Bodies;

- (b) an Employer admitted to participate in the Plan pursuant to Rule 9.1 as a Participating Employer, which has not ceased to be a Participating Employer.

“Permitted Fees” means, in relation to a MySuper Class, fees and charges as provided in Rule 6.2(e)(i).

“Permitted Limitation” means a limitation on the source or kind of contributions that is:

- (a) a prescribed limitation for a MySuper Product under the Operational Standards; or
- (b) imposed by or under the general law or another law of the Commonwealth.

“Plan” means the indefinitely continuing superannuation trust fund constituted by this Deed.

“Policy of Insurance” means a policy of insurance or assurance taken out by the Trustee to provide any or all of the Benefits under the Plan.

“Preferred Nomination” means a notice to the Trustee given by an applicant or Member that nominates a person or persons to receive all or part of the Benefit payable on their death, other than in the form of a Binding Nomination or Death Benefit Instruction. Where more than one person is nominated, the Preferred Nomination may specify the proportion for each person.

“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 under the Act or the Regulations.

“Preserved Benefit” means:

- (a) the amount of a Benefit or part of a Benefit; or
- (b) the balance or part of the balance of a Member Account,

which at the relevant time comprises the amount of the Member’s preserved benefits for the purposes of the Regulations.

“Principal Bodies” means:

- (a) United Voice – Queensland Branch, The Australian Workers’ Union of Employees, The Registered & Licensed Clubs Association of Queensland Union of Employers, Queensland, The Queensland Golf Union Inc and The Royal Queensland Bowls Association;
- (b) any other company, person, firm or other Employer or any Union of Employers or any Union of Employees that at any time with the written consent of all or a simple majority of the existing Principal Bodies is admitted as a Principal Body; and

- (c) any further company, person or firm or other Employer or any Union of Employers or any Union of Employees that, by reason of the reorganisation or amalgamation of any of the Principal Bodies, is the successor in whole or in part thereof.

“Regulation” or **“the Regulations”** means the regulations issued from time to time pursuant to the Act.

“Regulator” means the governing body responsible for the regulation of, or the administration of tax concessions available to, superannuation funds in Australia, including:

- (a) the Australian Prudential Regulation Authority;
- (b) Australian Securities and Investments Commission;
- (c) the Australian Taxation Office.

“Retirement”, in relation to a Member, has the meaning assigned to that term in the Regulations.

“Reversionary Beneficiary” means, in relation to a Member, a person:

- (a) whom the Member nominated;
 - (i) on commencement of the Member’s pension benefit; or
 - (ii) at such other time during the term of the pension as the Trustee permits,

in a form acceptable to the Trustee, as a person entitled to receive the Member’s pension benefit on the Member’s death; and

- (b) who:
 - (i) is a Dependant of the Member (at the time of the nomination and at the time of the Member’s death); and
 - (ii) where the Reversionary Beneficiary is the Member’s Spouse at the time of nomination, is the Member’s Spouse at the time of the Member’s death; and
 - (iii) is otherwise eligible under Superannuation Law to be a Reversionary Beneficiary of the pension (at the time of the nomination and at the time of the Member’s death).

“Service” means 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 an Employer may from time to time specify in writing to the Trustee in respect of a Member.

“Spouse Member” means a Member admitted under Rule 2.1(c).

“Superannuation Arrangement” means a fund or contractual arrangement which the Plan can transfer assets, Benefits or entitlements to, or accept assets, benefits or entitlements from, without the Trustee breaching or failing to comply with the Operational Standards. This may include, in circumstances prescribed under the Operational Standards, an Annuity, an Approved Deposit Fund, a Complying Superannuation Fund, an Eligible Rollover Fund or a RSA.

“Tax” includes income tax (including without limitation any capital gains tax on the disposal of any of the Assets of the Plan), 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 to another financial institution) together with interest on them, penalties with respect to them and charges, fees or other amounts paid on or in respect of them.

“Temporary Disablement” means in relation to a Member the definition of temporary disablement or a corresponding term in the applicable Policy of Insurance (if any).

“Total Account Balance” means in relation to a Member at any time, the balance of the Member’s Member Account at that time.

“Total and Permanent Disablement” means in relation to a Member:

- (a) where the Benefit payable on total and permanent disablement is insured, the definition of total and permanent disablement or a corresponding term in the applicable Policy of Insurance (if any); or
- (b) otherwise, the Trustee is reasonably satisfied that the Member’s ill-health (whether physical or mental) makes it unlikely that the Member will engage in gainful employment for which the Member is reasonably qualified by education, training or experience.

“Trustee” means the Trustee or Trustees for the time being of the Plan.

“Underwriter” means an insurer that has issued to the Trustee a Policy of Insurance covering the Members or any Member or a group of Members.

“Valid Death Benefit Instruction” has the meaning given in Rule 5.6(g).

1.2 Interpretation

In this Deed, unless the context indicates otherwise:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing gender include other genders;
- (c) references to a person include references to a firm, body corporate, association, government or governmental authority;

- (d) references to statutes or regulations (including any provision of a statute or regulation) include all statutes or regulations amending, consolidating or replacing them;
- (e) headings are for convenience only and do not affect the interpretation of this Deed.

1.3 **Definitions in the Act**

The following expressions have the meanings assigned to them in the Act:

Activity Fee;
Administration Fee;
Annuity;
Approved Deposit Fund;
Associate;
Buy-Sell Spread;
Civil Penalty Order;
Complying Superannuation Fund;
Constitutional Corporation;
Dependant;
Eligible Rollover Fund;
Exit Fee;
Insurance Fee;
Investment Fee;
Large Employer;
MySuper Product;
Registrable Superannuation Entity;
Regulated Superannuation Fund;
RSA;
Spouse;
Switching Fee.

1.4 **Compliance with Operational Standards**

- (a) The Trustee may comply with any Operational Standard, notwithstanding that:
 - (i) compliance with the standard conflicts with an express provision of this Deed; and
 - (ii) the standard is not required under the Act or otherwise to be included in this Deed.

- (b) The Trustee is not taken to have committed any breach of trust by virtue of any act or thing done to comply with the Operational Standards.
- (c) Where the Trustee must comply with an Operational Standard 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.
- (d) This Deed is to be construed as containing covenants in the terms prescribed under the Act as covenants that are taken to be contained in the governing rules of a Registrable Superannuation Entity.

1.5 Severance

- (a) If any provision of this Deed is void or voidable or unenforceable or illegal, but would not be void or voidable or unenforceable or illegal if it were read-down and it is capable of being read-down, it shall be read-down accordingly.
- (b) If notwithstanding Rule 1.5(a) a provision of this Deed is void or voidable or unenforceable or illegal:
 - (i) if the provision would not be void or voidable or unenforceable or illegal if a word or words were omitted, that word or those words are severed; and
 - (ii) in any other case, the whole provision is severed,and the remainder of this Deed has full force and effect.

2 MEMBERSHIP

2.1 Eligibility

- (a) Any Employee of a Participating Employer, who satisfies any conditions prescribed by the Participating Employer, can apply to the Trustee to become a Member.
- (b) A Participating Employer can apply to the Trustee, on behalf of an Employee, for the Employee to become a Member.
- (c) An Eligible Person who is not an Employee of a Participating Employer can apply to the Trustee to become a Member if the Eligible Person is in a category of persons the Trustee has decided to accept as Members (“Spouse Members”).

2.2 Application for membership

- (a) An application for membership of the Plan must be in a form prescribed or accepted by the Trustee.
- (b) An Employee may deliver the Employee’s application for membership to the Employer. An Employer which receives an application for membership must lodge the application with the Trustee.

- (c) An application for membership by a person other than an Employee must be delivered in a manner prescribed or accepted by the Trustee.
- (d) The Trustee may admit an Eligible Person as a Member without an application in such circumstances and on such terms and conditions as the Trustee determines.

2.3 Admission to membership

- (a) The Trustee may:
 - (i) accept or reject an application without giving any reason;
 - (ii) impose conditions on an applicant's admission and rights and duties as a Member;
 - (iii) impose conditions on Benefits;
 - (iv) at any time remove or vary all or any conditions imposed.
- (b) The Trustee must reject an application unless the applicant is an Eligible Person.

2.4 Date of admission

- (a) An applicant for membership becomes a Member on the date of acceptance by the Trustee of the application or, where the Member is an Employee, on such other date specified by the Employer. The date specified must not be a date prior to the date on which the Employee's Service commenced.
- (b) If the Employer specifies that an Employee's membership is to commence on a date prior to the acceptance of the Employee's application, the Employee will on acceptance of the application be deemed for the purposes of this Deed to have become a Member on the date specified by the Employer.
- (c) A Member, other than an Employee, admitted without an application becomes a Member on the date determined by the Trustee.

2.5 Terms of membership

A Member's membership of the Plan is subject to any terms and conditions applicable to that Member under Rule 9.2.

2.6 Notice of acceptance

Upon acceptance of an application for membership, the Trustee must as soon as practicable afterwards:

- (a) notify the Member in writing of the Member's acceptance to the Plan detailing:
 - (i) the date of acceptance; and

- (ii) such other information, statements or reports as the Operational Standards require to be provided to the Member; and
- (b) if the Member is an Employee, confirm to the Employer that its Employee has been accepted to the Plan.

2.7 Members bound

Each Member is deemed by virtue of the Member's application for membership to have consented to be bound by this Deed.

2.8 Members to provide information

- (a) A Member must:
 - (i) promptly give any information requested by the Trustee in connection with the Plan;
 - (ii) submit to any medical examinations or give any other information as required by the Trustee for the purposes of Rule 6.4(d).
- (b) If a Member fails to comply with Rule 2.8(a) the Trustee may refuse to accept contributions for that Member or withhold any Benefit payable to that Member until the Member complies.

2.9 Transfer from another Superannuation Arrangement

- (a) The Trustee may accept any amount from a Superannuation Arrangement to be allocated to a Member.
- (b) The Trustee may accept an amount to be allocated to a Member without the consent of the Member, if the Operational Standards permit.
- (c) Subject to any arrangement made pursuant to Rule 2.9(a), the Trustee must determine the value of any payment, assignment or transfer of assets for the benefit of the Member and credit the value so determined to such of the Member Accounts of that Member as the Trustee determines.

2.10 Transfer to another Superannuation Arrangement

- (a) The Trustee may, at the written request of a Member or a Member's Employer, pay to a Superannuation Arrangement all or any part of any Benefit to which the Member is or may become entitled.
- (b) The Trustee must not pay any amount pursuant to Rule 2.10(a) at the request of a Member's Employer unless:
 - (i) the Trustee has received the Member's written consent to the payment; or
 - (ii) the Member's written consent is not required under the Operational Standards.

- (c) The Trustee may pay an amount under Rule 2.10(a) by transfer of any of the Assets of the Plan. Any expenses associated with the transfer, including (but not limited to) stamp duty, brokerage fees and commission, must be paid by the Member or deducted from the amount to be transferred.
- (d) The receipt by the Superannuation Arrangement for the payment satisfies the Member's entitlement to a Benefit in respect of the amount paid. Neither the Trustee nor the Employer are responsible for the manner in which the payment is dealt with by the Superannuation Arrangement.

2.11 Cessation of membership

A person ceases to be a Member on any of the following occurring:

- (a) the full amount of the Benefit payable to the Member is paid;
- (b) the Member's Total Account Balance is transferred under Rule 2.10.

2.12 MySuper Classes

The Trustee may establish one or more classes of membership ("**MySuper Class**") that must have the following terms and conditions:

- (a) the Trustee must determine the Investment Portfolio applicable in respect of the MySuper Class as a single diversified investment strategy ("**MySuper Investment Portfolio**");
- (b) all Members who hold a MySuper Interest must be entitled to access the same options, benefits and facilities, except that:
 - (i) different terms and conditions may apply in respect of benefits under a Policy;
 - (ii) access to options, benefits and facilities may otherwise be different if permitted under the Operational Standards;
- (c) the Earning Rate of the MySuper Investment Portfolio must be allocated to MySuper Interests in a way that does not stream gains or losses to only some of those Members, except to the extent permitted under a Lifecycle Exception;
- (d) the same process is to be adopted in attributing amounts to Members in respect of their MySuper Interest, except to the extent that a different process is necessary to allow for fee subsidisation by Participating Employers;
- (e) if fee subsidisation by Participating Employers is permitted, that subsidisation does not favour one Member who holds a MySuper Interest and is an Employee of a subsidising Participating Employer over another such Member who is an Employee of that Participating Employer;

- (f) there are no limitations on the source or kind of contributions made by or on behalf of Members who hold a MySuper Interest, other than Permitted Limitations;
- (g) a MySuper Interest cannot be replaced with an interest in another class of membership in the Plan unless:
 - (i) the replacement is with an interest in another MySuper Class within the Plan; or
 - (ii) the Member consents in writing to the replacement within the time period prescribed under the Operational Standards; or
 - (iii) the MySuper Interest is replaced with a beneficial interest of another class in the Plan of a kind, and in the circumstances, permitted under the Operational Standards;
- (h) a Member's MySuper Interest cannot be replaced with a beneficial interest in another Superannuation Entity ("**New Interest**") unless:
 - (i) the New Interest is a MySuper Product and the replacement with the New Interest is permitted under a law of the Commonwealth;
 - (ii) the replacement is otherwise permitted, or is required, under a law of the Commonwealth; or
 - (iii) the Member consents in writing to the replacement with the New Interest;
- (i) to the extent that Assets of the Plan are attributable to the MySuper Class, a pension is not payable out of those Assets (other than a benefit payable as an income under a Policy, on the Member's inability to work due to ill-health).

2.13 **Employer's MySuper Classes**

- (a) The Trustee may establish a MySuper Class in respect of a Participating Employer ("**Employer's MySuper Class**") where:
 - (i) the Participating Employer is a Large Employer, or the Trustee is satisfied that the Participating Employer will become a Large Employer within a period determined by the Trustee and prescribed by a Regulator ("**Large Participating Employer**");
 - (ii) the Employer is specified in the Participation Agreement as a Large Participating Employer; and
 - (iii) the Trustee is authorised by a Regulator to establish the Employer's MySuper Class.
- (b) A person is not entitled to hold a MySuper Interest in an Employer's MySuper Class unless the person is:
 - (i) an Employee or former Employee of:

- (A) the Large Participating Employer; or
 - (B) an Associate of the Large Participating Employer; or
- (ii) a relative or Dependant of such a person.
- (c) Subject to Rule 2.13(d), where an Employer's MySuper Class is established for a Large Participating Employer and:
 - (i) the Large Participating Employer or an Associate contributes to the Plan (or would contribute apart from a temporary cessation of contributions) for an Employee of the Large Participating Employer, any Employee of the Large Participating Employer is eligible to hold a MySuper Interest in that Employer's MySuper Class;
 - (ii) the Large Participating Employer or an Associate contributes to the Plan (or would contribute apart from a temporary cessation of contributions) for an Employee of an Associate, any Employee of that Associate is eligible to hold a MySuper Interest in that Employer's MySuper Class.
- (d) An Employee of a Large Participating Employer is not eligible to hold a MySuper Interest in that Employer's MySuper Class where:
 - (i) under the Operational Standards, the governing rules of the Employer's MySuper Class cannot permit that Employee to be eligible to hold a MySuper Interest; or
 - (ii) the Employee is not eligible under the Participation Agreement to hold a MySuper Interest in the Employer's MySuper Class, and the Operational Standards do not require that the Employee is so eligible.
- (e) An agreement between the Trustee and a Large Participating Employer in relation to the terms of membership of the Plan applicable to Members of that Employer's MySuper Class ("**Participation Agreement**") forms part of the governing rules of the Plan applicable to those Members.

2.14 **MySuper Class and other classes**

- (a) No Member who holds a beneficial interest in a MySuper Class is precluded from holding a beneficial interest of another class in the Plan because of that fact.
- (b) No Member is precluded from holding a beneficial interest in a MySuper Class because the Member holds a beneficial interest of another class in the Plan.

3 CONTRIBUTIONS

3.1 Member contributions

- (a) A Member may contribute any amount if the Trustee agrees.

- (b) A Member who is an Employee is not obliged to contribute to the Plan.
- (c) Where a Member who is an Employee of a Participating Employer has agreed to pay regular contributions, the Participating Employer and the Member may arrange for the Member's contributions to be deducted by the Participating Employer from the Member's salary. The Participating Employer must pay the deducted contributions to the Trustee within the Prescribed Period, but otherwise in the manner and at the times agreed between the Participating Employer and the Trustee.
- (d) Despite the preceding provisions of this Rule 3.1, where a Participating Employer on admission to participation notifies the Trustee that Employees of that Participating Employer who become Members are required to contribute to the Plan, those Members must contribute to the Plan on the basis prescribed unless the Participating Employer subsequently notifies the Trustee (either generally or in relation to a particular Employee or group of Employees) that Member contributions need not be made.

3.2 Employer contributions

- (a) A Participating Employer must contribute to the Plan for each Member employed by that Employer, the Employer Mandated Contributions for that Member, subject to Rule 3.2(c).
- (b) An Employer's contributions must be paid in the manner and at the times agreed upon between the Employer and the Trustee.
- (c) A Participating Employer may at any time and from time to time suspend payment of or reduce future contributions payable by the Employer in respect of any Member or Members.
- (d) An Employer may make additional contributions for a Member.

3.3 Contributions by other persons

Any person may make such contributions for the credit of a Member as the Trustee accepts.

3.4 Payment and acceptance of contributions

- (a) A contribution may be paid by cash or by assignment or transfer of ownership of any assets accepted by the Trustee. Where any contribution is paid by assignment or transfer of ownership of assets, the Employer or Member paying the contribution is responsible for all stamp duty, brokerage fees, commission and other costs, charges and expenses in respect of the assignment or transfer.
- (b) A contribution may be paid to a delegate of the Trustee.
- (c) The Trustee may refuse to accept all or any part of any contribution from any person without giving any reason.

- (d) The Trustee may accept contributions for a Member only if the contributions may be accepted under the Operational Standards. The Trustee must refuse to accept a contribution where the Trustee is aware that the Operational Standards prohibit acceptance of the contribution by the trustee of a Regulated Superannuation Fund.
- (e) Where under the Operational Standards the Trustee is required to refund all or part of an amount paid to the Trustee as a contribution, the Trustee:
 - (i) must refund that amount; and
 - (ii) may make such adjustments to an amount refunded as the Trustee considers appropriate and the Operational Standards permit.
- (f) Where the Operational Standards permit, the Trustee may at the request or direction of a Member allocate part or all of a contribution made for the credit of the Member to the Member Account of another Member.

3.5 Cessation of contributions

Contributions must cease to be paid for a Member:

- (a) when their membership ceases; or
- (b) where the Operational Standards prohibit the acceptance of contributions for the Member.

4 ESTABLISHMENT OF ACCOUNTS

4.1 Member Accounts

- (a) The Trustee must keep a Member Account for each Member, and may divide Member Accounts into sub-accounts or notional sub-accounts.
- (b) The Trustee may allocate to a Member Account such amounts as the Trustee determines are referable to the Member.
- (c) Without limiting Rule 4.1(b), the Trustee may allocate to a Member Account:
 - (i) any contributions made by or for the credit of the Member;
 - (ii) any amount transferred from another Superannuation Arrangement for the credit of the Member;
 - (iii) any part of a contribution made for the credit of another Member which that other Member has requested or directed is to be allocated to that Member Account, where the Operational Standards permit the allocation and the Trustee determines to make the allocation;
 - (iv) any Insured Benefit received in respect of the Member;

- (v) any amount the Trustee determines to allocate to the Member from a Reserve Account;
- (vi) net changes in the value of the Assets of the Plan, of a sub-fund, or of an Investment Portfolio or Investment Portfolios, as applicable to the Member;
- (vii) any fees and charges applicable to the Member;
- (viii) a share of Taxes in respect of the Plan, and any particular Taxes applicable to the Member;
- (ix) a share of insurance premiums and other expenses of the Plan that the Trustee determines to allocate to the Member, and any particular expenses applicable to the Member.

4.2 **Reserve Account**

- (a) The Trustee may:
 - (i) maintain a reserve or reserves (“**Reserve Account**”) for any purposes which the Trustee determines and the Operational Standards permit;
 - (ii) allocate any amounts to a Reserve Account which the Trustee determines, including:
 - (A) any contributions by an Employer which are not allocated to a Members Account;
 - (B) amounts deducted from contributions or Member Accounts as provision for expenses (including Taxes and insurance premiums);
 - (C) any unallocated earnings of the Plan;
 - (D) any unrealised gains and losses arising on a revaluation of Assets of the Plan.
- (b) Without limiting Rule 4.2(a), the Trustee may, if the Operational Standards permit, use a Reserve Account to:
 - (i) stabilise Earning Rates from year to year;
 - (ii) allocate any amount to one or more Member Accounts;
 - (iii) provide Benefits or additional Benefits for any Member, or any Dependant of a Member or former Member;
 - (iv) pay any contributions otherwise payable by any Employer or Member;
 - (v) pay any expenses of the Plan (including Taxes and insurance Premiums).

- (c) If the Trustee maintains a Reserve Account or other reserves, the Trustee must formulate, review regularly and give effect to a strategy for the prudential management of the Reserve Account or reserves (as applicable), consistently with the Plan's investment strategies and the capacity of the Plan to discharge liabilities (whether actual or contingent) as and when they fall due.

4.3 **Change in value of the Plan**

- (a) The Trustee:
 - (i) must identify at least one Distribution Date in each Financial Year;
 - (ii) may determine a number of consecutive Distribution Periods for a Financial Year in respect of the Plan, a sub-fund or an Investment Portfolio, of any duration (for example, Distribution Periods may be each month, each week or each day during the Financial Year); and
 - (iii) (to avoid doubt) may determine different Distribution Periods for different sub-funds or Investment Portfolios.
- (b) As at each Distribution Date, the Trustee must determine the net change in the value of the Assets of the Plan, sub-fund or Investment Portfolio for the Distribution Period. A net change in value may be expressed in such manner as the Trustee determines (for example as a crediting rate or unit price), and may be expressed differently for different sub-funds or Investment Portfolios.
- (c) The Trustee may determine methodologies to allocate to Benefits paid during an Distribution Period an estimate of any net change in value of the Assets of the Plan, sub-fund or Investment Portfolio for the period since the last Distribution Date (for example, an interim crediting rate).
- (d) In determining the net change in value of the Assets of the Plan, a sub-fund or an Investment Portfolio for a Distribution Period, the Trustee may take into account, in relation to the Distribution Period:
 - (i) investment returns on the Assets of the Plan, sub-fund or Investment Portfolio;
 - (ii) expenses, and any provision for expenses, in connection with the Plan, sub-fund or Investment Portfolio;
 - (iii) capital gains and losses on realisation of any of the Assets of the Plan, sub-fund or Investment Portfolio;
 - (iv) unrealised gains and losses arising on revaluation of any of the Assets of the Plan, sub-fund or Investment Portfolio;
 - (v) allowance for capital appreciation and depreciation on any of the Assets of the Plan, sub-fund or Investment Portfolio;

- (vi) write-offs of bad debts;
 - (vii) the appropriateness of averaging the net earnings of the Plan, sub-fund or Investment Portfolio over two or more Distribution Periods;
 - (viii) any Reserve Account or other reserves maintained by the Trustee; and
 - (ix) any other factors which the Trustee considers appropriate.
- (e) A net change in value of the Assets of the Plan, sub-fund or an Investment Portfolio for a Distribution Period may be positive or negative.

4.4 Allocation of net change in value

- (a) The Trustee must as at each Distribution Date determine the extent to which, and the manner in which, the net change in value of the Assets of the Plan, sub-fund or an Investment Portfolio determined as at that Distribution Date is to be allocated to Benefits. A net change in value of the Assets of a sub-fund or Investment Portfolio is to be allocated among the Member Accounts that are invested in that sub-fund or Investment Portfolio.
- (b) Where the Trustee offers a MySuper Product, the Trustee must allocate net change in value in respect of the MySuper Investment Portfolio in accordance with the requirements of the Operational Standards for a MySuper Product.

4.5 Valuation

- (a) The Trustee may at any time engage a valuer to value the Assets of the Plan or any of them.
- (b) The Trustee must when engaging a valuer:
 - (i) satisfy itself that the valuer is qualified to value assets of a comparable type to any of the Assets of the Plan which are to be valued;
 - (ii) instruct the valuer to report in writing to the Trustee.
- (c) On the receipt of a report by a valuer under Rule 4.5(b), the Trustee must determine whether any fluctuations in the value of the Assets of the Plan or any of them should be reflected in adjustments to the balance of unallocated income or the balance in the Reserve Account or by crediting or debiting Member Accounts.

4.6 Other accounts

Notwithstanding the preceding provisions of this Rule 4, the Trustee may keep other accounts either in addition to or in substitution for the accounts and accounting systems set out in this Rule 4.

5 BENEFITS

5.1 When Benefit payable

A Benefit is payable in respect of a Member:

- (a) on the Member's:
 - (i) Retirement;
 - (ii) death;
 - (iii) Total and Permanent Disablement;
 - (iv) Temporary Disablement, where the terms of the Member's membership entitle the Member to an Insured Benefit on Temporary Disablement;
- (b) when the Member attains an age at which the Operational Standards permit a Benefit to be paid or commence to be paid, and the Member requests that the Benefit be paid.
- (c) if the Operational Standards require that the Member be paid a Benefit at a prescribed age and/or in prescribed circumstances, the Member attains such an age and/or such circumstances occur;
- (d) where the Member terminates Service with an Employer and asks the Trustee to pay the Benefit; or
- (e) where Superannuation Law otherwise permits payment of the Benefit and:
 - (i) the Member asks the Trustee to pay the Benefit; and
 - (ii) the Trustee agrees to pay the Benefit.

5.2 Amount of Benefit

- (a) The amount of a Benefit payable in respect of a Member, other than on Temporary Disablement, is the Member's Total Account Balance (including, where applicable, any Insured Benefit received in respect of the Member), or such part of the Member's Member Account as the Operational Standards permit in respect of the type of Benefit that is payable.
- (b) The amount of and terms on which a Benefit is paid on a Member's Temporary Disablement will be in accordance with the Policy of Insurance pursuant to which the Benefit is paid.

5.3 Deferral of benefit payments

- (a) If a Member requests, the Trustee may defer payment of all or part of the Member's Benefit.

- (b) Where payment of a Member's Benefit is deferred, the Trustee may (subject to the Operational Standards) continue to accept contributions for the Member.
- (c) If a Member requests, the Trustee must (subject to the Operational Standards) pay all or any part of the Member's deferred Benefit.

5.4 Partial payments

- (a) Despite any other provision of this Rule 5 but subject to the Operational Standards, the Trustee may impose conditions and restrictions on partial payment of Benefits, including (for example):
 - (i) limits on how often partial payments are made;
 - (ii) a minimum amount for a partial payment;
 - (iii) a minimum balance that must remain in the Member's Member Account after a partial payment.
- (b) If a Member requests, the Trustee may pay an amount out of the Member's Member Account which is not a Preserved Benefit (subject to the Operational Standards and Rule 5.4(a)).

5.5 How Benefits Payable

- (a) A Benefit (other than a Benefit of a Reversionary Beneficiary) is payable as a lump sum unless the person entitled to the Benefit requests payment of the Benefit, or part of the Benefit, as a pension and the Trustee agrees to payment of the pension.
- (b) A Benefit of a Reversionary Beneficiary is payable as a pension.
- (c) Where a Benefit is payable as a lump sum, the Trustee may pay the Benefit in more than one instalment to the extent permitted under the Operational Standards.

5.5A Benefit may comprise two or more entitlements

- (a) To avoid doubt, a Member's Benefit may comprise two or more parts being entitlements that are payable in different circumstances. For example a Member may have an entitlement that is being paid as pension and an entitlement that has not become payable or is deferred.
- (b) Where a Member's Benefit comprises two or more entitlements, the Trustee may:
 - (i) maintain separate Member Accounts for the Member; or
 - (ii) divide the Member Account of the Member into sub-accounts or notional sub-accounts,

as the Trustee determines as necessary or desirable to account for the entitlements.

5.6 **Death Benefit Nominations**

- (a) The Trustee may offer Members and applicants, or any group of them, the option of giving the Trustee:
 - (i) a Binding Nomination;
 - (ii) a Death Benefit Instruction.
- (b) A Member or applicant may give the Trustee:
 - (i) a Preferred Nomination;
 - (ii) a Binding Nomination, where the Trustee has offered the Member or applicant that option; or
 - (iii) a Death Benefit Instruction, where the Trustee has offered the Member or applicant that option.
- (c) A Binding Nomination in respect of a Benefit is revoked if the Member:
 - (i) gives the Trustee notice in writing, in a form prescribed or accepted by the Trustee, that the Binding Nomination is revoked;
 - (ii) gives the Trustee another Binding Nomination, or a Death Benefit Instruction or Preferred Nomination, in respect of that Benefit or entitlement; or
 - (iii) where the Benefit or entitlement has become payable or is being paid as a pension, nominates a Reversionary Beneficiary.
- (d) A Death Benefit Instruction in respect of a Benefit is revoked if the Member:
 - (i) gives the Trustee notice in writing, in a form prescribed or accepted by the Trustee, that the Death Benefit Instruction is revoked;
 - (ii) gives the Trustee another Death Benefit Instruction, or a Binding Nomination or Preferred Nomination, in respect of that Benefit or entitlement; or
 - (iii) where the Benefit or entitlement has become payable or is being paid as a pension, nominates a Reversionary Beneficiary.
- (e) On receipt of a notice in the form of a Death Benefit Instruction, the Trustee must:
 - (i) consider whether to consent to the Death Benefit Instruction; and
 - (ii) notify the Member if the Trustee does not consent.
- (f) A Death Benefit Instruction becomes invalid if:

- (i) the Member's Spouse named in a Death Benefit Instruction ceases to be the Member's Spouse or becomes permanently separated from the Member;
- (ii) the Member commences a relationship with a Spouse who is not named in the Death Benefit Instruction;
- (iii) any person nominated as a Dependant:
 - (A) dies;
 - (B) ceases to be a Dependant of the Member; or
 - (C) ceases to be in a class of persons the Trustee has prescribed as eligible to be nominated in a Death Benefit Instruction.
- (g) A Valid Death Benefit Instruction is a Death Benefit Instruction that at the time of the Member's death has not become invalid under Rule 5.6(f).
- (h) A Preferred Nomination is not binding on the Trustee, but the Trustee may consider the Preferred Nomination when exercising the Trustee's discretions under Rule 5.7(a)(iv) or 5.7(b).

5.7 Death Benefit

- (a) On the death of a Member:
 - (i) where there is a Reversionary Beneficiary, the Trustee must pay the Benefit as a pension to the Reversionary Beneficiary;
 - (ii) where there is a Binding Nomination, the Trustee must pay the Benefit to the person or persons nominated, and if more than one person is nominated in the proportions specified;
 - (iii) where there is a Valid Death Benefit Instruction, the Trustee must pay the Benefit to the person or persons nominated, and if more than one person is nominated in the proportions specified;
 - (iv) otherwise, the Trustee must pay the Benefit to such of the Member's Dependents or Legal Personal Representative, or to any one or more of them to the exclusion of the other or others of them, and in such proportions, as the Trustee decides.
- (b) If the Trustee after making reasonable enquires is unable to identify any Dependents or Legal Personal Representative of a deceased Member, the Trustee may pay the Benefit to any individual who in the Trustee's opinion has a fair claim to the Benefit, where the Operational Standards permit the payment to be made to that individual.
- (c) On the death of a person in receipt of a death Benefit as a pension, the Trustee must pay the Member's remaining Total Account Balance:
 - (i) to the Member's:

- (A) Dependants (or to any one or more of them to the exclusion of the other or others of them and in such proportions as the Trustee decides), as a lump sum or pension or combination of both as determined by the Trustee in accordance with any applicable standards prescribed by the Operational Standards; or
 - (B) Legal Personal Representative, as a lump sum; or
- (ii) if the terms of the pension and the Operational Standards permit, to:
 - (A) Dependants of the Member's Spouse (or to any one or more of them to the exclusion of the other or others of them and in such proportions as the Trustee decides), as a lump sum or pension or combination of both as determined by the Trustee in accordance with any applicable standards prescribed by the Operational Standards; or
 - (B) the Legal Personal Representative of the Member's Spouse, as a lump sum.

5.8 Pension Benefit

- (a) Where a Benefit, or part of a Benefit, is payable as a pension the Trustee may:
 - (i) pay the pension from the Plan;
 - (ii) use the Benefit (or part of the Benefit) to purchase an Annuity;
 - (iii) rollover the Benefit (or part of the Benefit) to a Superannuation Arrangement.
- (b) A pension paid from the Plan may be any form of pension which the Trustee is permitted under the Operational Standards to provide, and must comply with Operational Standards applicable to that form of pension.
- (c) The Trustee may offer the person entitled to the pension benefit such options in relation to:
 - (i) the annual amount of the pension;
 - (ii) the frequency of pension payments;
 - (iii) the term for which the pension is payable;
 - (iv) nomination of a Reversionary Beneficiary:
 - (A) on commencement of the pension; or
 - (B) if the Trustee permits, at any time during the term of the pension,

as the Operational Standards permit in respect of that form of pension, and the person may select from the options offered.

- (d) The amount of and frequency of the instalments of a pension, and the terms on which payment is made, may be varied from time to time by the Trustee in accordance with any standards prescribed by the Operational Standards in respect of that form of pension.
- (e) The Trustee may commute all or part of a pension as permitted by the Operational Standards in respect of that form of pension, but must comply with any Operational Standards which impose restrictions on commutation of that form of pension. On commutation of any part of a pension, the Trustee must adjust the amount of the subsequent pension payments to take account of the commutation.
- (f) The Trustee may offer a Member whose Benefit is payable as a pension the option of nominating a Reversionary Beneficiary on commencement of the pension.
- (g) On the death of a Member in receipt of a pension the Trustee must pay the Benefit;
 - (i) to the Reversionary Beneficiary (if any); or
 - (ii) where there is no Reversionary Beneficiary, in accordance with Rule 5.7.

5.9 Preserved Benefits

Despite any other provision in this Deed, any Benefit or part of a Benefit which is a Preserved Benefit can only be paid:

- (a) to the Member in the form of a non-commutable life pension or non-commutable life annuity;
- (b) by way of a transfer or rollover for the benefit of the Member to Superannuation Arrangement; or
- (c) as otherwise permitted under the Operational Standards.

5.10 Payment by Trustee

- (a) The payment or application of any moneys in accordance with this Rule 5 is a complete discharge to the Trustee for the amount of the moneys paid or applied as against any person claiming an interest in those moneys.
- (b) A Benefit must not be paid until the Trustee has determined that:
 - (i) the Benefit is payable in accordance with this Deed;
 - (ii) the person claiming the Benefit is entitled to receive it under this Deed.

- (c) Payment by the Trustee of a Benefit in good faith to a person believed by the Trustee to be entitled to receive it is deemed for the purposes of this Deed to be payment to a person entitled to receive it and is a valid discharge to the Trustee of its obligations in respect of the payment of that Benefit.
- (d) The Trustee when determining questions of fact may act upon any proofs or presumptions it considers satisfactory whether strictly legal proofs or presumptions or not.

5.11 Payment of Benefit where Member unable to manage affairs

Where a Benefit has become payable to a Member and the Member is in the opinion of the Trustee suffering from any physical or mental disability which renders the Member incapable of managing the Member's own affairs (whether or not that disability constitutes Total and Permanent Disablement):

- (a) the Trustee may pay the Benefit to any person the Trustee considers responsible for managing the Member's affairs or make such other arrangements for payment of the Benefit as the Trustee thinks appropriate, if the Operational Standards so permit or the Regulator agrees;
- (b) payment of the Benefit in accordance with Rule 5.11(a) is a complete discharge to the Trustee as against the Member (even if the Member subsequently ceases to be so disabled) and any other person claiming an interest in the Member's Benefit.

5.12 Unclaimed Benefits and Eligible Rollover Funds

- (a) Subject to any requirements prescribed in the Operational Standards, the Trustee may pay the Member's Total Account Balance to an Eligible Rollover Fund in any circumstances which the Trustee may from time to time determine.
- (b) The Trustee may pay a Member's Benefit or Total Account Balance to a Regulator in circumstances prescribed or permitted under the Operational Standards.

5.13 Deduction of Tax from Benefits

The Trustee may deduct from any Benefit payable to any Member pursuant to this Deed any amount on account of Tax payable as the Trustee thinks proper and pay the amount to the body imposing the Tax. The Member is entitled to receive only the net Benefit after the deduction of Tax payable.

6 PLAN ASSETS AND INVESTMENTS

6.1 Plan held on trust

The Trustee shall hold the Assets of the Plan for the benefit of Members on the trusts provided for in this Deed.

6.2 Payment of expenses

- (a) The Trustee may pay from the Plan the expenses incurred from time to time in the administration of the Plan which are not paid by an Employer.
- (b) Without limiting Rule 6.2(a), expenses which the Trustee may pay from the Plan include:
 - (i) fees payable to the Auditor and to any Investment Manager, Administrator, actuary, valuer or any other adviser engaged by the Trustee to perform services for the Plan;
 - (ii) costs and disbursements incurred in connection with or incidental or ancillary to the retirement of a Trustee and the appointment of another in substitution;
 - (iii) except where a court otherwise directs, costs and disbursements incurred by or on behalf of the Trustee or an Employer in connection with the initiation, carriage and settlement of any court proceedings (including any negotiations and demands relating to the proceedings) against the other of them arising from any breach or default by the other under this Deed;
 - (iv) costs and disbursements incurred in the establishment or termination of the Plan;
 - (v) costs and disbursements incurred in amending this Deed.
- (c) The Trustee may debit expenses paid from the Plan to any or all of:
 - (i) the Reserve Account;
 - (ii) Member Accounts,in proportions determined by the Trustee.
- (d) Despite Rules 6.2(a) and 6.2(c), the Trustee must not:
 - (i) pay expenses from Assets of the Plan attributable to a MySuper Class; or
 - (ii) debit expenses from a Member's MySuper Interest,where the Operational Standards do not permit those expenses to be charged in respect of a MySuper Product.
- (e) In respect of a MySuper Class, the Trustee must:
 - (i) only impose fees and charges of one or more of the following kinds:
 - (A) Administration Fee;
 - (B) Investment Fee;

- (C) Buy-Sell Spread;
 - (D) Switching Fee;
 - (E) Exit Fee;
 - (F) Activity Fee;
 - (G) Insurance Fee; and
 - (H) any other fee or charge permitted under the Operational Standards; and
- (ii) only charge an amount of each of the Permitted Fees calculated in accordance with, and in the circumstances prescribed in, the Charging Rules.
- (f) The Trustee may charge lower Administration Fees in respect of a sub-plan of a Participating Employer than are charged in respect of other Members holding MySuper Interests in the same MySuper Class where:
- (i) the arrangement between the Participating Employer and the Trustee in relation to the Participating Employer's terms of participation specifies the lower Administration Fees; and
 - (ii) the lower Administration Fees are charged in accordance with the Charging Rules.

6.3 **Investments**

- (a) Subject to Rules 6.3(b) and 6.3(c), the Trustee:
- (i) must set investment objectives for the Plan, and formulate an investment strategy to achieve those objectives, in accordance with Operational Standards; and
 - (ii) may from time to time change the investment objectives and strategy.
- (b) Despite Rule 6.3(a), the Trustee may:
- (i) set different investment objectives for 2 or more Investment Portfolios;
 - (ii) formulate an investment strategy for each Investment Portfolio;
 - (iii) divide the Assets of the Plan between the different Investment Portfolios;
 - (iv) invite Members to nominate the manner in which the Member's Account will be invested between Investment Portfolios;
 - (v) determine:

- (A) when, how and in what manner Members may change their nominations;
 - (B) the minimum amount which may be invested in an Investment Portfolio; and
 - (C) any other matters which the Trustee considers appropriate;
- (vi) change the investment objectives, strategies, Investment Portfolios and the Assets of the Plan which comprise the Investment Portfolios.
- (c) Where the Trustee offers a MySuper Product, the Trustee must determine and review the investment objectives and investment strategy for the MySuper Investment Portfolio in accordance with the requirements of the Operational Standards for a MySuper Product.
- (d) The Trustee may invest the Plan in any form of property, for example any of the following:
 - (i) any investment for the time being authorised by law for the investment of trust funds;
 - (ii) shares, notes, options, debentures or other securities of any corporation or the securities of any government, semi-governmental body or public authority;
 - (iii) the purchase, lease or other acquisition of real property, including improvements, fixtures and fittings, and rights conferring options, rights of first refusal or otherwise relating to the acquisition of real property;
 - (iv) the purchase, lease, hire or other acquisition of personal property, and any share or estate or interest in personal property;
 - (v) units (or the equivalent rights or interests) in any unit trust, common fund, pooled superannuation trust or property trust;
 - (vi) deposits with any bank, building society, credit co-operative or other registered financial institution in any type of account;
 - (vii) any policy of life, disability or accident insurance underwritten by a Life Insurance Company;
 - (viii) bills of exchange and promissory notes whether purchased or discounted and which have been either drawn, accepted or endorsed by a bank or a statutory body;
 - (ix) subject to Rule 6.3(f), any other property.
- (e) Subject to Rule 6.3(f), the Trustee has full power to vary, replace, encumber and otherwise deal with the Assets of the Plan as fully and effectively as if the Trustee were dealing with its own property.

- (f) The Trustee must:
- (i) not lend money of the Plan, or give any other financial assistance using the resources of the Plan, to any Member or to a relative of any Member, except as permitted under the Operational Standards;
 - (ii) not intentionally acquire an asset from a Member or a relative of a Member, except as permitted by the Operational Standards;
 - (iii) not borrow, otherwise than as provided in Rule 8.1(l), or maintain an existing borrowing, except as permitted by the Operational Standards;
 - (iv) not invest moneys of the Plan unless the Trustee and the other party to the transaction are dealing with each other at arm's length in respect of the transaction;
 - (v) take all reasonable steps to ensure that the percentage of the Assets of the Plan invested in in-house assets as defined in section 71 of the Act complies with Part 8 of the Act;
 - (vi) not make any other investment prohibited by the Operational Standards.

6.4 **Policies of Insurance**

- (a) Without limiting Rule 6.3(d)(vii), the Trustee may invest all or any part of the balance of Member Accounts in the payment of premiums on a Policy of Insurance, in which the Trustee has a legal or equitable interest.
- (b) The Trustee may:
- (i) effect a Policy of Insurance on such terms and conditions and for such periods as the Trustee determines;
 - (ii) accept an assignment of a Policy of Insurance on such terms as the Trustee determines;
 - (iii) discontinue or surrender a Policy of Insurance at any time.
- (c) The Trustee may effect or acquire a Policy of Insurance which relates to more than one Member.
- (d) For the purposes of this Rule 6.4 the Trustee may from time to time request a Member or any person who has applied to become a Member to:
- (i) be medically examined;
 - (ii) submit other evidence of health, habits or pastimes;
 - (iii) provide proof of age to the satisfaction of the Underwriter;

- (iv) take such other steps as may be required by the Trustee or the Underwriter for the purposes of insurance.
- (e) If any employee or any person who has applied to become a Member refuses to undergo such medical examination or to undertake any other step which may reasonably be required for this purpose or does or omits to do anything which would or might vitiate the Policy of Insurance or result in the proceeds under the Policy of Insurance or any part thereof not becoming payable, the Trustee may adjust the benefits to be provided by the Plan for or in respect of that Member or person in such manner as the Trustee considers appropriate.
- (f) In any case where the Trustee applies or has applied to an Underwriter for insurance of any part of the Benefit of a Member, the Benefit of the Member shall be reduced by the amount of any such insurance or part thereof which the Underwriter refuses or refuses to grant on terms acceptable to the Trustee or by the amount of any such insurance or part thereof which having been effected the Underwriter declares void or otherwise restricts for any reason.
- (g) The benefits under a Policy of Insurance that are available to Members holding a MySuper Interest must comply with the requirements of the Operational Standards.

7 TRUSTEE

7.1 Identity of Trustees

The Trustee must be a Constitutional Corporation.

7.2 Appointment, removal and replacement of Trustee

- (a) A Trustee ceases to hold office if:
 - (i) the Principal Bodies give one month's notice in writing (or such shorter period which the Trustee agrees to accept) signed by or on behalf of the Principal Bodies to the Trustee that the Trustee is removed, if the Operational Standards permit the Principal Bodies to remove the Trustee;
 - (ii) the Trustee resigns from office by one month's notice in writing (or such shorter period as the Principal Bodies agree to accept) to the Principal Bodies;
 - (iii) the Trustee becomes a Disqualified Person;
 - (iv) the Trustee is removed by the Regulator.
- (b) Where the Trustee ceases to hold office, the Principal Bodies may appoint a new Trustee.
- (c) The appointment must:
 - (i) be in writing;

- (ii) otherwise comply with the Operational Standards.
- (d) Where the Operational Standards require the Plan to comply with the equal representation rules in Part 9 of the Act, the Trustee must:
 - (i) ensure that the Plan complies with the equal representation rules;
 - (ii) establish and publish rules setting out a procedure for appointment and removal of Member representatives in accordance with the requirements in the Operational Standards; and
 - (iii) where the Plan relies on section 89(2) of the Act in order to comply with the equal representation rules, establish and publish rules relating to the appointment and removal of an additional independent trustee or additional independent director in accordance with the requirements in the Operational Standards.
- (e) A delay in the appointment of a Trustee does not invalidate the appointment.
- (f) Any act or determination of a Trustee is valid notwithstanding any defect in the Trustee's appointment.

7.3 Vesting Plan in new Trustee

The retiring Trustee must execute all transfers, deeds or other documents necessary to transfer the Assets of the Plan into the name of the new Trustee and deliver to the new Trustee all books, documents, records and other property whatsoever relating to the Plan.

7.4 Director of Trustee or Participating Employer may be Member

A director, officer or Employee of a Participating Employer or the Trustee is not by virtue of that person's office, or of powers being delegated by the Trustee to that person, disqualified from being a Member or from exercising any rights or deriving any benefits as a Member.

The Trustee must comply with any requirements of the Operational Standards in the convening and holding of meetings of its directors and shareholders.

The Trustee must comply with any requirements of the Operational Standards when exercising any power or discretion conferred on it by this Deed or by law.

7.5 Trustee's personal interest

The Trustee or any director or other responsible officer of the Trustee may exercise or participate in exercising all powers and discretions conferred on the Trustee by this Deed or by law notwithstanding that the person has a direct or other personal interest in the mode or result of exercising that power or discretion.

7.6 Discretions absolute

The Trustee has an absolute and uncontrolled discretion in the exercise of its powers and discretions and may exercise or refrain from exercising all or any of those powers and discretions at any time.

7.7 Indemnity to Trustee

- (a) Subject to Rule 7.7(b), the Trustee:
 - (i) is not liable for any loss to the Plan arising from any act or omission by the Trustee;
 - (ii) is entitled to be indemnified out of the Assets of the Plan for any liability or loss incurred by it while acting as Trustee.
- (b) Rule 7.7(a) does not apply to exempt the Trustee from liability for or indemnify the Trustee against:
 - (i) a breach of trust where the Trustee:
 - (A) failed to act honestly in a matter concerning the Plan; or
 - (B) intentionally or recklessly failed to exercise, in relation to a matter affecting the Plan, the degree of care and diligence that the Trustee was required to exercise; or
 - (ii) a monetary penalty under a Civil Penalty Order.
- (c) Rule 7.7(a) does not apply to allow the Trustee to indemnify itself:
 - (i) out of the Assets of the Plan for any amount expended out of the capital of the Trustee managed and maintained by the Trustee to cover the operational risk of the Plan; or
 - (ii) out of any Assets of the Plan that do not form part of a reserve maintained for the purpose of covering the operational risk relating to the Plan, for any amount that relates to that risk, without first exhausting the reserve and any other financial resources managed and maintained by the Trustee to cover the risk.
- (d) References in this Rule 7.7 to Trustee include directors of the Trustee acting in that capacity.

7.8 Trustee's liability

The Trustee is not liable to any person for:

- (a) doing or performing any act or thing which the Trustee is, or which the Trustee believes in good faith the Trustee is, required to do or perform; or

- (b) failing to do or perform any act or thing which the Trustee is, or which the Trustee believes in good faith the Trustee is hindered, prevented or forbidden from doing or performing,

by any statutory provision or a decree, order or judgment of any court or tribunal.

7.9 Remuneration of Trustee

The Trustee may receive remuneration for its office from the Plan at a rate determined by the Principal Bodies. A Principal Body may remunerate the Trustee from the Principal Body's own resources. Where the Trustee's remuneration is not paid by a Principal Body, the Trustee's remuneration is payable as an expense of the Plan.

7.10 Trustee meetings

The Trustee must comply with any requirements of the Operational Standards in the convening and holding of meetings of its directors and shareholders.

7.11 Trustee decisions

The Trustee must comply with any requirements of the Operational Standards when exercising any power or discretion conferred on it by this Deed or by law.

8 MANAGEMENT OF PLAN

8.1 Trustee's Powers of Management

In addition to the power of investment, the Trustee may take such action and do such things as it determines to administer the Plan and to comply with the Operational Standards including:

- (a) leasing and accepting surrenders of leases with power to compromise with lessees and others;
- (b) executing and paying for repairs and improvements;
- (c) conducting and settling legal proceedings;
- (d) attending and voting at meetings;
- (e) paying all outgoings reasonably and properly incurred in connection with the Plan;
- (f) subject to Rule 6.3(f), lending money whether with or without security or interest and on such terms as it determines;
- (g) developing, improving, subdividing, building, rebuilding, altering, extending, replacing, repairing, managing, operating and otherwise dealing with any investment and purchasing plant, equipment and fittings;
- (h) entering into, performing and enforcing agreements, contracts and deeds;

- (i) drawing, endorsing, discounting, selling, purchasing and otherwise dealing with bills of exchange either alone or jointly and in particular commercial bills;
- (j) setting aside moneys out of the capital and income of the Plan to meet the obligations of the Trustee under the Deed;
- (k) paying Benefits;
- (l) 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 over any of the Assets of the Plan;
- (m) insuring any risks;
- (n) opening and operating accounts with Approved Deposit-taking Institutions;
- (o) settling, compromising or submitting to arbitration any claims, matters or things relating to this Deed;
- (p) retaining the services of professional or other advisers in relation to the management and administration of the Plan;
- (q) electing to be bound by legislation; and
- (r) doing such other things as the Trustee determines are incidental to any or all of the above powers.

None of the foregoing paragraphs shall limit or restrain the scope or ambit of any of the other paragraphs.

8.2 Delegation of Trustee Powers

- (a) The Trustee may delegate any functions, authorities, discretions or powers exercisable by the Trustee (including a power which the Trustee has a duty to exercise) to any person upon such terms and conditions as the Trustee determines.
- (b) The Trustee is not liable or responsible for any act or omission, error of judgment, negligence or breach of trust of a delegate, except to the extent provided under Rule 7.7(b) or the Operational Standards.
- (c) The Trustee may:
 - (i) revoke any delegation;

- (ii) exercise any delegated function, authority, discretion or power itself concurrently with or to the permanent or temporary exclusion of a delegate.

8.3 Service providers

The Trustee may appoint any of the following on terms which the Trustee considers appropriate:

- (a) an investment manager, to manage investments of the Plan;
- (b) an administrator to administer the Plan;
- (c) a custodian to hold Assets of the Plan;
- (d) any other service provider.

8.4 Remuneration of delegates and service providers

The Trustee may pay from the Plan, as an expense of the Plan, such remuneration as the Trustee determines to any delegate appointed by or service provider engaged by the Trustee.

9 EMPLOYERS

9.1 Admission of Participating Employers

- (a) An Employer may apply to become a Participating Employer by lodging an application with the Trustee, in a form prescribed by or acceptable to the Trustee.
- (b) The Trustee may:
 - (i) accept or reject an application to become a Participating Employer without giving any reason;
 - (ii) impose any conditions when accepting an application; and
 - (iii) at any time, remove or vary any condition so imposed.
- (c) The Trustee may determine to accept an Employer as a Participating Employer, notwithstanding that a duly completed application has not been received, on such terms and conditions and effective from such date as the Trustee determines, where the Employer has:
 - (i) nominated Employees for whom the Employer wishes to contribute to the Plan; or
 - (ii) delivered to the Trustee a contribution for the credit of any Employees.
- (d) An applicant becomes a Participating Employer on the date determined by the Trustee.

- (e) The Trustee must give a new or prospective Participating Employer such information as is prescribed by the Operational Standards.

9.2 **Terms of participation**

- (a) A Participating Employer may:
 - (i) specify terms and conditions of membership for that Participating Employer's Employees (for example, contributions payable by the Participating Employer or those Employees, or Insured Benefits applicable to those Employees);
 - (ii) at any time apply to the Trustee to vary terms and conditions of membership for that Participating Employer's Employees,and, if the Trustee agrees, Employees of that Participating Employer who are admitted as Members are subject to those terms and conditions.
- (b) A Participating Employer must not vary the terms and conditions of membership applicable to a Member where the variation would increase the Member's obligation to contribute to the Plan, unless the Member consents to the variation in writing.

9.3 **Participating Employer's authority**

For the purposes of this Deed, the Trustee is entitled to regard an exercise of a discretion or the giving of an instruction or other authorisation made orally or written and signed by, or purported to be signed by, a director for the time being of a Participating Employer as a valid exercise of discretion, instruction or other authorisation of the Participating Employer.

9.4 **Termination of Participating Employers**

- (a) A Participating Employer's participation in the Plan may be terminated:
 - (i) by the Participating Employer, by notice in writing to the Trustee of the Participating Employer's intention to terminate its contributions and to cease participation;
 - (ii) by the Trustee, by notice in writing to a Participating Employer to that effect.
- (b) The termination takes effect at the expiry of the period specified in the notice or if no period is specified on the date of delivery.
- (c) From the date of termination, the Participating Employer:
 - (i) cannot apply for Employees to become Members under Rule 2.1(b); and
 - (ii) has no further rights or obligations under this Deed.

However, to avoid doubt, termination of participation does not preclude an Employer from making contributions for an Employee who is a Member by arrangement between the Employer and that Employee.

10 AMENDMENT

10.1 Amendment of Deed

Subject to any restrictions on amendment of trust deeds in the Operational Standards and in Rule 10.3, the Trustee may at any time by deed supplemental to this Deed amend any of the provisions of this Deed, including this Rule 10.

10.2 Date of effect

An amendment may take effect from a date before or after it is made.

10.3 Restriction on amendment

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

10.4 Purpose of restriction

The purpose of Rule 10.3 is to comply with restrictions on amendment of trust deeds imposed on Regulated Superannuation Funds. If those restrictions are amended, then the restriction in Rule 10.3 shall be construed and applied in a corresponding manner.

11 ACCOUNTS, AUDIT AND REPORTING

11.1 Records and Accounts

- (a) The Trustee must keep the following accounts and records:
 - (i) a complete record of all persons who become Members including details of the date of admission as a Member and the date of ceasing to be a Member;
 - (ii) such accounting records as correctly record and explain the transactions and financial position of the Plan.
- (b) The Trustee must keep the accounting records of the Plan so as to enable:
 - (i) the preparation of accounts, statements and returns of the Plan as required by the Operational Standards; and

- (ii) the accounts, statements and returns to be conveniently and properly audited in accordance with the Operational Standards.
- (c) The accounting records must be:
 - (i) retained for at least five years after the end of the Financial Year to which the transactions relate;
 - (ii) kept in Australia; and
 - (iii) kept in writing in the English language or in a form in which they are readily accessible and readily convertible into writing in the English language.

11.2 Accounts prepared

The Trustee must:

- (a) prepare as at the end of each Financial Year such accounts and statements of the Plan as are required by the Operational Standards;
- (b) make such arrangements as are necessary to enable those accounts to be audited.

12 WINDING UP OF THE PLAN

12.1 Definition of Closure Date

In this Rule 12 the term “**Closure Date**” means the date specified in a notice given by the Trustee under Rule 12.3 as the date on which the Plan is to wind up.

12.2 Winding up

The Plan will wind up on the happening of any of the following events:

- (a) there a no Participating Employers, and the Trustee resolves to terminate the Plan;
- (b) there are no Members, and the Trustee resolves to terminate the Plan;
- (c) in the opinion of the Trustee, the liabilities of the Plan (excluding any liability for Benefits which may become payable to Members) at any time exceed the Assets of the Plan and the Trustee resolves to terminate the Plan; or
- (d) for any other reason the Trustee resolves to terminate the Plan.

12.3 Notice of winding up

On the occurrence of any of the events referred to in Rule 12.2 the Trustee must give notice in writing to the Participating Employers and the Members (if any) that the Plan is to wind up on the Closure Date.

12.4 Contributions on winding up

From the Closure Date the Trustee must:

- (a) not accept any new Members to the Plan;
- (b) not accept contributions by any Participating Employer or any Member, other than arrears of contributions due at the Closure Date; and
- (c) immediately take action to recover any arrears of contributions.

12.5 Distribution

As soon as practicable after the Closure Date the Trustee must:

- (a) pay any outstanding expenses and make provision for outstanding liabilities of the Plan;
- (b) pay the following in the following order of priority:
 - (i) Benefits which became payable to Members or their Dependants on or before the Closure Date;
 - (ii) payments for each Member who has not become entitled to a Benefit, equal to the Member's Total Account Balance.

12.6 Deceased Member

If a Member dies before receiving a payment to which the Member is entitled under Rule 12.5 the Trustee shall make the payment as a death Benefit in accordance with Rules 5.6 and 5.7.

12.7 Application of reserves

- (a) Subject to Rule 12.7(b), if after making the payments provided for in Rule 12.5 an unallocated amount remains in the Plan, the Trustee may distribute the unallocated amount to or for the benefit of any of the following persons, in proportions determined by the Trustee, subject to any applicable restrictions prescribed in the Operational Standards:
 - (i) any Members or former Members;
 - (ii) any Dependants of any Member or former Member;
 - (iii) the Legal Personal Representative of any Member, former Member or Dependant.
- (b) The Trustee may decide (subject to the Operational Standards) to transfer all or part of the value of any Reserve Account to another Superannuation Arrangement as an unallocated amount, to be applied for the benefit of the Members or former Members or any group of them or otherwise as the Trustee considers appropriate.

12.8 Manner of distribution

Subject to Rule 12.9, payments under Rule 12.5 and Rule 12.7(a) may be made:

- (i) in cash;
- (ii) by transfer of any of the Assets of the Plan in specie; or
- (iii) by way of transfer or rollover to a Superannuation Arrangement.

12.9 Preserved Benefits

Where an amount payable under Rule 12.5 or Rule 12.7(a) is a Preserved Benefit, or the amount is payable to a Member who remains in Service, the Trustee must pay the amount by way of transfer or rollover for the benefit of the Member to a Superannuation Arrangement.

13 RESOLUTION OF DISPUTES

13.1 Prescribed arrangements

The Trustee must, if the Operational Standards so require, ensure that there are arrangements in force under which:

- (a) a Member or any other person with a beneficial interest in the Plan may inquire into, or complain about, the operation or management of the Plan in relation to the Member or that other person; and
- (b) inquiries or complaints will be considered and properly dealt with within 90 days after they were made.

13.2 Other arrangements

Where the Trustee is not required under the Operational Standards to ensure that arrangements referred to in Rule 13.1 are made, the Trustee may from time to time make any arrangements for the resolution of disputes arising in relation to the operation of management or the Plan, including the referral of the dispute to an arbitrator appointed by the Trustee.

14 ADMINISTRATION AND MISCELLANEOUS

14.1 Member's interest in Plan

- (a) A Member has no interest in the Plan except as expressly provided in this Deed.
- (b) A Member is not entitled to:
 - (i) interfere with the exercise of the Trustee's powers or discretions;
 - (ii) exercise any rights, powers or privileges in relation to any of the Assets of the Plan; or
 - (iii) require the transfer to the Member of any Asset of the Plan.

14.2 **Perusal of Deed**

The Trustee must make a copy of this Deed available for inspection by Members and Participating Employers at all times during usual business hours.

14.3 **Notices to Members and Participating Employers**

- (a) Any notice given to a Participating Employer or Member may be given, subject to any requirements of the Operational Standards in relation to means of sending particular notices:
 - (i) by delivering the notice to the Participating Employer or Member personally;
 - (ii) by sending the notice through the post addressed to the Participating Employer or Member at the address according to the records of the Trustee;
 - (iii) by sending the notice by fax to the person's current fax number according to the records of the Trustee; or
 - (iv) by sending the notice by email to the person's current email address according to the records of the Trustee;
 - (v) by sending the notice, or making the notice available, by any other means authorised by law in respect of communications generally or the particular notice.
- (b) If sent by post a notice is deemed to have been delivered on the third day following the posting of the notice.
- (c) If sent by fax, a notice is deemed to have been delivered when the sender's fax machine produces a report that the fax was sent in full to the addressee, and that report is conclusive evidence that the addressee received the fax in full at the time indicated on that report.
- (d) If sent by email, a notice is deemed to have been delivered when the information system from which the email was sent produces a confirmation of delivery report which indicates that the email has entered the information system of the recipient, unless the sender receives a delivery failure notification, indicating that the email has not been delivered to the information system of the recipient.
- (e) This Rule 14.3 does not limit the means by which communications may be sent to Participating Employers and Members.

14.4 **Notices to Trustee**

All instructions, consents, requests, proposals and notices ("**Trustee Notices**") required by this Deed to be given to the Trustee must be given in writing and signed by an authorised person on behalf of the party giving the Trustee Notice, unless the provision requiring that the Trustee Notice be given expressly provides otherwise or the Trustee accepts a Trustee Notice not in writing or not signed.

14.5 **Power of Attorney**

Each Member irrevocably appoints the Trustee the Member's attorney to execute and sign and do all such deeds, instruments and things as the Trustee may consider necessary or desirable in order to carry out, exercise and give effect to the powers and discretions vested in the Trustee by this Deed.

