

Deed

Trust Deed

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Amending Deed

Date ▶ 30 June 2010

Recitals

- 1 The superannuation fund known as the Tower Master Fund was established pursuant to a trust deed dated 1 June 1989. The Trust Deed has been amended from time to time (as amended Trust Deed).
- 2 The Trustee is the current trustee of the Fund and has assumed the power of the Manager as the Manager resigned its position as Manager by deed of amendment dated 19 December 1994.
- 3 Clause 29 of the Trust Deed (Amending Power) provides that the Trust Deed may be amended in the circumstances set down in that Clause.
- 4 The Trustee has resolved to delete Clauses 1 to 13.9 inclusive, and Schedules 1, 2, 3 and 4 of the Deed in their entirety and to replace them with Annexure A as set out in this Amending Deed.
- 5 In the opinion of the Trustee, the amendments set out in this Amending Deed are permitted under the Amending Power.

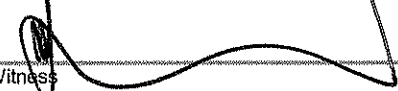
This deed witness as follows:

Signing page

Signed sealed and delivered by TOWER Australian Superannuation Limited by its representative in the presence of:


Witness

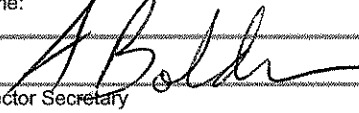
Stephen Crahan
Name (Please Print)


Witness

Stephen Crahan
Name (Please Print)

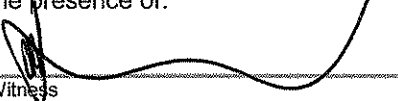

Director/ Secretary

Geoff Black
Name:



Director Secretary

Andrew Boldeman
Name:

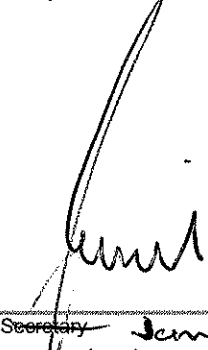
Signed sealed and delivered by TOWER Australia Limited by its representative in the presence of:


Witness


Stephen Crahan
Name (Please Print)


Witness

Stephen Crahan
Name (Please Print)


Director/ Secretary

James Raymond Minto
Name:


Director Secretary

Cathy Doley
Name:

1 Definitions and interpretation

1.1 Definitions

The meanings of the terms used in this deed are set out below.

Term	Meaning
Account	any account maintained under this Deed.
Actuary	an actuary appointed by the Trustee.
Allot	has the same meaning as that term has under the Superannuation Industry (Supervision) Regulations 1994.
APRA	the Australian Prudential Regulation Authority.
ASIC	the Australian Securities and Investments Commission.
Asset Portfolio	a notional portfolio of assets and liabilities established and maintained under Clause 6.2(f).
Associated Employer	in relation to: <ol style="list-style-type: none"> 1 a Participating Employer, a person whose application was accepted with the consent of the Participating Employer or its predecessor; 2 a Division, an Associated Employer who participates in that Division.
Auditor	the person appointed under Clause 7.2.
Authorised Person	<ol style="list-style-type: none"> 1 the Trustee; 2 a person who is or has been a director or officer or employee of the Trustee; 3 any former director of the Trustee; or 4 any other person authorised by the Trustee in writing where such authorisation is not considered by the Trustee to be prejudicial to the interests of Beneficiaries.

Balance Date	30 September in each year or such other date or dates in any year as may be determined by the Trustee from time to time.
Beneficiary	a Member, a Dependant of a Member and any other person who is entitled to be paid a benefit from the Fund.
Benefit Arrangement	a superannuation fund, an approved deposit fund, an annuity or any other benefit arrangement which can pay money to the Fund, or which the Fund can pay money to, without breaching the Relevant Law, and includes a Plan.
Division, Section, Category and Plan	a Division, Section, Category of Plan established under Clause 4.1.
Child	in relation to a Member, includes a step-child, ex-nuptial child, a legally adopted child, posthumous natural child, a child of the Member's Spouse and any child recognised under SIS.
Clause	refers to a Clause in the Governing Provisions.
Contribution Splitting Amount	in relation to a Member: <ol style="list-style-type: none">1 an amount of contributions made for the Member to the Plan;2 an amount that has been allocated to the Plan for the Member from the assets of the Fund; or3 a combination of paragraphs 1 and 2 above, requested by the Member, to be rolled over or transferred to a Benefit Arrangement for the benefit of the Member's Spouse or, where the Member's Spouse is also a Member of the Fund, allotted to the Spouse's Account for the benefit of the Member's Spouse.
Conversion Date	in relation to a Member a date determined by the Trustee to be the later of the dates on which a Member joins the Fund or is transferred from one Division of the Fund to another Division of the Fund.
Date of Disablement	the date the Member first satisfied the definition of Temporary Disablement or Total and Permanent Disablement (as the case may be).
Deed	this deed as amended from time to time, anything deemed to be included in this deed (as amended) under the Relevant Law, and any arrangement, agreement, approval, rules or procedures effected pursuant to, or as specifically provided for by, any provision of this deed (as amended) and includes the Rules of any Division.
Delegate	includes a delegate, agent, officer, representative, servant or employee of the Trustee.

Dependant	A Member's Spouse, a Member's Child, any other person who, in the opinion of the Trustee, was dependent on a Member at the relevant time or any person with whom the Member has or had an Interdependency Relationship.
Eligible Rollover Fund	has the meaning given to it by Regulation 10.01 of the Superannuation Industry (Supervision) Regulations.
Eligible Spouse Contribution	has the same meaning as that term has under the Relevant Law.
Employee	an employee of an Employer but includes a director and an employee as defined in the Relevant Law, at the relevant time.
Employee Member	an employee who is participating in the Fund as a result of or pursuant to an arrangement with the Trustee effected by an Employer contributing to the Fund.
Employer	the employer of a person, and includes an employer as defined in the Relevant Law, at the relevant time.
Financial Year	a year ending on 30 September or ending on any other day determined by the Trustee or any part of such a year occurring at the commencement or termination of the Fund.
Full-time Basis	in relation to employment, means gainful employment on a full-time basis within the meaning of the Relevant Law.
Fund	the fund constituted or continued by the Deed and where relevant includes and refers to a Division, Schedule, Category or Plan.
Fund Expenses	the costs and expenses of and incidental to the establishment, promotion, operation, management, administration, investment, termination and winding up of the Fund or a Division, Section, Category or Plan, including Tax, insurance costs and any fees or charges imposed by, or paid by, the Fund or Division, Section, Category or Plan and any provision the Trustee determines in relation to any of the previous items.
Governing Provisions	Clauses 1 to 13.9 inclusive of this Deed.
Insured Benefit	in respect of a Member means the amount (if any) payable to the Fund by an Insurer on the happening of an event insured under a policy of insurance with the Insurer.

Insurer	an insurer issuing or effecting policies insuring benefits in respect of the Fund.
Interdependency Relationship	has the meaning assigned to that term in SIS.
Jurisdiction	New South Wales or such other jurisdiction determined by the Trustee.
Member	a person admitted as a Member of the Fund under Clause 8.1, for so long as he or she participates in, or is entitled to receive a benefit from, the Fund.
Member's Benefit	in relation to a Member means, subject to Clause 8.3, the sum of: <ol style="list-style-type: none">1 the balance of all Accounts maintained for the Member under the Fund which are vested in the Member pursuant to this Deed; and2 the Insured Benefit (if any) in respect of the Member.
Member Spouse	has the same meaning as in section 90MD of the <i>Family Law Act 1975</i> (Cth).
Net Earnings	the return (whether positive or negative) of the Fund determined by the Trustee in accordance with Clause 7.6.
Non-member Spouse	has the same meaning as in section 90MD of the <i>Family Law Act 1975</i> (Cth).
Offer Document	a customer information brochure, product disclosure statement or other document inviting participation in the Fund.
Participant	<ol style="list-style-type: none">1 in the case of a Personal Member, that Member; or2 in the case of an Employee Member, the Member's Employer; and3 in any case, each Beneficiary.
Participating Employer	an Employer admitted as a Participating Employer under Clause 8.1, for so long as the Employer participates in the Fund.
Participation Schedule	a Schedule setting out the terms on which a Participant will participate in the Fund or a Plan or Division, to the extent that those terms are not set out otherwise in the Deed.
Part-time Basis	in relation to employment, means gainful employment on a part-time basis within the meaning of the Relevant Law.

Personal Member	a person who joins the Fund other than as an Employee Member.
Plan	a benefit arrangement established pursuant to Clause 4 of this Deed and where relevant includes and refers to a Category, Division and Section.
Power	a power, right, duty, discretion, determination, remedy or authority of any nature.
Preserved Benefit	any benefit, or part of a benefit, which is required by the Relevant Law to be preserved for the Member in the Fund or in another Benefit Arrangement until it may be paid under the Relevant Law.
Principal Employer	a Participating Employer (if any) nominated as the principal entity in a group of related Employers.
Proper Law	the law of the State of New South Wales.
Regulator	<p>APRA, ASIC, and Commissioner of Taxation or any other person or authority regulating the operation of superannuation funds including any other person, body, authority or entity duly lawfully authorised by any competent government to give directions, instructions or rulings in relation to the Fund which are either:</p> <ol style="list-style-type: none">4 legally required to be followed; or5 the non-compliance with which may result in the Fund, the Trustee, a Participating Employer, a Member, a Member's Dependants or a Member's personal legal representative having any Tax or other concessions withdrawn or modified or being subject to any additional, further or new Tax or other penalty of any kind whatsoever.
Relevant Date	<p>In relation to:</p> <ol style="list-style-type: none">1 the Governing Provisions and the TMF Division is 1 January 2003;2 in relation to the following divisions is the date of execution of this Deed of Amendment:<ol style="list-style-type: none">(a) the TMF Division;(b) the TOWER Superannuation Division;(c) the TOWER General Public Division;(d) the TOWER Employer Sponsored Division;(e) the BMA Division;(f) the Partner Superannuation Division;(g) the PrefSure Personal Division; and(h) the Solar Personal Division.

Relevant Law	<ol style="list-style-type: none">1 SIS;2 the <i>Corporations Act 2001</i> (Cth);3 the Tax Act;4 the <i>Family Law Act 1975</i> (Cth);5 the <i>Superannuation (Government Co-contribution for Low Income Earners) Act 2003</i> (Cth); and6 any replacement or additional Commonwealth or State law or administrative rulings, circulars, guidelines or instruments which relate to superannuation arrangements and which apply to the Fund or any other present, future or proposed legal requirements which the Trustee is legally obliged to comply with, or which the Trustee must comply with to obtain the maximum Tax concessions available to the Fund including any proposed requirements which the Trustee believes will have retrospective effect.
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Rules	rules as referred to in Clause 4.1(b).
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Salary	a Member's annual rate of ordinary salary or wages for services performed for the Employer as advised by the Employer, and includes director's fees, cost of living allowances, payments for shift work, commissions and bonuses, but excludes payment of overtime, expense or similar allowances and other special payments unless otherwise advised by the Employer. A Participating Employer may with the consent of the Trustee establish some other basis for determining the Salary of a Member.
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Schedule	a schedule attached to or formulated under the Deed as may at any time or from time to time be amended in the manner described in Clause 3.1 of this Deed, or in the case of a Participation Schedule in the manner described in Clause 8.1(d).
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SIS	the <i>Superannuation Industry (Supervision) Act 1993</i> (Cth) and the Regulations prescribed under that Act.
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Service	the most recent continuous service of a Member as an Employee Member and includes: <ol style="list-style-type: none">1 any period during which the Member is off work because of injury or illness and receives workers' compensation, sickness pay or other regular income from either the Participating Employer or any insurance scheme sponsored by the Participating Employer; and2 any other period declared by the Participating Employer to be Service.
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Spouse	includes: <ol style="list-style-type: none">(a) another person with whom the Member is in a relationship that is registered under a law of a State or Territory; and(b) another person who, although not legally married to the Member, lives with the Member on a genuine domestic basis in a relationship as a couple.
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Tax	includes any Commonwealth or State tax, impost, surcharge, levy, deduction, charge or duty and any interest, fine, fee, charge or other amount imposed thereon.
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Tax Act	the <i>Income Tax Assessment Act 1936</i> (Cth) and the <i>Income Tax Assessment Act 1997</i> (Cth).
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Total and Permanent Disablement	<ol style="list-style-type: none"> 1 if the benefit, or part of the benefit, payable on total and permanent disablement is insured, the definition of total and permanent disablement shall be the definition in the policy document evidencing the contract of insurance; or 2 if no such policy is in force or in any other circumstances determined by the Trustee: <ul style="list-style-type: none"> • the Member having been absent from gainful employment through injury or illness for six consecutive months (or such shorter period as the Trustee shall decide) and in the opinion of the Trustee after consideration of certificates signed by two registered medical practitioners unrelated to the Member and such other medical evidence as it may require, having become incapacitated to such an extent as to render the Member unlikely ever to resume any regular remunerative work for which the Member is suited by reason of the Member's education, training or experience; and • in the opinion of the Trustee after consideration of information and advice satisfactory to the Trustee, the illness or injury has not been inflicted, incurred or aggravated for the purpose of obtaining a benefit, and
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Totally and Permanently Disabled	has a corresponding meaning. For the purposes of paying a Preserved Benefit, the Trustee may only regard a Member as being Totally and Permanently Disabled if the disablement constitutes 'permanent incapacity' within the meaning of that expression in the Relevant Law.
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Temporary Disablement	<ol style="list-style-type: none"> 1 if the Trustee has effected a policy of insurance insuring the temporary disablement of a Member, the definition of temporary disablement in the policy document evidencing the contract of insurance; or 2 if there is no such policy, disablement arising from an incapacity such that in the opinion of the Trustee after considering two medical certificates signed by two registered medical practitioners unrelated to the Member, the Member is temporarily unable to work in the Member's pre-disablement employment.
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Trustee	the person or persons appointed as trustee(s) of the Fund from time to time.
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Unit	an undivided part or share of an Asset Portfolio created by the Trustee under Clause 7.7.
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Unit Class	a class of Units referable to a particular Asset Portfolio.
Unit Price	the applicable price of a Unit as determined by the Trustee under Clause 7.7.

1.2 Defined Terms

An expression used in this Deed which is defined in the Relevant Law has the same meaning in this Deed unless the context otherwise requires.

1.3 Interpretation

- (a) **Amended provisions:** a reference to a document (including this Deed) includes a change or supplement to, or replacement or novation of that document.
- (b) **Deed binding:** the provisions of this Deed as well as all approvals and acts under this Deed are binding on all Members and other Participants and form the sole agreement between the Trustee and the Participant in relation to the matters dealt with by this Deed.
- (c) **Paramount provisions:** the provisions of Clause 2 override any other provisions of this Deed.
- (d) **Rules of interpretation:** the rules of interpretation set out in sections 6, 7, 8 and 9 of the *Interpretation Act 1987* (NSW) apply to this Deed (except that any reference to that Act in those sections is to be taken as a reference to this Deed) and without limitation:
 - (1) a reference to a person includes a body corporate, partnership, joint venture or association; and
 - (2) a reference to the singular includes the plural and vice versa.
- (e) **Severance:** to the extent that any provision, or part of a provision, of this Deed infringes the Relevant Law or is invalid for any other reason whatsoever:
 - (1) that provision, or part, must be read down, changed, construed or severed to avoid such infringement or invalidity; and
 - (2) to the extent that such infringement or invalidity cannot be avoided, the provision, or part, will be of no effect and will not affect the remainder of this Deed.
- (f) **Statutory enactments:** a reference to any statute or other law includes all laws changing, replacing, re-enacting or consolidating them, and includes all laws, regulations, modification orders and any other instruments issued under them.
- (g) **Headings:** headings are for convenience only and do not affect the interpretation of this Deed.
- (h) **Inclusions:** the use of the word 'including' in a provision as an introduction to a list of things does not limit that provision to that list or to things of a similar nature.
- (i) **Exercise of Powers:** Subject to any provision of this Deed to the contrary, the Trustee and each Authorised Person, in the exercise of its Powers, has an absolute and unfettered discretion and may from time to time:
 - (1) exercise and enforce all or any of such Powers;

- (2) refrain from exercising, or considering exercising, or otherwise not exercise all or any such Powers; and
- (3) revoke, substitute or modify an exercise of Power prior to such exercise of Power being given effect to.

2 Paramount provisions

2.1 Compliance

The Trustee is fully empowered (without being obliged) to comply with:

- (a) any provision, standard of, or action contemplated by; or
 - (b) any method of compliance with the Relevant Law contemplated by;
- the Relevant Law which is not a requirement.

2.2 Compliance with Relevant Law

The Trustee and each Employer are empowered to do and procure to be done such acts matters and things as are necessary in order to comply with the Relevant Law.

2.3 Conflict

In the event of a conflict between a provision of the Relevant Law and any provision of this Deed, the Relevant Law prevails to the extent of the conflict.

2.4 Interpretation

If any doubt or dispute arises as to the existence, meaning, application or effect of any requirement of a Relevant Law, or if there is a conflict between the requirements of a Relevant Law, the decision of the Trustee shall be final and binding on all interested persons.

2.5 Deemed Compliance

The Trustee is deemed to comply with the Relevant Law and this Deed if:

- (a) the Regulator is satisfied that the Trustee has complied with the Relevant Law;
- (b) the Regulator determines that the Fund will be treated as if it had complied with the Relevant Law; or
- (c) the Regulator has advised the Trustee that it will not take action against the Trustee or the Fund in respect of a failure to comply with the Relevant Law.

2.6 Deemed Inclusion

Where a requirement of the Relevant Law is required to be included in this Deed, such a requirement is incorporated into this Deed unless and until such requirement is no longer required to be included or no longer applies.

2.7 Specific Requirements

If a provision of this Deed would otherwise be void because it:

- (a) subjects the Trustee to direction by another person; or

- (b) permits a person to exercise a discretion without the consent of the Trustee, the Trustee's consent is required for the giving of the direction or the exercise of the discretion.

2.8 Previous Benefit Arrangements

- (a) Nothing in this Deed is to be construed as:
- (1) prejudicing any benefits accrued or payable to Beneficiaries; or
 - (2) empowering the Trustee to charge any higher fees or charges than it would have been able to charge, immediately prior to the Relevant Date.
- (b) If a provision of this Deed would have the effect referred to in Clause 2.8(a)(1) or 2.8(a)(2) it must be severed or read down in accordance with Clause 1.3(e).

3 Changes to Deed

3.1 Changes

- (a) Subject to Clauses 3.1(b), (c) and (d) below the Trustee may, by deed or by oral or written resolution, either prospectively or retrospectively alter, add to, modify, remove or replace all or any provisions of the Deed (each called a 'change'), including this Clause, without the consent of Members and Participating Employers.
- (b) No change may be made to this Deed which will have the effect of causing the Fund to cease to be approved by the Regulator under any provision of the Relevant Law.
- (c) No change may be made to the Deed other than in accordance with the Relevant Law.
- (d) No change may be made to this Deed which will reduce, vary or in any way adversely affect any right or claim to or amount of accrued benefits of a Member to the date such change is made or comes into effect unless such change is made:
- (1) to comply with the provisions of the Relevant Law;
 - (2) in circumstances required by the Relevant Law or permitted or sanctioned by the Relevant Law and approved, where required, by the Regulator; or
 - (3) with the consent in writing of the Member or the Regulator.
- (e) Beneficiaries shall be notified of any change to the Deed to the extent required by the Relevant Law.

4 Plans

4.1 Establishment of Divisions, Sections, Categories and Plans

- (a) The Trustee may:

- (1) establish one or more Divisions, Sections, Categories or Plans (either as part of the Fund or as a separate superannuation fund).
 - (2) Further subdivide the Divisions, Sections, Categories and Plans, On such terms and conditions as it determines.
- (b) The terms and conditions on which a Division, Section, Category or Plan is established and the rights of Members and other Participants will be governed by the Governing Provisions and include:
- (1) any Rules; and
 - (2) any Rules of participation set out in an application or Participation Schedule which have been approved by the Trustee.
- (c) Save as set out in Clause 4.1(d), in the case of any inconsistency between:
- (1) the terms of participation contained in the Governing Provisions and those contained in the Rules, those in the Governing Provisions will prevail; and
 - (2) the terms of participation contained in the Rules and those contained in an application or Participation Schedule, those in the Rules will prevail,
- unless the Trustee determines to the contrary.
- (d) In the case of any inconsistency between the Governing Provisions and the Rules of the:
- (1) the TOWER Super Division;
 - (2) the TOWER General Public Division;
 - (3) the TOWER Employer Sponsored Division;
 - (4) the BMA Division;
 - (5) the Partner Superannuation Division;
 - (6) the PrefSure Personal Division; and
 - (7) the Solar Personal Division
- the rules of the Divisions set out in this Clause 4.1(d) shall prevail.

4.2 Existing Divisions

The Fund consists of the Governing Provisions and the following Divisions:

- (a) the TMF Division;
 - (b) the TOWER Super Division;
 - (c) the TOWER General Public Division;
 - (d) the TOWER Employer Sponsored Division;
 - (e) the BMA Division;
 - (f) the Partner Superannuation Division;
 - (g) the PrefSure Personal Division; and
 - (h) the Solar Personal Division,
- not being separate superannuation funds.

5 Trustee

5.1 Appointment and removal of Trustee and Directors

- (a) The Trustee of the Fund may be a body corporate.
- (b) A Trustee may be removed from the office of Trustee by notice or deed where permitted by the Relevant Law.
- (c) A Trustee may retire from office.
- (d) A Trustee must cease to act as the trustee of the Fund if:
 - (1) a receiver or liquidator of the Trustee is appointed; or
 - (2) an order is made, or a resolution is passed, for the Trustee to be wound up; or
 - (3) the Trustee is disqualified from acting or is removed as the trustee of the Fund by operation of any law, including the Relevant Law.
- (e) Upon the Trustee ceasing to act pursuant to Clause 5.1(b), 5.1(c), or 5.1(d), the Trustee must immediately appoint a new Trustee which may be a person related to, or associated with, the Trustee.
- (f) Upon ceasing to hold the office of Trustee, a trustee must, at the expense of the Fund, do everything necessary to:
 - (1) transfer all of the assets of the Fund; and
 - (2) deliver all records, title documents, accounts, registers and other documents relating to the Fund,to the new or replacement Trustee or its nominee.

5.2 Records of change of Trustee

The Trustee must keep:

- (a) proper minutes in relation to matters arising at any meeting concerning its role as Trustee of the Fund, such minutes being prima facie evidence of the matters stated therein if signed by the chairman of that meeting or the succeeding meeting;
 - (b) a record of changes in the Trustee and in the directors of the Trustee; and
 - (c) the written consents of the Trustee and directors of the Trustee,
- for such period as is required by the Relevant Law.

5.3 The Trustee's Powers

- (a) Subject to this Deed and in particular Clause 6.1, the Trustee has complete management and control of all proceedings, matters and things in connection with the Fund as if it were a natural person owning the Fund and is completely unrestricted in the exercise of its Powers. It may do anything it considers necessary, desirable, expedient or appropriate to properly administer and maintain and preserve the Fund, exercise any Power and perform its duties and obligations, including without limitation:
 - (1) **advisers, agents, delegates and other appointments:** appoint advisers, agents, custodians, secretaries, administration or investment managers, nominees and any other Delegates or other persons to perform any functions and exercise any Powers (and in all instances those appointees may be related to the Trustee) including to hold

- investments, documents and title deeds, Powers to receive and expend monies of the Fund, to promote and market the Fund, to advise Members and other Participants and prospective Members and other Participants in relation to the Fund, receive applications to participate in the Fund, to deal with insurance policies and to keep accounts on such terms (including terms as to remuneration) as the Trustee determines, to determine their Powers and duties, to fix and pay from the Fund their salaries, fees, emoluments and charges, and require security from any such person in such instances and to such amount as the Trustee determines but subject to the Relevant Law;
- (2) **bank accounts:** open, maintain, deposit into and regulate the operation of bank accounts including the signing and endorsing of cheques, and such bank accounts may be used for other purposes and contain amounts not belonging to the Fund provided the Trustee must at all times maintain or cause to be maintained full records of the amounts belonging to the Fund;
- (3) **benefits:** without limiting Clause 5.3(a)(15)(A), conclusively calculate and determine the amount of benefits, the identity of persons entitled to such benefits and the manner in which the benefits are to be paid, including the payment of benefits by way of pension or annuity or in specie transfer of assets, and may delay payment of benefits until assets of the Fund can reasonably be disposed of;
- (4) **borrowing:** make any borrowing, and secure any payment or repayment, if permitted by the Relevant Law;
- (5) **determinations:** determine questions of fact and act on such proofs or presumptions as it may consider satisfactory whether or not the same be strict legal proofs or presumptions;
- (6) **Fund Expenses:** to be indemnified for, to make provision for, to be reimbursed for, and to determine the allocation and attribution of, Fund Expenses;
- (7) **indemnities and undertakings:** give indemnities and undertakings, including a guarantee or indemnity in respect of an obligation assumed or undertaken by the Trustee or a Delegate of the Trustee in connection with the Fund, and enter into such contracts and incur all such obligations relating to the Fund;
- (8) **insurance:** arrange one or more policies of insurance for the payment of benefits in respect of any Beneficiary or class or group of Beneficiaries or in respect of any other risk or liability whatsoever of the Fund, or of the Trustee or its directors and deal with the cost of effecting such insurance in any manner;
- (9) **legal proceedings:** commence, discontinue, prosecute, compound, defend, settle, compromise, arbitrate or submit to arbitration any proceedings by or against the Fund or the Trustee or its Delegates or otherwise concerning the Fund or this Deed and compound or allow time for payment or satisfaction of a debt due to the Fund or the Trustee or of a claim or demand by or against the Fund or the Trustee or pay or charge interest in respect of any amount involved in any such proceedings;
- (10) **old-age pensions:** determine that the sole or primary purpose of the Fund is the provision of the old-age pensions subject to Relevant Law;
- (11) **orders:** to act on a direction or order of a Court or the Regulator or the Superannuation Complaints Tribunal, established under the *Superannuation (Resolution of Complaints) Act 1993*;

- (12) **provisions:** set aside any amounts from the Fund as a provision against any Fund Expense or other outgoing contemplated by or which may be made under this Deed and amounts against which the Trustee reasonably believes it is indemnified;
- (13) **qualified advisers:** to act on the advice or opinion of and to pay expenses of, any accountant, barrister, solicitor, actuary, medical practitioner or other professional person, the Insurer, and any other person considered by the Trustee in good faith to be capable of giving advice in relation to any matter or question, whether by virtue of formal qualifications or experience in business or otherwise;
- (14) **receipts, releases and discharges:** give receipts, releases and other discharges for monies payable to the Fund or the Trustee, and claims and demands of, or against, the Fund or the Trustee;
- (15) **rules and procedures:** make rules and adopt procedures in relation to the Fund, including:
- (A) the calculation and rounding-off of contributions, benefits and interest;
 - (B) the minimum amounts that can be accepted or retained in the Fund;
 - (C) the matters capable of being dealt with in a Participation Schedule including vesting of benefits and levels of insurance benefits;
 - (D) which persons can sign documents in connection with the Fund;
 - (E) the establishment and operation of policy committees including rules providing for meetings of Members in relation to the election of members of such a committee and dealing with expenses relating to the policy committee including payment by Participating Employers;
 - (F) the establishment and operation of arbitration and dispute resolution procedures;
 - (G) the circumstances in which instructions from Participants relating to investments effected by the Trustee can be given or changed;
 - (H) the establishment and operation of any procedures for the giving effect to binding death benefit nominations permitted by the Trustee;
 - (I) the determination of periods of time; and
 - (J) any other matters which the Trustee considers appropriate for the convenient administration of the Fund;
- (16) **Tax:** do anything it considers appropriate in respect of any Tax, including:
- (A) reducing or adjusting the amount of and imposing conditions governing any benefit or amount payable into or out of the Fund;
 - (B) establishing reserves and making provision and payments for Tax;
 - (C) making arrangements whereby another party pays or provides for the Tax liability of the Fund; or

- (D) debiting individual Accounts on a basis considered reasonable by the Trustee;
- (17) **power of attorney:** to delegate (by Power of Attorney or otherwise) to any person or company any of the Powers vested in the Trustee on such terms and conditions as the Trustee determines, and vary or revoke any such delegation, and exercise any Power in conjunction with or to the temporary or permanent exclusion of a Delegate, and the Trustee will not be responsible for any loss incurred as a result of such delegation; and
- (18) **Trustee's incidental Power:** do anything necessary or incidental to the exercise of any Power by the Trustee.

5.4 Payments to or by Trustee

- (a) The Trustee may charge fees in respect of contributions, income and the management and administration of the Fund.
- (b) The Trustee may charge such fees as the Trustee determines in connection with requests for information, splitting or flagging of interests or other matters pursuant to the *Family Law Act 1975* (Cth) and related legislation.
- (c) Where a person performs work for the Fund (including any work performed as a director of the Trustee), the Trustee may:
 - (1) if the work is done in the person's personal capacity - pay the person; or
 - (2) if the work is done in the person's capacity as a partner or employee of a firm or organisation - pay the firm or organisation,from the Fund the reasonable fees of that person or firm or organisation (as the case may be) for the work so performed but only to the extent permitted by the Relevant Law.

5.5 Liability and Indemnity of Trustee

- (a) To the extent permitted by law and subject to Clause 5.5(b), each Authorised Person is exempted and may be indemnified from the Fund in respect of all liability incurred while acting in relation to the Fund, or arising in connection with any act, omission or mistake in connection with the Deed or the Fund or the exercise or performance of that person's Powers and duties generally, including in respect of the acts or omissions of any person referred to in Clause 5.3(a)(1) or any other Delegate of the Trustee and including:
 - (1) the insufficiency of or deficiency in any manner or form of investment in which moneys of the Fund may be invested under this Deed;
 - (2) the bankruptcy or insolvency of or any fraudulent or negligent act by any Delegate of the Trustee or any person with whom any investment may be deposited;
 - (3) the payment of an amount or benefit to a person reasonably believed to be entitled to it but who is in fact not so entitled;
 - (4) the failure to carry out any of its duties or obligations by reason of it not receiving any (or receiving insufficient or inadequate) instructions or information from a Participant or other person at any time;
 - (5) any action taken or thing suffered in relation upon any document, record, authority, representation, statement or evidence reasonably believed by the Trustee or Delegate in good faith to be genuine, accurate and effective including any opinion, advice or information

obtained from the Regulator or a Beneficiary or other Participant in connection with the Fund; and

- (6) a Beneficiary or other person on behalf of a Beneficiary not paying premiums to enable insurance to be acquired or continued.
- (b) Clause 5.5(a) does not apply to the Authorised Person where:
- (1) the Authorised Person has been dishonest;
 - (2) the liability of the Authorised Person is a result of an act, omission or mistake involving the person's own personal fraud, wilful misconduct, wilful neglect or wilful default;
 - (3) the Authorised Person has intentionally or recklessly failed to exercise, in relation to a matter affecting the Fund, the degree of care and diligence the Authorised Person is or was required to exercise; or
 - (4) the indemnity or exception from liability is prohibited under the Relevant Law.
- (c) Neither the Insurer nor an Authorised Person is liable for any damage or loss suffered (whether direct or indirect) by a Beneficiary or prospective Beneficiary (or any person claiming through a Beneficiary or prospective Beneficiary) by reason that the Beneficiary or prospective Beneficiary relied upon any advice provided by the Authorised Person or the Insurer or their Delegates in relation to any matter relating to the Fund including (without prejudice to the generality of the foregoing):
- (1) whether a Member or prospective Member should apply for membership of the Fund or maintain membership of the Fund;
 - (2) whether a Member should maintain, increase or reduce contributions to the Fund;
 - (3) whether a Member should apply for risk cover through the Fund and, if so, the amount and type of risk cover or whether the Member should increase or reduce the amount of cover or apply for additional types of risk cover through the Fund; and
 - (4) whether a Member should, in any way, alter the Member's current investment strategy or strategies applying to the Member's interests in the Fund.
- (d) A Beneficiary or Employer must indemnify the Trustee for:
- (1) any liability incurred; or
 - (2) any overpayment made; or
 - (3) any failure to provide for Tax;
- as a result of the Trustee relying on information given to it by that Beneficiary or Employer.

5.6 Action notwithstanding interest

- (a) Any person associated with the Fund may act as the Trustee, or a Delegate of the Trustee, and may:
- (1) exercise any Power exercisable by virtue of such office or position; and
 - (2) derive a benefit from participating in the Fund or from doing business with the Fund.

- (b) There are no restrictions on who may participate in the Fund, do business with the Fund or who may be involved with or interested in any person who participates in or does business with the Fund.

5.7 Exercise of Discretions

- (a) Each Authorised Person may exercise individually or jointly a Power even though that person has another interest in the result of the exercise.
- (b) Each Authorised Person is completely unrestricted in the exercise of their Powers.

6 Investments of Fund

6.1 Authorised investments

- (a) The Trustee may:
 - (1) invest, otherwise acquire, maintain and dispose of and otherwise deal in an insurance policy or a like arrangement issued by the Insurer, (or other insurer approved by the Insurer) or any interest therein subject to any option, right, benefit or provision; and
 - (2) accept the assignment of a policy not issued by the Insurer where approved by the Insurer.
- (b) Subject to the Relevant Law the Trustee may make any investment or deal with or deploy the assets of the Fund in any manner which the Trustee considers suitable as if it was the sole and absolute legal and beneficial owner of those assets, including:
 - (1) **futures, hedging and synthetics:** participate in, in any capacity, any synthetic investment, including a futures contract, hedge contract, swap contract or option contract, whether or not related to any other property forming part of the Fund;
 - (2) **indemnity:** give a guarantee or an indemnity in respect of or become liable for or in respect of the performance of any obligations by any person (including the obligations of the trustee of another Benefit Arrangement from which the Trustee has accepted Members into the Fund);
 - (3) **lease, mortgage, etc:** lease, mortgage, charge, license or otherwise deal in any way with any property of the Fund;
 - (4) **loans:** make a loan if permitted by the Relevant Law;
 - (5) **mix property:** mix property of the Fund with any other property, other than where prohibited by the Relevant Law, provided the Trustee must at all times maintain separate records to enable identification of the property of the Fund; and
 - (6) **no income:** invest in any property which does not produce income or which is speculative.
- (c) To the extent that the Fund is invested in a policy with the Insurer, the Insurer's records and accounts of the interests of Beneficiaries in respect of the policy must record and represent the interests of those Beneficiaries in the Fund unless otherwise agreed with the Trustee.

6.2 Member Directed Investments

- (a) The Trustee may, where permitted by the Relevant Law, and subject to Clause 6.1, hold specific investments for separate Members or classes or groups of Members.
- (b) The Trustee may (but is not obliged to) provide a Member or a class or a group of Members the ability to request or to direct that a specific investment be made in respect of the Member or the Members of that class or group being:
 - (1) a range of investment options or investment strategies; or
 - (2) where permitted by this Deed and the Relevant Law, an investment in a specific asset.
- (c) The Trustee may:
 - (1) in its absolute discretion, decline to implement a specific investment request by a Member or a specific investment direction from a Member, if such direction is contrary to Relevant Law;
 - (2) prior to carrying out a Member's request or direction to make a specific investment or to change a specific investment, seek evidence of the Member's consent to the investment or change;
 - (3) impose conditions on the manner in which requests or directions for specific investments, or changes to specific investments, may be made, including:
 - (A) the minimum amount that may be invested in any specific investment;
 - (B) the time or times, and the frequency in relation to which specific investments may be made or changed; and
 - (C) the fees that can be charged in relation to making or changing any specific investment (including a fee for switching between classes of Units);
 - (4) adopt a default investment strategy to apply in respect of Members who do not make a request or give a direction under Clause 6.2(b) or pending the giving of such request or direction; and
 - (5) in its absolute discretion close or withdraw any specific investment and may transfer Beneficiaries from one specific investment to another.
- (d) A specific investment for a Member or a class or group of Members is made for the sole benefit of and at the sole risk of the Member or the Members of the class or group such that any income or gains or losses or expenses incurred in respect of that specific investment must be attributed to that Member or class or group.
- (e) No Authorised Person is liable for the acquisition, delay in acquiring, retention, failure to dispose of, the performance of, or for any loss attributable to, a specific investment.
- (f) For the purposes of this Clause, the Trustee may establish and maintain one or more Asset Portfolios within the Fund, a Plan, a Division, a Section or a Category and may, at any time, combine, split, close, rename and restructure and determine the Members who will participate in, the Asset Portfolios.
- (g) The Trustee may from time to time:
 - (1) vary the holdings and other specifications of an Asset Portfolio;

- (2) notionally allocate some or all of the assets and liabilities of the Fund to certain Asset Portfolios, and
 - (3) allocate an earning rate to an Asset Portfolio.
- in such manner as the Trustee determines to be appropriate.
- (h) The Asset Portfolios do not constitute separate trust funds.

6.3 Insurance and Annuities

- (a) The Trustee may select an Insurer or Insurers with whom insurance will be affected in its absolute discretion without being liable to consider, compare or survey terms offered by other insurers.
- (b) Notwithstanding anything else in this Deed to the contrary:
 - (1) The effecting of any insurance of benefits payable from the Fund is subject:
 - (A) to the Trustee being able to insure for the desired amount and for the events giving rise to payment of such amount;
 - (B) the Beneficiary providing the Trustee with all relevant information required by the Insurer and, if required, submitting to any medical examination from time to time;
 - (C) the Beneficiary or a person on behalf of the Beneficiary paying the premiums necessary to finance the Insured Benefit; and
 - (D) any condition imposed by the Insurer in relation to such insurance.
 - (2) The payment of any Insured Benefit and which is payable from the Fund is subject to:
 - (A) the Insurer providing or increasing insurance in respect of the Member;
 - (B) any refusal or postponement of payment by the Insurer;
 - (C) any reduction, loading, deferral, exclusion, refusal to grant or increase cover or to admit a claim, variation of cover, or increase of premium or other condition imposed by the Insurer;
 - (D) adjustment of the amount, time for payment or basis of payment or other action the Trustee considers appropriate where the Insurer cancels the relevant policy insuring the benefit or cancels or suspends cover under that policy or takes or refrains from taking any action referred to in Clause 6.3(b)(2)(A) (B) or (C); and
 - (E) any amount (if any) actually paid by the Insurer and otherwise to Clause 10.1(b).
- (c) Where an Insurer takes or refrains from taking any action as contemplated by Clause 6.3(b) or as permitted by the relevant policy or otherwise by law which affects the payment of any Insured Benefit (including as a result of there being insufficient monies in the Member's Account to pay the premiums and costs), no Authorised Person is liable:
 - (1) to pay premiums and costs from the Fund in respect of such insurance where the insurance cover is cancelled;
 - (2) to effect substitute insurance;

- (3) to notify the relevant Member or Beneficiary or other person of any such action or inaction except as required by the Relevant Law; and
- (4) otherwise in respect of any such action or inaction.

6.4 Segregation of Assets

The Trustee may segregate (physically or notionally) particular assets of the Fund from other assets including, but not limited to, assets used to fund the payment of pensions.

7 Accounts and records

7.1 Accounts and Records

The Trustee must keep records and financial accounts of the Fund as required by the Relevant Law. The Trustee otherwise has full power to keep records and accounts of the Fund.

7.2 Auditor

The Trustee must appoint an auditor to audit the records and financial accounts and to provide reports at such intervals as required by the Relevant Law, on such terms of appointment as determined by the Trustee. The Trustee may remove the auditor at any time.

7.3 Accounts

- (a) The Trustee may maintain any Accounts it determines including Accounts to:
 - (1) record the benefits of the Members;
 - (2) provide for any Fund Expenses payable by the Fund;
 - (3) provide for any amounts transferred from or into the Fund;
 - (4) deal with investment fluctuations; and
 - (5) record any reserves maintained by the Fund.
- (b) Without limiting the generality of Clause 7.3(a), the Trustee may establish a Taxation Reserve Account.
- (c) The Trustee shall have an absolute discretion as to which part of the Fund is applied to provide funds to enable the payment of any benefit payable from the Fund.
- (d) The Trustee may establish sub-accounts within any Account maintained under the Deed, and may maintain and operate any such sub-account for any purpose and in any manner which the Trustee considers appropriate.

7.4 Taxation Reserve Account

- (a) The Trustee may credit the Taxation Reserve Account with:
 - (1) amounts which the Trustee determines from time to time to set aside from the contributions to, or the earnings of, the Fund; and
 - (2) amounts which the Trustee determines from time to time to transfer to the Taxation Reserve Account from other Accounts in the Fund,

for the purpose of providing and paying for any Tax payable by the Fund and any other contingencies of the Fund.

- (b) The Trustee may debit the Taxation Reserve Account for:
- (1) any Tax paid;
 - (2) any amounts which the Trustee determines from time to time to transfer to Members' Accounts; and
 - (3) any amounts which the Trustee determines from time to time to transfer to one or more reserve or provision Accounts or any other Accounts established and maintained by the Trustee for the purposes of the Fund.

7.5 Other Accounts

- (a) The Trustee must credit the Accounts with:
- (1) any portion of the Fund's assets which the Trustee determines;
 - (2) (where applicable) any positive Net Earnings and any amounts which the Trustee attributes to the Member pursuant to Clause 6.2(d); and
 - (3) any other amounts which the Trustee determines from time to time to allocate to the Accounts.
- (b) The Trustee must debit the Accounts with:
- (1) any proportion of the premiums and costs in respect of any insurance policy or policies maintained in respect of Members which the Trustee determines;
 - (2) any Fund Expenses which the Trustee determines from time to time;
 - (3) any amounts which the Trustee determines from time to time to transfer to the Taxation Reserve Account in respect of providing and paying for any Tax and/or Fund Expenses payable by the Fund and any other contingencies of the Fund;
 - (4) any amounts which the Trustee determines from time to time to transfer to one or more reserve or provision Accounts or any other Accounts maintained by the Trustee for the purposes of the Fund;
 - (5) (where applicable) any negative Net Earnings and any amounts which the Trustee attributes to the Member pursuant to Clause 6.2(d); and
 - (6) any other amounts which the Trustee determines from time to time to debit the Accounts.
- (c) On the winding up of the Fund:
- (1) any amounts recorded in Accounts maintained for the purposes set out in Clauses 7.3(a)(2), (3) and (4) including the expenses of winding up which is not required to meet Fund Expenses or required to be dealt with under any other provision of this Deed must be credited to the Accounts of Members in proportion to the amounts standing to the credit of those Members' Accounts at the time, or on such other basis as the Trustee considers equitable; and
 - (2) any remaining amounts must be dealt with pursuant to Clause 12.2.

7.6 Net Earnings

Subject to Clause 6.2(d) and Clause 7.7(f):

- (a) Net Earnings must be determined and must be:

- (1) attributed to Members;
 - (2) allocated to any Account or Asset Portfolio; or
 - (3) otherwise dealt with in accordance with this Deed,
- in the manner determined by the Trustee at each Balance Date;
- (b) the Trustee may, at such times as it considers appropriate, make an interim determination of Net Earnings and make interim allocations in accordance with this Deed;
 - (c) without limiting Clause 7.6(a), Net Earnings may be allocated by declaring:
 - (1) one or more interest or earning rates (positive or negative) in respect of Members or classes or groups of Members; or
 - (2) in the case of an interim allocation made under Clause 7.6(b), one or more interim interest or earning rates (positive or negative) in respect of Members or classes or groups of Members as determined by the Trustee, whether or not such a determination is made in advance; and
 - (d) in determining Net Earnings, the Trustee must take into account the assets (including unrealised assets) and liabilities (including unrealised liabilities) and otherwise may adopt whatever assumptions, methodology and procedures and have regard to any matters or advice as it considers appropriate, including:
 - (1) methodology and procedures concerning the method and basis of valuing particular property;
 - (2) the intervals at which valuations must be carried out; and
 - (3) the reserving or averaging of income.

7.7 Unitisation

- (a) The Trustee may divide the Asset Portfolios into Units and allocate the Units to the Accounts in a manner consistent with the applicable investment strategy.
- (b) The Trustee may adopt rules from time to time in relation to:
 - (1) the pricing of the Units (including separate 'buy' and 'sell' prices and the timing and frequency of the pricing);
 - (2) switching between Unit Classes;
 - (3) the method and frequency of valuing the Asset Portfolios (if required); and
 - (4) any other matter which the Trustee determines to be necessary or appropriate for administering the Fund as a unitised fund.
- (c) Accounts may be recorded in Units of the relevant Unit Classes. Any amount credited or debited to an Account may be converted into Units of the relevant Unit Classes immediately prior to being credited to the Account.
- (d) Where this Deed provides for or contemplates any amount (including, but not limited to fees, Fund Expenses and Tax) to be credited or debited to an Account, the Trustee may credit or debit (as the case may be) the relevant number of Units having regard to the relevant Unit Price.
- (e) Where this Deed refers to the balance, or the amount standing to the credit, of an Account, it will (where appropriate) be taken as a reference to the amount or balance calculated by reference to the number of Units in the Account and the relevant Unit Price.

- (f) If and to the extent that the Trustee administers the Fund's investments on a unitised basis, the Trustee may elect that Clause 7.6 does not operate and the remaining provisions of this Deed must be construed accordingly.

8 Participation in fund

8.1 Participation

- (a) A person:
- (1) who is eligible under the Relevant Law, may apply for membership of the Fund, in the case of an individual; or
 - (2) may apply for participation in the Fund as a Participating Employer, in respect of itself, and its Employees,
- in a form and on terms and conditions approved by the Trustee.
- (b) The Trustee may, but is not obliged to, require an application from a person who is an Employee of a Participating Employer.
- (c) An application by a Participating Employer must contain a Participation Schedule unless otherwise determined by the Trustee.
- (d) An application and a Participation Schedule may:
- (1) be amended by the Trustee to comply with the Relevant Law, or
 - (2) subject to the Relevant Law, be otherwise amended by the Trustee and the relevant Participant being a Personal Member or Participating Employer; and
 - (3) may contain instructions from the Participant relating to which Accounts contributions are to be credited, how they will be invested and other matters determined by the Trustee. The Trustee is entitled, but not obliged, to act on such an instruction in relation to all such contributions and future contributions unless and until such instruction is altered.
- (e) A person becomes a Member or other Participant from the date the Trustee accepts the application or such other date determined by the Trustee.
- (f) The Trustee may in its absolute discretion reject an application, refuse to admit a person to membership of the Fund or delay consideration of an application or make the application subject to conditions.
- (g) The Trustee may in its absolute discretion:
- (1) accept a payment by or in respect of a person who has not applied to become a Member or other Participant in the Fund, in which case the person is taken to be a Member or other Participant from the date of such acceptance of payment or such other date determined by the Trustee;
 - (2) without limiting Clause 8.1(g)(1), determine that a person who has not applied for participation in accordance with Clause 8.1(a) is a Member or other Participant on and from a date determined by the Trustee,
- in both instances subject to conditions approved by the Trustee.
- (h) The Trustee must deal with a person's application money:
- (1) pending the processing and acceptance of that application; and
 - (2) where the application is refused,

in accordance with the Relevant Law.

- (i) Notwithstanding Clause 6.2(b)(2), a Beneficiary has:
 - (1) no right to claim any interest, exercise any right in any particular asset of the Fund or interfere with the Trustee's rights or powers in its dealing with the assets of the Fund; and
 - (2) no right to claim any interest in any policy of insurance effected by the Trustee.
- (j) The Trustee must within any time specified by the Relevant Law notify the Member in writing of acceptance of their participation as well as any other matters the Trustee considers appropriate.
- (k) A Member or other Participant may agree with the Trustee, or where the facility is given to the Member or other Participant by the Trustee and if permitted by Relevant Law may direct the Trustee, to admit a Member to a particular Category or to vary a Member's Category.
- (l) Each Participant:
 - (1) irrevocably appoints the Trustee his or her attorney to do anything permitted by this Deed;
 - (2) agrees to be bound by any arbitration initiated under this Deed;
 - (3) agrees that no right of action accrues until the relevant issues have been adjudicated on pursuant to that arbitration; and
 - (4) is bound by the terms of this Deed.
- (m) The Trustee may in its discretion apply any provisions of this Deed which relate to a Member to a Beneficiary as if the reference to a Member referred to a Beneficiary.
- (n) Notwithstanding any other provision of this Deed, but subject to Clause 8.1(o) and the Relevant Law, the Trustee may create a new interest in the Fund for a Non-member Spouse as contemplated by the Relevant Law, in which case:
 - (1) when creating a new interest in the Fund for a Non-member Spouse the Trustee may determine:
 - (A) the terms and conditions that will apply to the new interest;
 - (B) whether the Non-member Spouse is to be issued an interest in the Personal or Pension Division;
 - (C) the Category, Section and/or Plan (as applicable) in which the Non-member Spouse will participate;
 - (2) the Trustee may adjust the benefit of the Member Spouse in such manner as it considers appropriate to reflect the creation of a new interest for the Non-member Spouse;
 - (3) if the Non-member Spouse is already a Member of the Fund, the amount that would otherwise be applied to create the Non-member Spouse's interest may instead be applied to increase the Non-member Spouse's existing interest in the Fund; and
 - (4) The Trustee may make Rules from time to time that apply to a Member for whom an interest was created in accordance with Clause 8.1(n) and who was not previously a Member.
- (o) A Non-member Spouse is not permitted to become a Member of the Fund:
 - (1) if the value of the new interest as at the date of creating the new interest would be less than the minimum investment amount (if any) at that date. In this Clause 8.1(o), 'minimum investment amount' means

the minimum one-off initial contribution that a person must make in order to become a Member of the Fund and participate in the Division, Category, Section and/or Plan (as applicable) determined by the Trustee in accordance with Clause 8.1(n) as set out in the relevant disclosure document or such lesser amount as the Trustee may from time to time determine for the purposes of this Clause 8.1(o); or

- (2) if the relevant Division is closed to new Members.

8.2 Cessation of participation

- (a) A Beneficiary ceases to be a Beneficiary if:
 - (1) the Trustee notifies a Beneficiary that it is no longer a Beneficiary; or
 - (2) otherwise all the benefits of the Beneficiary are paid or otherwise exhausted, satisfied or dealt with under this Deed.
- (b) A Participating Employer ceases to participate in the Fund with effect from:
 - (1) 14 business days after the date that it gives the Trustee written notice of its intention to cease being a Participating Employer or to cease contributing to the Fund;
 - (2) the date it becomes bankrupt or is placed in liquidation or ceases to carry on business; or
 - (3) the date that it receives written notice from the Trustee that it is to cease to be a Participating Employer.
- (c) Subject to Relevant Law, the Trustee may transfer an amount equal to the total of the Member's Benefit of each Member who is or was an Employee of the Participating Employer to a Benefit Arrangement nominated by the Participating Employer or if none is nominated within 90 days of the effective date under Clause 8.2(b), to a Benefit Arrangement selected by the Trustee.
- (d) An Associated Employer may take the place of a Participating Employer who gives notice under Clause 8.2(b)(1) if agreement is reached between the Participating Employer, the Associated Employer and the Trustee.
- (e) If the Trustee does not transfer out the Members' Benefits pursuant to Clause 8.2(c), it may pay the Members their Member's Benefits and deal with any remaining money or property as it determines in its absolute discretion but subject to the Relevant Law.
- (f) An Employee of an Employer that has ceased to be a Participating Employer will continue to be a Member of the Fund until:
 - (1) all benefits payable in respect of the Member under this Deed have been paid;
 - (2) the Relevant Law or the Regulator requires otherwise; or
 - (3) the Member's Benefit is transferred to another Benefit Arrangement.

8.3 Special arrangements

- (a) The Trustee may:
 - (1) agree with a person who is a Member or other Participant or potential Member or other Participant or with the person responsible for or administering another Benefit Arrangement;
 - (2) determine that where an amendment is made to this Deed which would otherwise vary the terms of participation of Participants from those which existed prior to the amendment,

that the participation of the person (each a '**Relevant Person**') in the Fund is subject to, or is varied in accordance with, the conditions contained in the agreement (which may include a Participation Schedule), or determination including:

- (1) the amount of contributions to be made or the benefits to be paid in respect of the Relevant Person; or
- (2) the rights in respect of such benefits that the Relevant Person has in the Fund.

The provisions of such an agreement or determination are binding on all interested persons without the need to amend this Deed. Subject to Relevant Law, to the extent that a provision of such an agreement or determination conflicts with any other provision of this Deed other than Clause 2.6 or 2.7, the provision of the agreement or determination prevails.

- (b) Without limiting the generality of Clause 8.3(a), the Trustee may agree to accept an application by an Employer to participate in the Fund pursuant to which some or all of the benefits of the Employees of that Employer are to become payable and are to be calculated and ascertained in accordance with the provisions of the application (such as a vesting scale) instead of wholly by reference to this Deed.
- (c) If the Trustee agrees to accept an application pursuant to Clause 8.3(b) then, provided the benefit payable to the Member is not less than the minimum benefit that is required to be paid to the Member under the Relevant Law:
 - (1) the benefits of the Employees of that Employer which are referred to in the application become payable and must be calculated in accordance with the provisions of the application provided that the assets the Trustee determines to allocate to those benefits are sufficient to meet the liabilities in respect of those benefits or additional contributions are made to fund any shortfall;
 - (2) unless the application provides otherwise, any benefits of the Employees of the Employer which are provided for by this Deed but which are not referred to in the application, continue to become payable and be calculated in accordance with this Deed;
 - (3) the Trustee may apply any benefits to which an Employee of an Employer does not become entitled by virtue of the operation of this Clause 8.3 against any contributions otherwise payable by the Employer in respect of any Member of the Fund, and any amount so applied is taken to be a contribution by the Employer; and
 - (4) the Trustee may at any time after accepting an application alter the provisions of the application to comply with the Relevant Law.

8.4 Information

- (a) Each Member, prospective Member and other Participant must provide all information and evidence, sign all documents, undergo all medical examinations and tests, and generally satisfy all standards and requirements imposed by the Trustee.
- (b) The Trustee may refuse to admit a person as a Member, place conditions on the person's membership or make assumptions in relation to the person's circumstances if:
 - (1) the person does not comply with Clause 8.4(a) to the satisfaction of the Trustee; or

- (2) information provided by the person is incorrect or contains an omission.
- (c) Each Member and other Participant may inspect a copy of the Deed during normal business hours by giving reasonable notice to the Trustee. The Trustee must keep a copy of the Deed at its principal office and at such other places as the Trustee may determine, and must otherwise provide information to Members and other Participants as required by the Relevant Law.
- (d) The Trustee can provide information to an Employee Member by providing that information to the Member's Employer.
- (e) The Trustee, each Participating Employer, its directors and each of its Delegates must treat all information relating to the participation of Members and other Participants in the Fund as confidential and only use that information for the purposes of the Fund or as required by law.

9 Contributions

9.1 Amount, manner and timing

Details of contributions and other amounts which may or must be paid to or accepted into the Fund:

- (a) are as set out under the Rules; or
- (b) otherwise are as determined by the Trustee in its absolute discretion,

provided that notwithstanding the previous provisions of this Clause 9.1 a Participant may terminate contributions upon it giving at least 30 days' (or lesser period approved by the Trustee) written notification to the Trustee.

9.2 Eligible Spouse Contributions

Subject to Relevant Law, the Trustee may accept Eligible Spouse Contributions into the Fund on behalf of a Member of the Fund.

9.3 Application of contributions

The Trustee is not obliged to accept any contribution. Where accepted, contributions must be applied towards a policy issued by the Insurer pursuant to which the relevant Member is a life insured, subject to Clause 6.1. Such policy may permit the Insurer to deduct directly from the policy, fees and charges which relate to the Member or the Fund.

9.4 Refusal to accept contributions

- (a) The Trustee must refuse to accept contributions to the Fund if:
 - (1) the person making the contribution is not permitted to do so by the Relevant Law;
 - (2) acceptance of the contribution is otherwise contrary to the requirements of the Relevant Law; or
 - (3) the Trustee is directed not to accept the contribution by the Regulator.
- (b) Nothing in this Clause limits the Trustee's discretion to otherwise refuse to accept any contribution made by or on behalf of a Member.

9.5 Refund of contributions

The Trustee, subject to the Relevant Law:

- (a) must repay contributions to or for the benefit of the relevant Member or other Participant:
 - (1) where such contributions have been received contrary to the Relevant Law;
 - (2) where the Trustee is satisfied such contributions were paid by mistake;
 - (3) where the Member or other Participant requests a refund of the initial contributions or purchase price, in the case of a pension, within 14 days (or such other date required by the Relevant Law) of the relevant Member being admitted to participate in the Fund and where the Relevant Law requires such a repayment; or
- (b) may repay contributions to or for the benefit of the relevant Member or other Participant if the contributions have been made to finance premiums to an Insurer and the Insurer refuses such premiums;

in which case:

- (c) an adjustment shall be made to the extent permitted under the Relevant Law for Tax, Net Earnings or Fund Expenses;
- (d) the person shall be deemed not to have become a Member in the case of contributions first made in respect of that person; and
- (e) the Trustee will not be liable to pay any interest in relation to such contributions.

9.6 Reduction in Contributions

A Member or other Participant may cease, reduce or suspend contributions by written notice to the Trustee or in such other manner approved in general or in particular by the Trustee.

9.7 Non-payment of contributions

If contributions paid in respect of a Member are not sufficient to pay for any insurance effected in respect of the Member:

- (a) in relation to insurance effected pursuant to an individual policy relating solely to that Member, the Trustee may cancel, agree to the cancellation of, such policy or accept the Insurer's cancellation of that policy; or
- (b) in any other circumstances, the Trustee may debit any Account held in respect of that Member in order to pay the outstanding premiums; and
- (c) the Trustee is not obliged to so cancel, debit or notify the relevant Participant of any of the matters referred to in this Clause.

9.8 Reasons for refusal of contributions

The Trustee may refuse to accept contributions without having to assign any reason for its refusal.

9.9 Payment to, and by, Insurer, manager etc.

- (a) Any payment of contributions directly to an Insurer, custodian or an administration or investment manager appointed under Clause 5.3 is deemed to

be a payment of contributions to the Trustee and a payment by the Trustee to the Insurer, custodian or administration or investment manager, as the case may be.

- (b) Any payment of benefits payable from the Fund by an Insurer, custodian or an administration or investment manager appointed under Clause 5.3 directly to a Beneficiary is deemed to be a payment of benefits by the Insurer, custodian or administration or investment manager, as the case may be, to the Trustee and a payment by the Trustee to the Beneficiary.
- (c) Any payment of contributions payable by an Employee Member may be deducted from the Member's earnings and paid by the Employer to the Trustee and:
 - (1) the Member is deemed to have directed the Employer to make such deductions; and
 - (2) the Trustee is entitled to assume that such deduction is authorised by the Member without being liable if such deduction is not so authorised or authorised by law.

9.10 Enforcement of Contribution Payment

The Trustee is not in any circumstances obliged or liable to:

- (a) monitor or enforce the payment of contributions by a Member or other Participant provided that the Trustee may, but is not obliged to, impose interest as a rate it determines on any contribution not paid by a Participating Employer when due; or
- (b) notify any person if any contributions to the Fund have not been made.

10 Benefits

10.1 Payment of benefits

- (a) Details of benefits payable from the Fund:
 - (1) are as set out under the Rules; or
 - (2) otherwise are as determined by the Trustee in its absolute discretion.
- (b) Where a policy is effected in respect of a Beneficiary or Beneficiaries, the Insured Benefit payable from the Fund to the Beneficiary or Beneficiaries must be determined in accordance with the terms and conditions of that policy and cannot exceed the amount paid to the Trustee by the Insurer in respect of the relevant Beneficiary.
- (c) The Trustee is not required to determine and pay a benefit and a Beneficiary only becomes entitled to the benefit where the person claiming the benefit:
 - (1) notifies the Trustee of an event which would entitle the Beneficiary to the benefit or in the case of an Employee Member, the Employer notifies the Trustee;
 - (2) makes proper application to the Trustee in the form required by the Trustee;
 - (3) does such acts and things as the Trustee may consider necessary, desirable or expedient;
 - (4) provides information to the Trustee as requested by it to substantiate such claim and benefit; and

- (5) gives instructions in relation to the method of payment of the benefit which are acceptable to the Trustee.
- (d) Unless otherwise determined by the Trustee, a benefit of a Beneficiary is calculated as at the date the Beneficiary becomes entitled to the benefit and may include Net Earnings on the benefit up to the date of payment if the Trustee so determines.
- (e) The Trustee may pay all or part of a benefit or entitlement by:
 - (1) the transfer of an asset or assets; and/or
 - (2) paying the amount by cheque and by sending that cheque or delivering that cheque in any manner contemplated for the sending of notices under Clauses 13.1(b)(1), (2), (3) or (5); and/or
 - (3) crediting the amount to an account nominated by the Beneficiary.
- (f) The Trustee may make any benefit payment conditional and the benefit payment shall be repayable should the Trustee's decision to make that payment be varied, substituted or otherwise overturned by a court or tribunal.
- (g) Where permitted by the Relevant Law, the Trustee may pay a benefit of a Beneficiary who, in the Trustee's opinion, is under any legal disability or is not capable of receiving that benefit or managing his or her affairs, to:
 - (1) any Dependant of the Beneficiary or any other person for the benefit of the Beneficiary;
 - (2) a representative, guardian, or person having the care or custody of the Beneficiary; or
 - (3) a trustee of a trust for the Beneficiary, including a person appointed as trustee by the Trustee on such trusts and terms as the Trustee determines;without being responsible for:
 - (4) having recourse to this Clause or considering having recourse; and
 - (5) the application of the benefit by the person to whom it is paid and without the Beneficiary having any claim to that benefit so paid.
- (h) If a Beneficiary entitled to a benefit requests the Trustee to apply it by way of the purchase of an annuity or transfer to another Benefit Arrangement, unless the benefit is to be dealt with under another provision of this Deed or another provision of this Deed otherwise provides, the Trustee must comply with request, subject to Relevant Law.
- (i) Any amount held in the Fund which is not allocated to any Beneficiary or to any Account or which may not or cannot be paid or which is not payable by the Trustee to any Beneficiary may be dealt with as the Trustee determines for any purpose determined by the Trustee which is permissible under the Relevant Law including reduction of contributions of a Member or other Participant or to meet Fund Expenses.
- (j) Subject to the Relevant Law, the Trustee may pay out a Member's Benefit if the value of the Benefit falls below a minimum amount determined by the Trustee from time to time.

10.2 Charging benefits

The Trustee is not obliged to, and if required by the Relevant Law must not, recognise a charge or assignment of a benefit.

10.3 Adjustment of benefits

The Trustee may postpone or adjust benefits and rights of a Beneficiary, subject always to the Relevant Law, to take account of:

- (a) any contributions which have been reduced, suspended, terminated or not otherwise paid;
- (b) any contributions refused under Clause 9.4;
- (c) any Tax or Fund Expense;
- (d) any incorrect, inaccurate or misleading information supplied, or lack of information supplied, in respect of a Beneficiary;
- (e) any terms and conditions of payment requested by a Beneficiary;
- (f) any amount owed by the Beneficiary to the Trustee or to a Participating Employer, including any recovery costs relating to such amount;
- (g) any loss or damage incurred by the Trustee or Participating Employer as a result of the Beneficiary's dishonesty, fraud or gross negligence;
- (h) any action or inaction of an Insurer referred to in Clause 6.3(b); and
- (i) any refund of co-contributions and/or any other amounts as required by the Superannuation (Government Co-Contributions for Low Income Earners) Act; or
- (j) the requirements of the Relevant Law.

10.4 Discharge and release

The Trustee is completely discharged in respect of any payment in accordance with this Deed including:

- (a) a payment to or on behalf of a person the Trustee believes in good faith is entitled to the benefit;
- (b) a payment made directly by the Insurer in good faith to or on behalf of a person that the Trustee believes in good faith is entitled to the benefit.

10.5 Payment of death benefits

- (a) Subject to Clauses 10.5(b), 10.5(c) and 10.5(d) the Trustee must pay a Member's death benefits to either or all of the following:
 - (1) the Member's legal personal representative;
 - (2) one or more of the Member's Dependants,in such proportions as the Trustee, in its absolute discretion, determines.
- (b) Where and to the extent permitted by the Relevant Law, the Trustee may:
 - (1) determine that any or all Members are given the facility to direct the Trustee to pay all or any part of the Member's death benefits to a person or persons referred to in Clause 10.5(a) as are specified in the direction; or
 - (2) allow a Member to nominate a person or persons referred to in Clause 10.5(a) to receive a death benefit and provided the Trustee approves such nomination,and in such a case the Trustee must pay the benefit to the relevant person or persons where:
 - (3) a valid direction referred to in Clause 10.5(b)(1) is given; or

- (4) the Trustee approves a valid nomination pursuant to Clause 10.5(b)(2).
- (c) Subject to Clause 10.5(b), the Trustee may agree to pay a Member's death benefits in accordance with the governing rules of the Benefit Arrangement from which the Member transferred (including any rules relating to nominations of beneficiaries).
- (d) The Trustee may pay a Member's death benefits to any person other than a Dependant or legal personal representative where permitted by the Relevant Law.
- (e) The Trustee may formulate and implement rules governing the payment of a Member's death benefit in circumstances where a direction given by a Member pursuant to Clause 10.5(b)(1) or a nomination given by a Member pursuant to Clause 10.5(b)(2):
 - (1) is incomplete;
 - (2) is illegible;
 - (3) specifies persons who are not capable of being paid a death benefit under Relevant Law;
 - (4) specifies persons who have predeceased the Member or whose status as a Spouse or a Dependant of the Member has changed; or
 - (5) is otherwise incapable of being implemented for whatever reason.

10.6 Payments under Relevant Law

The Trustee:

- (a) may (but is not obliged to) pay a benefit where the payment of that benefit is permitted by the Relevant Law; and
- (b) must pay a benefit where the payment of that benefit is required by the Relevant Law.

10.7 Recoupment of Tax and Overpaid Amount

Each recipient of a benefit under this Deed agrees with the Trustee, as a condition of receiving the benefit, that:

- (a) the recipient must repay to the Trustee on demand:
 - (1) the amount determined by the Trustee to be an overpayment of a benefit; or
 - (2) any amount of the benefit which a court or tribunal determines should not have been paid to the recipient; and
- (b) if the Trustee determines, after paying the benefit, that an insufficient deduction was made from the benefit to pay Tax, the recipient:
 - (1) must repay to the Trustee on demand such amount as the Trustee determines should have been deducted from the benefit;
 - (2) releases the Trustee from any loss or damage that the recipient may suffer as a result of the Trustee making the insufficient deduction; and
 - (3) indemnifies the Trustee in respect of any loss or damage that the Trustee may suffer as a result of the Trustee making the insufficient deduction.

10.8 Forfeiture of Benefits

Subject always to the Relevant Law, a benefit of a Member will be forfeited if he or she assigns, alienates or charges his or her benefit or purports to do so, or if he or she is declared mentally ill, or becomes liable to have his or her affairs dealt with under the laws relating to mental health. The benefit so forfeited may be applied for the benefit of any Member or Dependant of a Member as the Trustee thinks fit, subject to the Relevant Law.

10.9 Unclaimed Money

The Trustee must deal with unclaimed money in accordance with the Relevant Law.

11 Transfers

11.1 Transfers

- (a) The Trustee may:
- (1) make arrangements for the transfer into the Fund of cash or property with:
 - (A) the person responsible for or administering a Benefit Arrangement; or
 - (B) a person who is or was a participant in a Benefit Arrangement;on conditions agreed between the Trustee and the other person, including on terms which differ from the terms of participation otherwise provided for under this Deed; and
 - (2) transfer cash or property from a Benefit Arrangement to the Fund.
- (b) The Trustee:
- (1) may at the request of a Beneficiary, or otherwise with the consent of a Beneficiary, transfer all or part of the benefits of the Beneficiary to a Benefit Arrangement;
 - (2) must transfer to a Benefit Arrangement requested by a Member all or part of the benefit of a Member which is then immediately payable to the Member; and
 - (3) if the Relevant Law permits, without the consent of the Beneficiary, deal with all or part of the benefits of a Beneficiary:
 - (A) by transferring them to a Benefit Arrangement; or
 - (B) by crediting them to new Accounts maintained for the Beneficiary in the Fund, or in another Plan to which the Beneficiary has been admitted, including the transfer into another Division or Section as contemplated in Clause 11.3.
- (c) The Member shall have such rights to benefits transferred from a Benefit Arrangement as may be determined by the Trustee.
- (d) Notwithstanding Clauses 11.1(a)(1) and 11.1(b)(2) but subject to the Relevant Law, the Trustee must not transfer an Employee Member from the Fund without the consent of that person's Participating Employer.
- (e) The Trustee may provide such indemnities and undertakings and accept such liabilities (each an '**Obligation**') in relation to the transfer of cash and property

to and from the Fund as it determines in its absolute discretion (including providing an indemnity and undertaking to, and accepting the liability of, the person responsible for or administering another Benefit Arrangement from which the benefits of a Beneficiary are transferred). Where the Trustee has assumed an Obligation, the Trustee may debit the Accounts of the Members to which the cash and property relates and such other Accounts and on such basis as the Trustee, in its absolute discretion, determines in respect of the Obligation.

11.2 Transfers under the Relevant Law

The Trustee may, and if required by the Relevant Law must, transfer benefits of Beneficiaries to a Benefit Arrangement, an Eligible Rollover Fund or to the Regulator in the circumstances contemplated by the Relevant Law.

11.3 Transfers between Divisions, Sections, Categories or Plans

- (a) The Trustee may:
- (1) permit a Beneficiary in one Division, Section, Category or Plan to transfer to another Division, Section, Category or Plan subject to any conditions it determines appropriate; or
 - (2) transfer a Beneficiary in one Division, Section, Category or Plan to another Division, Section, Category or Plan if it considers that it is appropriate to transfer such Beneficiary to the other Division, Section, Category or Plan.
- (b) Without limitation to Clause 11.3(a), an Employee Member will be transferred to the Personal Section of the Fund in the following circumstances unless otherwise determined by the Trustee or otherwise required by another provision of this Deed:
- (1) the Member requests the transfer of his or her benefits to the Personal Section;
 - (2) the benefit of the Member or a portion of it cannot be paid to the Member because it is subject to preservation;
 - (3) the Employer of the Member has ceased contributions to the Fund or is deemed to have ceased contributions in respect of the Member;
 - (4) a Member has become entitled to a benefit but it is unable to be paid to the Member within 30 days of the date the entitlement arose or such other period determined by the Trustee;
 - (5) in the case of an Employee Member, where that Member has left the employ of the Participating Employer; or
 - (6) in such other circumstances agreed between the Trustee and the Member.

11.4 Contributions Splitting

- (a) At the Member's request, the Trustee may in its sole discretion, roll over or transfer out of the Fund to a Benefit Arrangement or, where the Member's Spouse is a Member of the Fund, Allot to the Spouse's Account, an amount that has become payable in respect of a Contribution Splitting Amount.
- (b) The Trustee will debit from the relevant Member's Account the Contribution Splitting Amount referred to in Clause 11.4(a).

- (c) If the Contribution Splitting Amount is to be allocated to the Spouse's Account, credit the relevant Account with the Contribution Splitting Amount referred to in Clause 11.4(a).

11.5 Preserved Benefits

A Preserved Benefit may only be transferred to another Benefit Arrangement on the following conditions:

- (a) that the Preserved Benefit and any accretions to it will continue to be treated as a Preserved Benefit in the other Benefit Arrangement; and
- (b) that the Preserved Benefit will not be transferred from the other Benefit Arrangement except on these terms and conditions.

11.6 Discharge of Trustee's Liability

Upon the transfer of an amount pursuant to this Clause 11 other than Clause 11.3, the Trustee is:

- (a) completely discharged from any liability to the Beneficiary or any person claiming through the Beneficiary in respect of the amount transferred, and
- (b) not responsible for the manner in which the amount transferred into the other Benefit Arrangement is dealt with.

12 Termination of Fund

12.1 Termination of Fund or Plan

- (a) The Trustee may terminate the Fund, a Division, a Section, a Category or a Plan in its absolute discretion on any date and where required by the Relevant Law shall notify Members and other Participants in the Fund, Division, Section, Category or Plan so terminated of such termination date and in that notice shall specify a date after which no further contributions shall be accepted into such Fund, Division, Section, Category or Plan other than contributions previously due and payable.
- (b) From the date specified in the notice under Clause 12.1(a), no further contributions may be accepted into the Fund, Division, Section, Category or Plan to be terminated.
- (c) The Fund or a Plan must be terminated if the Relevant Law requires.
- (d) Upon termination:
 - (1) Beneficiaries shall be notified to the extent required by the Relevant Law; and
 - (2) all arrears of contributions must be paid immediately.

12.2 Application of Fund or Plan

Subject to the Relevant Law, the net proceeds of the Fund, a Division, Section, Category or Plan after meeting Fund Expenses must be applied to or towards payment of the Beneficiaries' benefits under the Fund or such Division, Section, Category or Plan as the case may be in accordance with this Deed. Such application may be by way of transfer in accordance with Clause 11.1(b), 11.2 or 11.3 except as otherwise required by this Deed and such payment or transfer is accepted by the Beneficiary in full discharge of all claims in respect of the Fund, or such Division, Section, Category or Plan. The Trustee may deal

with any remaining money or property in the Fund, Division, Section, Category or Plan for any purpose determined by the Trustee which is permissible under and in accordance with the Relevant Law, including payment to a Participating Employer.

13 General

13.1 Notices

Subject to Clause 13.2, any communication in connection with the Fund:

- (a) must be either in writing or if given orally must conform to instructions given by the Trustee;
- (b) may be given to a Beneficiary:
 - (1) at his or her place of employment;
 - (2) at such other address last notified to the Trustee by the Member or other Participant or other Beneficiary either by hand or by ordinary post; or
 - (3) at the option of the Trustee, to the Beneficiary's Participating Employer or to that Participating Employer's last known address on behalf of the Beneficiary;
 - (4) by way of a notice placed in a newspaper circulating in such place or places as the Trustee may consider appropriate in the circumstances;
 - (5) in any other manner permitted by law;and is deemed to be received by the Beneficiary on the earlier of:
 - (6) 2 business days after the notice is sent by mail; and
 - (7) the day the notice is received at the above address if given by hand; and
 - (8) 2 days after the date such newspaper is published; and
 - (9) in any case, at such other date as the Trustee may determine;
- (c) if notifiable to an Associated Employer may be given to the Principal Employer; and
- (d) must be given to the Trustee at its registered office and is effective only when received by the Trustee at that office.

13.2 Electronic Means

Where and to the extent permitted by the Relevant Law, the Trustee may:

- (a) allow a notice to be sent to the Trustee by electronic means; or
- (b) send a notice by electronic means.

13.3 Authorisations

- (a) The Trustee may treat a written or oral authorisation given or purported to be given by:
 - (1) a director of the Employer, as a valid authorisation by the Employer; or
 - (2) a Beneficiary, as a valid authorisation by the Member.

13.4 Not affecting other Rights

- (a) Nothing in this Deed:
 - (1) in any way restricts the rights of an Employer to terminate the employment of a Member or to promote or demote an Employee; or
 - (2) may be used in any proceedings against an Employer relating to a termination of employment.
- (b) Being a Member must not be taken as a guarantee of continuation of employment.

13.5 Work Related Claims

The benefits payable to a Member must not be used as a ground for increasing damages in any action brought by the Member against an Employer in respect of the termination of the Member's employment.

13.6 National Compensation

- (a) A Participating Employer may direct the Trustee to make any changes to contributions or benefits if the Participating Employer is required by law to make payments to, or provisions for:
 - (1) any scheme of national or social security for the benefit of Employees; or
 - (2) any superannuation scheme (including the Fund); or
 - (3) any scheme of compensation to provide a continuation of part or all of the earnings of Employees on disablement from accident, injury, illness or the like.

This power is in addition to the Participating Employer's other rights and Powers.
- (b) No change may be made under Clause 13.6(a):
 - (1) contrary to any statute; or
 - (2) reducing a benefit that has accrued or become payable for a Member except as permitted by the Relevant Law.
- (c) The Trustee must notify the Member and the Participating Employer of the effect of any change made under this Clause.

13.7 Common Law Rights of Members

- (a) Nothing in this Deed in any way affects the right of a Member, a Member's legal personal representative or any other person to claim damages or compensation at common law or under any legislation governing compensation in the event of the Member being injured or dying from any accident arising out of, or in the course of, the Member's employment.
- (b) Any amount payable under this Deed (other than an Insured Benefit in respect of a Member) must not be reduced by reason of any payment that may be made in respect of such damages or compensation.

13.8 Governing Law

This Deed is governed by the laws of the Jurisdiction. The Trustee may adjust the Powers, entitlements and obligations of any Member or Beneficiary or any other person

under the Deed to such extent and in such manner as the Trustee considers necessary in order to comply with the laws of any other jurisdiction.

13.9 Arbitration

If any question or dispute shall arise with respect to the Fund or to the construction or meaning of this Deed, and if the Trustee so requires, the question or dispute shall be referred to a single arbitrator agreed to by the parties to the question or dispute, but in default of agreement, to an arbitrator appointed pursuant to the provisions of the Commercial Arbitration Act. If the Trustee requires any question or dispute to be referred pursuant to this Clause, no right of action shall accrue in respect thereof until the question or dispute has been adjudicated upon by the arbitrator.

Division 1

TMF Division

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Employer Sub-division

1 General provisions

1.1 Name of Sub-division:

Employer Sub-division

1.2 Definitions:

Except as listed below, the definitions in this Schedule 1 are as set out in Clause 1.1 of the Governing Provisions:

Term	Meaning
Member	a person admitted by the Trustee to participate in this Sub-division under Rule 1.4(b) and (c).
Normal Retirement Age	<ol style="list-style-type: none"> 1 65 years of age; or 2 such other age (being not less than 55 years of age) which a Member and the Trustee agree is the Normal Retirement Age of the Member.

1.3 Sections

This Sub-division shall be comprised of the following Sections:

- (a) the Employer Section comprising Employee Members; and
- (b) the Personal Section comprising Personal Members.

1.4 Participants

- (a) **Participating Employers:** An Employer may be admitted to participate in this Sub-division as a Participating Employer under Clause 8.1(a) subject to the approval of, and the conditions imposed by, the Trustee.
- (b) **Members:** An Employee of an Employer that has been admitted to participate in this Sub-division under Rule 1.4(a) may participate in this Sub-division subject to the approval of, and the conditions imposed by, the Trustee.
- (c) **Other persons:** Any other person may be admitted to participate in this Sub-division under Clause 8.1(g) subject to the Relevant Law and the approval of, and the conditions imposed by, the Trustee.

1.5 Contributions

- (a) **Participating Employer contributions generally:** A Participating Employer, or any other person authorised by the Relevant Law, may contribute to this Sub-division:
- (1) such amounts (if any) as are specified in the Participation Schedule or as are otherwise agreed between the Participating Employer and the Member; or
 - (2) in the absence of any agreement between the Participating Employer and the Member, such amounts as the Participating Employer or the other person determines.
- (b) **Leave of absence:** If an Employee Member is granted leave of absence (other than annual leave or long service leave) by the Participating Employer for any reason, or the Participating Employer believes that an Employee Member who has left Service is likely to return to Service within a reasonable period:
- (1) the Member remains a Member for the period of leave or other period;
 - (2) contributions may, but are not required to, be made in respect of the Member during that period of leave or other period; and
 - (3) the Trustee may make arrangements for the provision of alternative benefits for the Member,
- except, to the extent permitted by the Relevant Law, the Participating Employer determines otherwise and so advises the Trustee.
- (c) **Member contributions:** A Member may contribute to the Sub-division:
- (1) at a rate of the Member's Salary as agreed between the Participating Employer and the Member; or
 - (2) in the absence of any agreement between the Participating Employer and the Member, at a rate of the Member's Salary agreed between the Trustee and the Member.
- (d) **Member contributions paid by Participating Employer:** A Participating Employer may pay, on behalf of a Member, contributions that would otherwise be payable by the Member. Any contributions so paid by the Participating Employer, and identified as such, are deemed to be contributions made by the Member.
- (e) **Identification of contributions:** The Participating Employer and/or the Member must identify contributions and other amounts when required by the Trustee.
- (f) **Application of contributions:** Contributions will be applied by the Trustee to an investment option selected by the Member or if none to a default investment option selected by the Trustee until such time as the Trustee applies those contributions to another investment option in accordance with any other provision of this Deed.
- (g) **Contributions paid by Other Persons:** Any person authorised by the Relevant Law may, subject to the consent of the Trustee, contribute to this Sub-division on behalf of a Member, any such contributions to be applied in accordance with Rule 1.5(f) of this Sub-division.

1.6 Benefits

- (a) **Normal and late retirement of Employee Member:** An Employee Member is entitled to the Member's Benefit upon:

- (1) retirement from employment on or after the Member's Normal Retirement Age;
- (2) ceasing employment on or after attaining age 60;
- (3) attaining age 65; or
- (4) attaining such other age or satisfying such other criteria prescribed under the Relevant Law as permitting the payment of the Member's Benefit.

The Trustee must, subject to the Relevant Law, pay an Employee Member the Member's Benefit

- (b) **Member to inform Trustee:** The Member must inform the Trustee as soon as practicable after the Member ceases under the Relevant Law to be:
 - (1) entitled to pay contributions to the Fund or accrue benefits in the Fund; or
 - (2) entitled to remain as a Member of the Fund, other than as a Member of the Pension Sub-division.
- (c) **Mode of payment of benefit:** A benefit payable under Rules 1.6(a) or (b) must be paid in a lump sum or, if required by the relevant Law or the Member so elects and the Trustee approves, by way of a pension or annuity.
- (d) **Pensions and annuities:** The pension or annuity payable under Rule 1.6(c) must comply with the requirements of the Relevant Law.
- (e) **Annuities:** The Trustee may provide a pension payable under Rule 1.6(c) by applying a Member's Benefit to purchase in the name of either the Trustee or the Member an annuity that meets the requirements of the Relevant Law for the Trustee to obtain the maximum income tax concessions for the Fund.
- (f) **Termination of employment of Employee Member before retirement:** Subject to Rule 1.6(k), and Rule 1.6(l) and to the approval of the Trustee, an Employee Member is entitled to the Member's Benefit or such greater amount as the Participating Employer and the Trustee agree on ceasing employment with the Participating Employer before the Member's Normal Retirement Age.
- (g) **Total and Permanent Disablement:** A Member is entitled to the Member's Benefit on Total and Permanent Disablement. The Trustee may pay the Member's Benefit in such instalments and on such other conditions as it determines. If the Trustee is satisfied that the Member is unable to manage his or her own affairs, the Trustee may pay the benefit in accordance with Clause 10.5 as if it were a death benefit.
- (h) **Death:** On the death of a Member before retirement, a death benefit equal to the Member's Benefit is payable in accordance with Clause 10.5.
- (i) **Death after retirement:** a death benefit equal to the Member's Benefit is payable on the death of an Employee Member on or after attaining the Member's Normal Retirement Age in accordance with Clause 10.5.
- (j) **Death of pensioner after retirement:** On the death of a Member to whom a pension is being paid under Rule 1.6(c), the Trustee shall pay the remainder of the deceased Member's pension in accordance with Clause 10.5.
- (k) **Vesting:** The proceeds of contributions made by a Participating Employer will be subject to vesting if such vesting arrangements are contained in a Participation Schedule and are approved by the Trustee.
- (l) **Temporary Disablement:** If the Trustee has effected insurance covering temporary disablement in respect of a Member, the Trustee must pay the Member the proceeds of that insurance which relate to the Member.

- (m) **Severe financial hardship:** Where a Member is taken to be in severe financial hardship for the purposes of the Relevant Law, the Trustee must pay to that Member an amount determined by the Trustee in accordance with the Relevant Law, not exceeding the amount of the Member's Benefit.
- (n) **Compassionate grounds:** Where the Regulator has made a written determination that a Member has satisfied a condition of release on compassionate grounds, the Trustee must pay to that Member a single lump sum amount determined in writing by the Regulator, not exceeding the amount of the Member's Benefit.
- (o) **Cessation of membership:** Where a Member ceases to be a Member other than in the circumstances provided for in this Rule 1.6, the Trustee must pay the Member the Member's Benefit as at the date the Member ceases to be a Member.
- (p) **Other circumstances:** Notwithstanding any other provision of this Rule 1.6, a benefit of a Beneficiary which is payable pursuant to the Relevant Law must be paid upon request of the Member and may be paid in the discretion of the Trustee in such other circumstances permitted by the Relevant Law.
- (q) **Transfer of Service:** Notwithstanding any provision of this Deed, if a Member leaves the employment of a Participating Employer and:
 - (1) the Member remains in the employment of a Participating Employer admitted to participate in this or any other Sub-division; or
 - (2) immediately commences employment with a Participating Employer admitted to participate in this or any other Sub-division,no benefit is payable to the Member unless the Trustee otherwise determines.
- (r) **Minimum Benefit:** The amount of a Member's Benefit paid to a Member under this Sub-division must not be less than the amount of that Member's Benefit that would have been payable on that Member's Conversion Date, or any minimum benefit amount prescribed by the Relevant Law.
- (s) **Relevant Law:** No benefit (in whole or in part) is payable under this Sub-division other than in accordance with the Relevant Law.

1.7 Reserve Account

- (a) The Trustee may in accordance with any Participation Schedule or otherwise establish and operate a reserve account for an Employer:
 - (1) to which may be credited such amounts as are not credited to any other Account operated in respect of the Employer and its Employee Members; and
 - (2) from which may be debited in such manner as may be directed by the Employer:
 - (A) amounts to pay contributions otherwise payable by the Employer;
 - (B) amounts to pay or increase benefits otherwise payable to Members;
 - (C) amounts to be paid to or otherwise at the direction of the Employer; or
 - (D) in the absence of such a direction, for such other purposes determined by the Trustee.

Personal Sub-division

2 General Provisions

2.1 Name of Sub-division:

Personal Sub-division.

2.2 Definitions:

Except as listed below, the definitions in this Schedule 2 are as set out in Clause 1.1 of the Governing Provisions:

Term	Meaning
Member	A person admitted by the Trustee to participate in this Sub-division under Rule 2.3(a) and (b).
Normal Retirement Age	the age prescribed by the Relevant Law as permitting the payment of the Member's Preserved Benefit.

2.3 Participants

- (a) **Personal Members:** A person who satisfies the eligibility criteria under the Relevant Law in relation to persons who may contribute to a superannuation fund may participate in this Sub-division subject to the approval of, and the conditions imposed by, the Trustee.
- (b) **Other persons:** Any other person may be admitted to participate in this Sub-division under Clause 8.1(g) subject to the Relevant Law and the approval of, and the conditions imposed by, the Trustee.

2.4 Contributions

- (a) **Contributions generally:** Any person authorised by the Relevant Law may contribute to this Sub-division:
- (1) such amounts (if any) as are specified in the Participation Schedule or as are otherwise agreed between the Member and the Trustee; or
 - (2) in the absence of any agreement between the Trustee and the Member, such amounts as the person determines.

- (b) **Identification of contributions:** The Member or other person making contributions must identify such contributions and other amounts when required by the Trustee.
- (c) **Application of contributions:** Contributions will be applied by the Trustee to an investment option selected by the Member or if none to a default investment option selected by the Trustee until such time as the Trustee applies those contributions to another investment option in accordance with any other provision of this Deed.

2.5 Benefits

- (a) **Entitlement of Member:** A Member may request payment of the Member's Benefit upon:
 - (1) retirement from employment on or after the Member's Normal Retirement Age;
 - (2) ceasing employment on or after attaining age 60;
 - (3) attaining age 65; or
 - (4) attaining such other age or satisfying such other criteria prescribed under the Relevant Law as permitting the payment of the Member's Benefit.
- (b) **Member to inform Trustee:** The Member must inform the Trustee as soon as practicable after the Member ceases under the Relevant Law to be:
 - (1) entitled to pay contributions to the Fund or accrue benefits in the Fund; or
 - (2) entitled to remain as a Member of the Fund, other than as a Member of the Pension Sub-division.
- (c) **Mode of payment of benefit:** A benefit payable under Rules 2.5(a) or (b) must be paid in a lump sum or, if required by the Relevant Law or the Member so elects and the Trustee approves, by way of a pension or annuity.
- (d) **Pensions and annuities:** The pension or annuity payable under Rule 2.5(c) must comply with the requirements of the Relevant Law.
- (e) **Annuities:** The Trustee may provide a pension payable under Rule 2.5(c) by applying a Member's Benefit to purchase in the name of either the Trustee or the Member an annuity that meets the requirements of the Relevant Law for the Trustee to obtain the maximum income tax concessions for the Fund.
- (f) **Total and Permanent Disablement:** A Member is entitled to the Member's Benefit on Total and Permanent Disablement. The Trustee may pay the Member's Benefit in such instalments and on such other conditions as it determines. If the Trustee is satisfied that the Member is unable to manage his or her own affairs, the Trustee may pay the benefit in accordance with Clause 10.5 as if it were a death benefit.
- (g) **Death:** On the death of a Member, a death benefit equal to the Member's Benefit is payable in accordance with Clause 10.5.
- (h) **Death of pensioner after retirement:** On the death of a Member to whom a pension is being paid under Rule 2.5(c), the Trustee shall pay the remainder of the deceased Member's pension in accordance with Clause 10.5.
- (i) **Temporary Disablement:** If the Trustee has effected insurance covering temporary disablement in respect of a Member, the Trustee must pay the Member the proceeds of that insurance which relate to the Member.

- (j) **Severe financial hardship:** Where a Member is taken to be in severe financial hardship for the purposes of the Relevant Law, the Trustee must pay to that Member an amount determined by the Trustee in accordance with the Relevant Law, not exceeding the amount of the Member's Benefit.
- (k) **Compassionate grounds:** Where the Regulator has made a written determination that a Member has satisfied a condition of release on compassionate grounds, the Trustee must pay to that Member a single lump sum amount determined in writing by the Regulator, not exceeding the amount of the Member's Benefit.
- (l) **Cessation of membership:** Where a Member ceases to be a Member other than in the circumstances provided for in this Rule 2.5, the Trustee must pay the Member the Member's Benefit as at the date the Member ceases to be a Member.
- (m) **Other circumstances:** Notwithstanding any other provision of this Rule 2.5, a benefit of a Beneficiary which is payable pursuant to the Relevant Law must be paid upon request of the Member and may be paid in the discretion of the Trustee in such other circumstances permitted by the Relevant Law.
- (n) **Minimum Benefit:** The amount of a Member's Benefit paid to a Member under this Sub-division must not be less than the amount of the Member's Benefit that would have been payable on the Member's Conversion Date or any minimum benefit amount prescribed by the Relevant Law.
- (o) **Relevant Law:** No benefit (in whole or in part) is payable under this Sub-division other than in accordance with the Relevant Law.

UK Transfer Sub-division

3 General provisions

3.1 Name of Sub-division:

UK Transfer Sub-division

3.2 Definitions:

Except as listed below, the definitions in this Schedule 3 are as set out in Clause 1.1 of the Governing Provisions:

Term	Meaning
Member	a person admitted by the Trustee to participate in this Sub-division under Rule 3.3(a) and (b).
Normal Retirement Age	the age prescribed by the Relevant Law as permitting the payment of the Member's Preserved Benefit.
UK Accumulated Credit'	the amount transferred in respect of the Member to this Fund or a previous superannuation arrangement from a UK pension arrangement.
UK Transfer Sub-division Requirements	the requirements set out in Rule 3.6 and/or any other requirements determined by the Trustee to be requirements which are relevantly prescribed by the UK Inland Revenue in respect of the transfer of pension entitlements from the United Kingdom to Australia.

3.3 Participants

- (a) **Personal Members:** A person who satisfies the eligibility criteria under the Relevant Law and any other criteria determined by the Trustee in relation to persons who may contribute to this Sub-division may participate in this Sub-division subject to the approval of, and the conditions imposed by, the Trustee.
- (b) **Other persons:** Any other person may be admitted to participate in this Sub-division under Clause 8.1(g) subject to the Relevant Law and the approval of, and the conditions imposed by, the Trustee.

3.4 Contributions

- (a) **Contributions generally:** Any person authorised by the Relevant Law may contribute to this Sub-division:
- (1) such amounts (if any) as are specified in the Participation Schedule or as are otherwise agreed between the Member and the Trustee ; or
 - (2) in the absence of any agreement between the Trustee and the Member, such amounts as the person determines.
- (b) **Identification of contributions:** The Member or other person making contributions must identify such contributions and other amounts when required by the Trustee.
- (c) **Application of contributions:** Contributions will be applied by the Trustee to an investment option selected by the Member or if none to a default investment option selected by the Trustee until such time as the Trustee applies those contributions to another investment option in accordance with any other provision of this Deed.

3.5 Benefits

- (a) **Entitlement of Member:** A Member may request payment of the Member's Benefit upon:
- (1) retirement from employment on or after the Member's Normal Retirement Age;
 - (2) ceasing employment on or after attaining age 60;
 - (3) attaining age 65; or
 - (4) attaining such other age or satisfying such other criteria prescribed under the Relevant Law as permitting the payment of the Member's Benefit.
- (b) **Member to inform Trustee:** The Member must inform the Trustee as soon as practicable after the Member ceases under the Relevant Law to be:
- (1) entitled to pay contributions to the Fund or accrue benefits in the Fund; or
 - (2) entitled to remain as a Member of the Fund, other than as a Member of the Pension Sub-division.
- (c) **Mode of payment of benefit:** A benefit payable under Rules 3.5(a) or (b) must be paid in a lump sum or, if required by the Relevant Law or the Member so elects and the Trustee approves, by way of a pension or annuity.
- (d) **Pensions and annuities:** The pension or annuity payable under Rule 3.5(c) must comply with the requirements of the Relevant Law.
- (e) **Annuities:** The Trustee may provide a pension payable under Rule 3.5(c) by applying a Member's Benefit to purchase in the name of either the Trustee or the Member an annuity that meets the requirements of the Relevant Law for the Trustee to obtain the maximum income tax concessions for the Fund.
- (f) **Total and Permanent Disablement:** A Member is entitled to the Member's Benefit on Total and Permanent Disablement. The Trustee may pay the Member's Benefit in such instalments and on such other conditions as it determines. If the Trustee is satisfied that the Member is unable to manage his or her own affairs, the Trustee may pay the benefit in accordance with Clause 10.5 as if it were a death benefit.

- (g) **Death:** On the death of a Member, a death benefit equal to the Member's Benefit is payable in accordance with Clause 10.5.
- (h) **Death of pensioner after retirement:** On the death of a Member to whom a pension is being paid under Rule 3.5(c), the Trustee shall pay the remainder of the deceased Member's pension in accordance with Clause 10.5.
- (i) **Temporary Disablement:** If the Trustee has effected insurance covering temporary disablement in respect of a Member, the Trustee must pay the Member the proceeds of that insurance which relate to the Member.
- (j) **Severe financial hardship:** Where a Member is taken to be in severe financial hardship for the purposes of the Relevant Law, the Trustee must pay to that Member an amount determined by the Trustee in accordance with the Relevant Law, not exceeding the amount of the Member's Benefit.
- (k) **Compassionate grounds:** Where the Regulator has made a written determination that a Member has satisfied a condition of release on compassionate grounds, the Trustee must pay to that Member a single lump sum amount determined in writing by the Regulator, not exceeding the amount of the Member's Benefit.
- (l) **Cessation of membership:** Where a Member ceases to be a Member other than in the circumstances provided for in this Rule 3.5, the Trustee must pay the Member the Member's Benefit as at the date the Member ceases to be a Member.
- (m) **Other circumstances:** Notwithstanding any other provision of this Rule 3.5, a benefit of a Beneficiary which is payable pursuant to the Relevant Law must be paid upon request of the Member and may be paid in the discretion of the Trustee in such other circumstances permitted by the Relevant Law.
- (n) **Minimum Benefit:** The amount of a Member's Benefit paid to a Member under this Sub-division must not be less than the amount of the Member's Benefit that would have been payable on the Member's Conversion Date or any minimum benefit amount prescribed by the Relevant Law.
- (o) **Relevant Law:** No benefit (in whole or in part) is payable under this Sub-division other than in accordance with the Relevant Law.

3.6 UK Transfer Sub-division Requirements

Notwithstanding anything to the contrary expressed or implied in this Deed, the following sub-rules of this rule will apply to the Member's UK Accumulated Credit in the Fund:

- (a) A Member is entitled to receive the Member's UK Accumulated Credit in circumstances where the Relevant Law permits a benefit to be paid, subject to these UK Transfer Sub-division Requirements.
- (b) A Member must receive, or commence to receive, the Member's UK Accumulated Credit, subject to these UK Transfer Sub-division Requirements, in circumstances where the Relevant Law requires a benefit to be paid from the Fund.
- (c) Except where the Member's UK Accumulated Credit is payable by virtue of the Member's death or permanent incapacity as defined in the Relevant Law, some or all of the Member's UK Accumulated Credit must be applied by the Trustee toward the purchase of an annuity (being an eligible annuity as defined in the Relevant Law) in the name of the Member or the Member and one or more of the Member's Dependants, which complies with the Relevant Law. The annuity to be purchased in accordance with this Clause must be non-commutable, with a nil residual capital value and may be guaranteed by the provider of the annuity.

- (d) The portion of the UK Accumulated Credit required to be applied in the form of an annuity in accordance with sub-rule (c) is dependant on the category into which the UK Accumulated Credit falls, as follows:
- (1) in the case of an amount which has been transferred from the United Kingdom (to this Fund or any previous superannuation arrangement) and prior to transfer was classed as a personal pension in the United Kingdom - 65% of the UK Accumulated Credit;
 - (2) in the case of a amount which has been transferred from the United Kingdom (to this Fund or any previous superannuation arrangement) and prior to transfer was classed as a company pension in the United Kingdom - 50% of the UK Accumulated Credit; and
 - (3) in the case of a amount which has been transferred from the United Kingdom (to this Fund or any previous superannuation arrangement) and prior to transfer was classed as comprising voluntary contributions or free standing voluntary contributions in the United Kingdom - 100% of the UK Accumulated Credit.
- Subject to these UK Transfer Sub-division Requirements, the balance of the Member's UK Accumulated Credit (if any) may be paid to the Member in the form of a lump sum but only where the Member has not attained age 75.
- (e) No amendments can be made to these UK Transfer Sub-division Requirements if such amendments would mean the rules applying to the Member's UK Accumulated Credit would not comply with the requirements of the United Kingdom Inland Revenue for the transfer of pension entitlements from the United Kingdom to Australia.
- (f) The Member's UK Accumulated Credit may be transferred to another superannuation arrangement only:
- (1) in accordance with the Relevant Law; and
 - (2) where that other superannuation arrangements apply rules, to the same effect as these UK Transfer Sub-division Requirements, to the Member's UK Accumulated Credit.

Pension Sub-division

4 General provisions

4.1 Name of Sub-division:

Pension Sub-division

4.2 Definitions

Except as listed below, the definitions in this Schedule 4 are as set out in Clause 1.1 of the Governing Provisions:

Term	Meaning
Complying Income Stream	an income stream which is designed to comply with one or both of: <ol style="list-style-type: none"> 1 the asset tax exemption under the Social Security Act; and 2 the relevant requirements of the Relevant Law relating to income streams which benefit from the pension reasonable benefit limit.
Member	a person admitted by the Trustee to participate in this Sub-division under Rule 4.3.
Non-commutable allocated pension	has the same meaning as that term has under the <i>Superannuation Industry (Supervision) Regulations 1994</i> (Cth).
Reversionary Pensioner	the person (if any) to whom a pension is payable on the death of a Member pursuant to Rule 4.7(q).
Unrestricted Non-Preserved Benefit	has the meaning given to it by the Relevant Law.

4.3 Participants

- (a) Any person to whom the Trustee may pay a pension without breaching the Relevant Law may be admitted to participate in this Sub-division as a Member under Clause 8.1 subject to the approval of, and the conditions imposed by, the Trustee.
- (b) The Trustee may accept in respect of a Member:

- (1) the rollover of an Unrestricted Non-Preserved Benefit;
 - (2) the transfer of an Unrestricted Non-Preserved Benefit from another Benefit Arrangement; and
 - (3) contributions made by or in respect of the Member.
- (c) The Trustee may establish rules governing the acceptance of amounts under Rule 4.3(b) including, but not limited to, the minimum amount that may be accepted.

4.4 Type of Pension

The Trustee may provide:

- (a) one or more of:
 - (1) an allocated pension;
 - (2) a non-commutable allocated pension;
 - (3) a term pension; or
 - (4) a lifetime pension; and
- (b) as a sub-set of the pensions referred to in Rule 4.4(a):
 - (1) a Complying Income Stream; or
 - (2) an income stream compliant with the United Kingdom legislative provisions required when benefits are transferred to the Fund from a pension scheme operating in the United Kingdom.

4.5 Compliance

The following legislative requirements are deemed to be incorporated into the Deed:

- (a) in relation to all pensions, the requirements relating to pensions stipulated under the standards prescribed under the Relevant Law applicable to the relevant pension to be paid by the Fund;
- (b) in relation to a Complying Income Stream, the requirements relating to such pensions prescribed under the Relevant Law; and
- (c) in relation to a pension referred to in Clause 4.4(b)(2), the requirements prescribed under the relevant United Kingdom legislation.

4.6 Selection of Pension

- (a) If an allocated pension or non-commutable allocated pension is to be paid under Rule 4.4(a)(1) or Rule 4.4(a)(2), as applicable, the Trustee must pay an allocated pension or a non-commutable allocated pension on the terms and conditions specified in Rule 4.7.
- (b) If a pension is agreed to be paid under Rules 4.4(a)(3) or 4.4(a)(4), the Trustee must pay the pension on the terms and conditions agreed between the Trustee and Member or in accordance with the requirements referred to in Clause 4.5(c) (if applicable).
- (c) The Trustee may provide the pension (including an allocated pension) by purchasing an annuity in its own name or in the name of the Member.

4.7 Allocated Pension

- (a) The Trustee may pay each Member a pension:

- (1) commencing on the date nominated by the Member which must be not later than necessary to comply with the Relevant Law; and
 - (2) terminating when the Member's Benefit is zero.
- (b) The Trustee must pay the pension to a Member at the times nominated by the Member as approved by the Trustee.
- (c) A Member may change the frequency of the pension payments if:
 - (1) the change is approved by the Trustee; and
 - (2) is in a form approved by the Trustee.
- (d) If at any time a Member has not made a selection as to the frequency of the pension payments, the Trustee must pay the pension annually.
- (e) For so long as the pension is payable, the Trustee must ensure that at least one payment is made during each Financial Year.
- (f) For each Financial Year (or part of a financial year), the pension payments to a Member must not be:
 - (1) larger than the maximum limits; nor
 - (2) smaller than the minimum limits,set out in the Relevant Law for allocated pension benefits.
- (g) As at the time a Member becomes a Member of this Sub-division and each 1 July, the Trustee must notify the Member of the minimum and maximum levels for pension payments for the Financial Year in which that date occurs.
- (h) At any time during a Financial Year, a Member may select the level of pension payments for that Financial Year within the limits in Rule 4.7(f). The selection must be approved by the Trustee.
- (i) If at any time during a Financial Year no selection has been made for that year under Rule 4.7(h) and a pension was being paid in the previous Financial Year, the Trustee must either:
 - (1) pay a pension for the current year calculated according to any previous agreement between the Trustee and Member; or
 - (2) if the Member has not made a stipulation for the current year, continue to pay a pension at the level prevailing at the end of the previous Financial Year.However, the Trustee may adjust the level up to the minimum or down to the maximum so as to comply with Rule 4.7(f).
- (j) If, at the time of joining this Sub-division, a Member has not made a selection under Rule 4.7(h), the Trustee must pay a pension at the minimum level required under Rule 4.7(f).
- (k) If permitted by the Relevant Law, a Member may commute the whole or a part of the Member's pension at any time by notifying the Trustee in a manner approved by the Trustee.
- (l) On a Member fully commuting the Member's pension, the Trustee must pay a lump sum benefit to the Member equal in amount to the Member's Benefit.
- (m) On a Member partially commuting the Member's pension, the Trustee must pay a lump sum benefit to the Member equal to the amount requested but not exceeding the Member's Benefit.
- (n) If the Relevant Law:
 - (1) requires the Trustee to commute part of a Member's pension, the Trustee must comply with that requirement; or

- (2) would require the pension to be varied or modified in any way to comply, the Trustee may vary or modify the pension accordingly.
- (o) The capital value of the pension and the income from it must not be used as security for a borrowing unless permitted by the Relevant Law.
- (p) The pension must not be transferred to another person unless permitted by the Relevant Law.
- (q) If a Member dies while still entitled to a pension, the Trustee must decide whether the Member's Benefit should be paid in accordance with Clause 10.5 in lump sum form or whether it should be paid as a continuing pension to a reversionary beneficiary.
- (r) In making a decision under Rule 4.7(q) the Trustee may have regard to any preference expressed by the Member.

Division 2

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TOWER Superannuation Division

Date ▶ 30 June 2010

- Recitals
- 1 The name of this division is the TOWER Superannuation Division (**Division**).
 - 2 The Division commences on the date of execution of this Deed of Amendment.
 - 3 The following rules and appendices (**Rules**), as amended from time to time, are the Rules of the Division.
 - 4 The Division must be managed and administered in all respects according to the Rules.
 - 5 The provisions of the Division may be amended in the manner set out in Clause 3.
 - 6 In the event of any inconsistencies between the Governing Provisions and the Rules of this Division, the Rules in the Division shall prevail.
-

1 Definitions and interpretation

1.1 Definitions

In the Rules unless the context or subject matter otherwise requires:

Term	Meaning
Actuary	an Actuary, whose accreditation is acceptable for the purposes of the Relevant Law, who is for the time being appointed by the Trustee for the purposes of the Rules.
Allocated Pension	<ol style="list-style-type: none"> 1 a pension under which a Beneficiary receives payments from the Division, such payments to be determined on the basis agreed between the Trustee and the Beneficiary from time to time and which may include rights of commutation; 2 which is payable only for so long as the Allocated Pension Account is in credit; and 3 which complies with the Relevant Law.
Allocated Pension Account	the account established by the Manager in respect of a Beneficiary and managed in accordance with Rule 5.2.
Allocated Pensioner	a Beneficiary who is receiving an Allocated Pension. To avoid doubt, an Allocated Pensioner is a Beneficiary and may be a Member, but an Allocated Pensioner who has never been admitted as a Member is not a Member.
Approved Benefit Arrangement	a fund or benefit arrangement, other than the Fund, to which a payment may be made from the Fund, or from which a payment may be accepted into the Fund, in accordance with the Relevant Law.
Auditor	an Auditor whose accreditation is acceptable for the purposes of the Relevant Law.
Beneficiary	a person presently beneficially entitled to receive a Benefit. To avoid doubt, an Allocated Pensioner is a Beneficiary and a Member may be a Beneficiary.
Benefit	the amount paid or payable (as the case may be) from the Division to or in respect of a Beneficiary.
Benefit Accounts	the accounts kept in respect of each Member and each Allocated

Term	Meaning
	Pensioner pursuant to Rule 5.
Binding Nomination	a nomination made for the purposes of Appendix 1 or Appendix 2. To be valid, the nomination must comply with the requirements set by the Trustee in accordance with Regulation 6.17A of SIS, in relation to the making of the nomination, its confirmation, its variation and its revocation. For a nomination to be effective in relation to a nominee, the nominee must be alive at the time of the nominator's death and be eligible to receive a Benefit under SIS.
Category Selection	a category selected by a Member in accordance with the provisions of Appendix 1.
Child	includes a step-child, ex-nuptial child, a legally adopted child, posthumous natural child, a child of the Member's Spouse and any child recognised under SIS.
Clause	a clause within the Governing Provisions.
Death Benefit Selection	a Binding Nomination or a Category Selection.
Deed, the Deed or this Deed	the Governing Provisions and the Rules of this Division as are in force from time to time governing the Fund and this Division, as amended from time to time.
Deed of Amendment	the Deed of Amendment for the TOWER Master Fund which establishes this Division.
Dependant	in relation to a Member or former Member, a Spouse or Child of the Member or former Member, any person who in the opinion of the Trustee is or was at the relevant time wholly or partially dependent on the Member or former Member for maintenance or support or any person with whom the Member has or had an Interdependency Relationship.
Division	the TOWER Superannuation Division.
Division Credit	in relation to a Member, the total balance of the Member's Accounts.
Division Year	Financial Year as defined in Clause 1.1 of the Governing Provisions.

Term	Meaning
Eligible Child	a Child who is under the age of 18 at the date of the Member's death.
Family Law Act	the <i>Family Law Act 1975</i> (Cth).
First Changeover Date	a date specified by the Trustee or, if the Trustee determines that there will be different categories of Members or Allocated Pensioners, the date so determined by the Trustee for Members or Allocated Pensioners of a particular category.
Foregone Benefits Account	the account established and managed by the Manager in accordance with Rule 5.4.
Fourth Changeover Date	a date specified by the Trustee or, if the Trustee determines that there will be different categories of Members or Allocated Pensioners, the date so determined by the Trustee for Members or Allocated Pensioners of a particular category.
Fund	the TOWER Master Fund.
Gainfully Employed	has, in relation to a Member, the same meaning as given to that expression in the Relevant Law and 'Gainful Employment' has an equivalent meaning.
Guardian	an Eligible Child's parent, step-parent, parent through adoption, or person appointed as such or recognised by law who has responsibility for the Eligible Child's financial circumstances.
Governing Provisions	the provisions of Clauses 1-13 of the TOWER Master Fund.
Insured Benefits	in relation to a Member, those benefits in respect of which the Trustee has effected risk life insurance cover.
Interdependency Relationship	has the meaning assigned to that term in SIS.
Life Insurance Policy	a life insurance contract issued on the life of a Member or group of Members by TOWER Australia Limited or such other insurer as the Trustee may determine from time to time.
Manager	TOWER Australia Limited (ABN 70 050 109 450), or the company

Term	Meaning
	replacing it as Manager in accordance with the Rules.
Member	any person who has been admitted as a Member of the Division pursuant to Rule 2. To avoid doubt, a Member may be an Allocated Pensioner and/or a Beneficiary.
Member's Account	the account kept in respect of each Member pursuant to Rule 5.
Non-Member Spouse	has the meaning assigned to that term in the Family Law Act.
Personal Representative	in relation to a Member or Beneficiary, the 'legal personal representative' of that Member or Beneficiary as defined under the Relevant Law.
Preserved Benefit	that part of a Benefit in respect of a Member, or that part of the Member's interest in the Division, as appropriate, which is required to be preserved under, and in accordance with, the Relevant Law.
RBL	the applicable reasonable benefit limit at the relevant time.
Relevant Authority	one or more of the Australian Prudential Regulation Authority, the Australian Securities and Investments Commission and the Commissioner of Taxation, as the context requires.
Relevant Law	has the meaning set out in Clause 1.
Rule or Rules	a Rule or group of Rules in the Rule identified by the same initial number, as altered or amended from time to time.
Second Changeover Date	a date specified by the Trustee or, if the Trustee determines that there will be different categories of Members or Allocated Pensioners, the date so determined by the Trustee for Members or Allocated Pensioners of a particular category.
SGC Legislation	the Superannuation Guarantee Charge Act 1992, the Superannuation Guarantee (Administration) Act 1992 and other related legislation and regulations or rulings issued thereunder.
SIS	the Superannuation Industry (Supervision) Act, 1993 and any regulations made or issued thereunder.

Term	Meaning
Spouse	includes: <ol style="list-style-type: none"> (a) another person with whom the Member is in a relationship that is registered under a law of a State or Territory; and (b) another person who, although not legally married to the Member, lives with the Member on a genuine domestic basis in a relationship as a couple.
Taxation Reserve Account	an account established and managed by the Manager in accordance with Rule 5.3.
Third Changeover Date	a date specified by the Trustee or, if the Trustee determines that there will be different categories of Members or Allocated Pensioners, the date so determined by the Trustee for Members or Allocated Pensioners of a particular category.
Temporary Disablement	in respect of a Member, the definition of 'temporary disablement' or the equivalent term in a policy of insurance effected by the Trustee to provide a benefit on the temporary disablement of the Member.
Total and Permanent Disablement	in respect of a Member: <ol style="list-style-type: none"> 1 to the extent that the Trustee is entitled to claim under a policy of insurance which the Trustee has effected to provide a benefit on the total and permanent disablement of the Member, the definition of 'total and permanent disablement' or the equivalent term in that policy; and 2 otherwise the ill health (whether physical or mental) of a Member where the Trustee is reasonably satisfied, having received certificates signed by two registered medical practitioners, that the Member is, because of ill health, unlikely ever again to engage in gainful employment for which the Member is reasonably qualified by education, training or experience.
Trustee	the trustee or trustees for the time being of the Fund or the Division whether original or substituted as hereafter provided.

1.2 Supremacy of the Rules of this Division

If there is any inconsistency between the Rules of this Division and the Governing Provisions, the Rules of this Division prevail.

2 Participation and membership

2.1 Membership

The Trustee may admit any person who is permitted to become a Member of the Division in accordance with the Relevant Law, to be a Member of the Division:

- (a) on the terms agreed between the prospective Member and the Trustee;
- (b) where Rule 2.1(a) does not apply, on the terms determined by the Trustee.

2.2 Information

- (a) The Trustee may require both applicants for membership, and Members, to provide information and evidence, complete documents and undergo medical examinations and tests, as the Trustee considers necessary or desirable.
- (b) Subject to the Rules if:
 - (1) an applicant for membership or a Member fails to comply with Rule 2.2(a) or to satisfy any test, standard or requirement to the satisfaction of the Trustee; or
 - (2) any statement made or evidence provided by or in respect of an applicant for membership or a Member (whether in connection with an application to become a Member or otherwise) is found to contain any mis-statement, or there has been a material non-disclosure of relevant information;

the Trustee may impose special terms, conditions and restrictions in respect of membership of, and Benefits under, the Division.

2.3 Terms of Membership

Upon becoming a Member of the Division, the Member is deemed to have approved of and is bound by the Rules and the Deed.

2.4 Power to comply with Family Law Act

The following provisions apply notwithstanding any other provision of this Deed:

- (a) a new interest must not be created in the Division for a Non-Member Spouse;
- (b) the Trustee may in accordance with the Family Law Act and the Relevant Law:
 - (1) provide a Non-Member Spouse or any other person with information (including, without limitation, information in relation to a Member's interest in the Division);
 - (2) give effect to a superannuation agreement, payment flag, flag lifting agreement (within the meaning of those expressions in Part VIII B of the Family Law Act) or any other agreement or court order made pursuant to Part VIII B of the Family Law Act, in relation to a Member's interest in the Division;
 - (3) give effect to a payment split under Part VIII B of the Family Law Act in relation to a Member's interest in the Division including, without limitation:
 - (A) rolling over or transferring to another Approved Benefit Arrangement or paying to the Non-Member Spouse, the Non Member Spouse's entitlement under the payment split in the

- circumstances permitted by the Family Law Act and the Relevant Law;
- (B) reducing the entitlement of the Member, or any other person to whom the Member's interest would have been paid, by the amount of the Non-Member Spouse's entitlement under the payment split in accordance with the Family Law Act and the Relevant Law;
 - (C) commuting a pension or annuity payable from the Division; and
 - (D) apportioning the 'minimum benefits', 'preserved benefits', 'restricted non preserved benefits' and 'unrestricted non preserved benefits' (within the meaning of those expressions in the Relevant Law) as between the Member's interest in the Division and the Non-Member Spouse's entitlements under the payment split in accordance with the Family Law Act and the Relevant Law; and
- (4) charge, and deduct amounts payable from the Division, fees in respect of any matter or thing done under this clause, an application for information about a Member's interest in the Division or any other thing done pursuant to Part VIIIB of the Family Law Act.
- (c) The Trustee must treat the Non-Member Spouse as a Member where required by the Family Law Act and the Relevant Law.

2.5 Cessation of Membership

A Member shall cease to be a Member upon:

- (a) payment of the Benefit in full to, or in respect of, the Member under the Rules; or
- (b) forfeiture of the Member's entire interest in the Division under Rule 12; or
- (c) transfer of the Member's entire interest in the Division under Rule 10.2 or 10.3, whichever occurs first.

2.6 Notice to Applicants and New Members

The Trustee shall make available, provide or cause to be provided to prospective members, applicants and new Members the statements and other information, and in the manner, the circumstances and at the times, prescribed by the Relevant Law.

3 Trustee and manager

3.1 Appointment and Resignation or Removal of the Trustee

Save as set out in this Rule 3.1, the appointment and resignation of the Trustee shall be governed by Clause 5.

- (a) The new Trustee shall execute a deed in such form as the retiring Trustee may require whereby it undertakes to the retiring Trustee and Members jointly and severally to be bound by the Rules.
- (b) From the date of its retirement, the retiring Trustee shall be released from complying with the Rules and the new Trustee may exercise all the powers and enjoy all the rights and shall be subject to all the duties and obligations of the

Trustee under the Rules as though it had been originally named as the Trustee, but no release under this paragraph shall extend to any existing or antecedent breach of trust on the part of the retiring Trustee or any existing or antecedent breach of its duties imposed by law.

- (c) The new Trustee may settle with the retiring Trustee the amount of any sums payable to the Division by the retiring Trustee or by the Division to the retiring Trustee under the Rules, and may give or accept from the retiring Trustee a discharge in respect of such liability. Any such settlement or discharge shall be conclusive and binding, except in the case of fraud, but shall not be binding on Members and Allocated Pensioners.
- (d) Upon the retirement of the Trustee under the Rules, the retiring Trustee ceases to be liable for losses, taxes or claims in respect of the Division except to the extent that such losses, taxes or claims arise by reason of any existing or antecedent breach of trust on the part of the retiring Trustee or any existing or antecedent breach of its duties imposed by law.

3.2 Appointment and resignation or removal of Manager

- (a) The Manager may resign as Manager of the Division by giving 1 month's written notice to the Trustee, or such shorter period as is agreed with the Trustee.
- (b) The Manager shall be removed by the Trustee forthwith upon the happening of any of the following events:
 - (1) if the Manager goes into liquidation (except for the purpose of amalgamation or reconstruction or some similar purpose) or ceases to carry on business; or
 - (2) if a receiver of the property or undertaking of the Manager is appointed; or
 - (3) if after reasonable notice from the Trustee, the Manager fails to carry out or satisfy any duty or obligation imposed on the Manager under the Rules; or
 - (4) if 75% of the Members and Allocated Pensioners, so require.
- (c) In the event the Manager resigns, the Trustee shall appoint a new Manager acceptable under the Relevant Law. If the Manager is removed, then the Trustee shall appoint a new Manager in its absolute discretion, subject to the Relevant Law. Pending such appointment, the Trustee may act as Manager. The company or person so appointed, and the Trustee during such times as the Trustee acts as Manager, shall be entitled to exercise all powers conferred on the Manager under the Rules.
- (d) On the retirement or removal of the Manager, the Trustee shall pay the outgoing Manager the amount, if any, due for services rendered prior to the date of retirement or removal.
- (e) The Trustee shall settle with the Manager the amount of any sums payable by the Manager to the Trustee or by the Trustee to the Manager under the Rules and give to, or accept from, the Manager a discharge in respect of the same. Such discharge shall be conclusive and binding upon all persons who may claim under the Rules. The Trustee may also make such arrangements as it thinks fit in discharge of the Manager from any existing or future liability under the Rules and may discharge the Manager in accordance with such arrangements and any such discharge shall be conclusive and binding upon all persons who may claim under the Rules, except in relation to an antecedent breach of the Rules on the part of the Manager.

3.3 Liability of Trustee and Manager

- (a) A reference in this Rule to 'Trustee and/or Manager' shall, unless the context requires otherwise, also be regarded as a reference to a director of the Trustee and/or Manager.
- (b) Subject to Rule 3.3(c), the Trustee and/or Manager shall not incur any liability for:
 - (1) any loss suffered by the Division or suffered by any Member or any person having at any time an interest in the Division;
 - (2) the act or default of any Member or Beneficiary;
 - (3) the neglect or default of any solicitor, banker, accountant, broker, Auditor, Actuary, adviser, agent or other such person, firms or companies employed in good faith by the Trustee and/or Manager;
 - (4) the bankruptcy or insolvency of, or any fraudulent or negligent act by, any servant or delegate of the Trustee and/or Manager or any person with whom any investment may be deposited;
 - (5) the payment of an amount or benefit to a person reasonably believed to be entitled thereto but whom is in fact not so entitled;
 - (6) any action taken or thing suffered in reliance upon any document, record, authority, representation, statement or evidence reasonably believed by the Trustee and/or Manager, or a servant or delegate, in good faith to be genuine, accurate and effective;
 - (7) any act or acts done or omitted to be done bona fide in conformity with any decisions of the Trustee and/or Manager; or
 - (8) any mistake or determination or erroneous decision that exposes the Trustee and/or Manager to any claim by any person having an interest in the Division.
- (c) Rule 3.3(b) shall not operate to preclude any liability of the Trustee and/or Manager in the event of:
 - (1) fraud;
 - (2) wilful neglect or misconduct; or
 - (3) such other circumstances as the Relevant Law prescribes.
- (d) If any of the provisions of this Rule are void or ineffective by operation of law, or declared void by any Court of competent jurisdiction, such avoidance or ineffectiveness shall not affect the operation of the remaining provisions to the extent that the ineffective or void provisions can be severed from the Rule.

3.4 Indemnity of Trustee and Manager

- (a) A reference in this Rule to 'Trustee and/or Manager' shall, unless the context requires otherwise, also be regarded as a reference to a director of the Trustee and/or Manager.
- (b) The Trustee and/or the Manager and each of them severally shall, to the extent permitted by law, be indemnified from the Fund against all liabilities (except those incurred in the event of fraud or wilful neglect or misconduct on the part of the Trustee and/or the Manager) incurred in the exercise or purported exercise or as a consequence of the failure to exercise any of the trusts, powers, authorities and discretions vested in the Trustee and/or the Manager under the Rules or at law and, to the extent permitted under the Relevant Law, shall have a lien on and may use the assets forming part of the Division or the Fund for the purposes of this indemnity.

- (c) This indemnity shall extend to any payments made to any person whom the Trustee and/or the Manager bona fide believes to be entitled thereto although it may be subsequently found that the person was not in fact so entitled.

3.5 Remuneration of Trustee

The Trustee shall not be entitled to charge fees for its services, but may recover costs and disbursements from the Division or the Fund.

3.6 Delegation by Trustee and Manager

The Trustee and the Manager may, as the case may be, delegate any function in accordance with Clause 5.3(a).

3.7 Confidentiality

The Trustee, the Manager and their directors shall be required to treat as confidential any information acquired in the course of performing their responsibilities and only use that information for the purposes of the Division.

3.8 Trustee and Manager Discretion

Subject to Rule 3.6, the Trustee and the Manager, in the exercise of powers and discretion vested in it under the Rules, shall have an absolute and uncontrolled discretion and may exercise or enforce all or any powers and discretions from time to time or at any time, or may refrain from exercising all or any powers or discretions from time to time, or at all.

3.9 Signing of documents by the Trustee

Unless otherwise provided in the constituent document of the Trustee, any two directors of the Trustee are authorised to execute, sign, enter into or acknowledge cheques, negotiable instruments, contracts, agreements, proposals for insurance, applications, transfers or assignments of policies of insurance or other assets of the Division, on behalf of the Trustee.

3.10 Trustee Covenants

The Trustee covenants that it shall comply with the covenants (if any) required of it by the Relevant Law.

3.11 Manager Covenants

The Manager will make available, or ensure that there is made available, all books, records or other information required by the Trustee for the purposes of the Division. The Manager will use its best endeavours to carry out its functions and duties under the Rules in a proper and an efficient manner.

3.12 Member acting as Trustee

No director, officer or employee of the Trustee or the Manager shall by virtue of such position, or of powers being delegated by the Trustee to him or her, be disqualified from being a Member of the Division or from exercising any rights or deriving any benefits as a Member. If permitted by the Trustee's constituent document and to the extent permitted by law, a director of the Trustee who is, or is about to become a Member, may be counted in a quorum and vote at any meeting of the Trustee when the Trustee is

exercising powers pursuant to the Rules and may attest the affixing of the common seal of the Trustee notwithstanding that, as a Member, he or she is interested in the matter.

4 Contributions

4.1 Member Contributions

- (a) Subject to Rule 14.1, a Member may contribute to the Division on terms agreed with the Trustee. The Trustee may assume, without enquiry, that an employer of the Member is authorised to deduct such contributions from the Member's salary and the Trustee, and the Division, shall not be liable if such contribution is not authorised by a Member, or otherwise by law.
- (b) If a Member is employed, the employer of the Member may contribute to the Division for the benefit of the Member any amount acceptable to the Trustee.
- (c) The Trustee may accept contributions in respect of a Member from any other person who is permitted under the Relevant Law to make contributions in respect of the Member.

4.2 Payment of Contributions

- (a) Contributions shall be paid to the Trustee on a monthly basis, or at such other intervals acceptable to the Trustee.
- (b) Contributions shall be paid in cash or by other means acceptable to the Trustee.

4.3 Payment to Life Insurance Company

If a payment, which is designated to be a contribution or an additional contribution to the Division, is made by a Member or an employer of the Member directly to the Manager, it is deemed to be a payment of the contribution to the Trustee and a payment by the Trustee to that company.

5 Accounts, valuation and allocation of profits and losses

5.1 Member Contribution Account

The Manager shall maintain an account in respect of each Member to which the following amounts shall be credited or debited, as appropriate:

- (a) contributions to the Division made by or in respect of the Member;
- (b) an amount equal to the value of assets received by the Trustee in respect of the Member pursuant to Rule 10;
- (c) amounts arising pursuant to Rule 5.3 and 5.4;
- (d) amounts arising pursuant to Rule 5.6;
- (e) administration expenses, if any, deducted pursuant to Rule 9;
- (f) insurance charges and premiums, if any, deducted pursuant to Rule 7.3;
- (g) Insured Benefits received in respect of the Member, if any; and
- (h) Benefit payments.

5.2 Allocated Pension Account

If a Benefit is payable as an Allocated Pension, the Manager shall establish an Allocated Pension Account in respect of the Allocated Pensioner, which account shall be maintained for any reversionary Allocated Pensioner in relation to the Benefit, to which the following amounts shall be credited or debited, as appropriate:

- (a) the value of the Benefit at the time the Allocated Pension Account is established;
- (b) amounts debited to meet taxation liabilities pursuant to Rule 11;
- (c) amounts arising pursuant to Rule 5.3 and 5.4;
- (d) amounts arising pursuant to Rule 5.6;
- (e) administration expenses, if any, deducted pursuant to Rule 9;
- (f) insurance charges and premiums, if any, deducted pursuant to Rule 7.3;
- (g) Insured Benefits received in respect of the Allocated Pensioner, if any; and
- (h) Allocated Pension payments.

5.3 Taxation Reserve Accounts

The Manager shall establish one or more Taxation Reserve Accounts as it considers necessary or convenient for the purposes of the Division, to which the Trustee shall credit amounts which, in the Trustee's opinion, are required to be set aside to meet the taxation liabilities of the Division, including:

- (a) income tax on contributions to the Division;
- (b) income tax on earnings of the Division;
- (c) income tax on Benefits payable to Members or Beneficiaries;
- (d) an allowance for capital gains tax which may be payable in respect of unrealised gains on assets of the Division;
- (e) capital gains tax on realised assets;
- (f) any other taxes payable by the Trustee as may be required by the Commissioner of Taxation or other lawfully empowered taxing authority.

The Taxation Reserve Accounts shall be debited by the Trustee as required to pay tax, or to transfer to the Member's Accounts and Allocated Pension Accounts, on an equitable basis, amounts set aside to pay tax but which are no longer required for this purpose.

5.4 Foregone Benefits Account

The Manager shall maintain a Foregone Benefits Account to which amounts are credited as provided in the Rules and which shall be applied, within the period (if any) specified under the Relevant Law, as follows:

- (a) if the Benefit of a Member, or interest of a Beneficiary, has been forfeited and, in the case of a Member, membership terminated under Rule 12.1, the Trustee may in its discretion, but only to the extent permitted under the Relevant Law, apply all or part of the Benefit or interest forfeited to or for the benefit or maintenance of that former Member or Beneficiary and/or the Spouse or Child of the former Member or any other person who, in the opinion of the Trustee, is dependent on the former Member for maintenance and support; or
- (b) in any one or more of the ways approved, either generally or in the specific instance, by the Relevant Authority.

In the absence of any such approved means of applying the proceeds of the Foregone Benefits Account, the Trustee shall apply the proceeds in any one or more of the following ways to the extent such application is not prohibited by, and is within the period (if any) specified under, the Relevant Law:

- (c) toward the provision of additional benefits for Members, former Members and/or their Dependants; or
- (d) to pay any expenses of the Fund; or
- (e) to assist a Member, former Member and/or Dependand, in the event of financial hardship, ill health, accident or other misfortune causing hardship.

5.5 Valuation

At the end of each Division Year, on the winding up of the Fund or the Division, or at any other time the Trustee considers appropriate, the Manager shall value the interest in the Division of each Member and Allocated Pensioner.

5.6 Allocation of profit and losses

After valuing the interest of each Member and Allocated Pensioner under Rule 5.5, the Manager shall allocate profits or losses, as appropriate, to each Member's Account and each Allocated Pension Account at the valuation date.

5.7 Allocation on payment of a Benefit

When the Trustee is required to pay all or part of the Benefit to or in respect of a Member or an Allocated Pensioner, the Manager shall adjust the value of the Member's Account or the Allocated Pension Account, having regard to the current value of the interest of the Member or Allocated Pensioner, as appropriate.

5.8 Manager's Powers - Accounts

- (a) The Manager may sub-divide any account established under this Rule, or establish additional accounts, if, in the opinion of the Manager, it is appropriate or desirable to do so for the purposes of the Fund or the Division.
- (b) Subject to the Relevant Law, the Manager may vary the items to be credited or debited to any of the accounts established under this Rule if, in the opinion of the Manager, it is necessary or desirable to do so, for the purposes of the Fund and Division, having regard to the interests of Members and Allocated Pensioners.

6 Payment of benefits

6.1 Overriding restrictions

Notwithstanding anything expressed or implied to the contrary in the Rules:

- (a) the Trustee shall limit, adjust, pay or delay the payment of a Benefit (including, but not limited to) refunding co-contributions and/or any other amounts as required by the Superannuation (Government Co-Contributions for Low Income Earners) Act or take such other appropriate action as is, in the opinion of the Trustee, necessary to ensure the Division complies with the Relevant Law;

- (b) no deduction, reduction, forfeiture or other adjustment shall be made to or from any Benefit that has accrued, or become payable, to a Beneficiary in breach of the Relevant Law;
- (c) in any case where the Trustee applies for Insured Benefits in respect of a Member, such Insured Benefit shall (unless otherwise determined by the Trustee) be reduced to the extent to which the Trustee is unable to effect insurance on terms acceptable to the Trustee, or by the amount of the Insured Benefit or part thereof which, having been effected, the insurer declares void, or refuses liability for, for any reason;
- (d) a Beneficiary shall accept payment of the Benefit calculated by the Trustee in full discharge of all claims on the Fund;
- (e) the Trustee shall ensure Benefits are fully secured as provided under the Relevant Law, but the Trustee shall not be liable to provide Benefits greater in amount than can be secured by the assets of the Division;
- (f) the Trustee may, at the request of a Member, pay to or apply on behalf of the Member any part or the whole of the Member's Account, subject to the Relevant Law.

6.2 Retirement

- (a) On a Member's retirement from Gainful Employment after the age of 55, the Member shall receive a Benefit equal to the balance of the Member's Account.
- (b) At the request of a Member who has attained age 65, the Trustee may, if permitted under the Relevant Law, permit the Member to withdraw from the Fund prior to retirement, in which case the Member shall receive a Benefit equal to the balance of the Member's Account.
- (c) Where a Member has attained age 65, the Member shall receive a Benefit equal to the balance of the Member's Account when:
 - (1) he or she ceases working full-time or part-time; or
 - (2) having attained the age of 70, he or she ceases working full-time.

For the purposes of this paragraph, the expressions 'full-time' and 'part-time' have the same meanings as they have for the time being under the Relevant Law.

6.3 Death

- (a) On the death of a Member, the Trustee shall pay the balance of the Member's Account (including any insured benefit) in accordance with Appendix 1, Appendix 2, Appendix 3, or Appendix 4 (as appropriate).
- (b) On the death of an Allocated Pensioner, the Trustee shall pay the Benefit of the Allocated Pensioner in accordance with Appendix 2.

6.4 Disablement

- (a) On the Total and Permanent Disablement (proved to the satisfaction of the Trustee) of a Member, the Trustee shall pay to the Member the balance of the Member's Account (including any Insured Benefit).
- (b) On the Temporary Disablement (proved to the satisfaction of the Trustee) of a Member, the Trustee must pay to the Member the Insured Benefits, as soon as reasonable practicable after they are paid to the Trustee by the insurer.

6.5 Beneficiary under disability

Subject to the Relevant Law, if it appears to the Trustee that a Member, former Member or other Beneficiary (in this Rule 6.5 referred to as 'the recipient') is under any legal disability, or is unable for any reason to satisfactorily deal with an amount otherwise payable to the recipient from the Division, the Trustee may pay or apply the whole or part of any Benefit payable to the recipient in one or more of the following ways:

- (a) where the recipient is a Member or former Member, to any Dependant of the recipient;
- (b) where the recipient is a Member or former Member, for or towards the maintenance, education, advancement or otherwise for the benefit of the recipient or of any Dependant of the recipient, in such form and manner and subject to such terms and conditions as the Trustee thinks fit;
- (c) where the recipient is a Member or former Member and without limiting the generality of Rule 6.5(b), to a person who appears to the Trustee to be a trustee for (including a trustee appointed by the Trustee under a separate trust established by the Trustee, which trust may be subject to such trusts and powers as the Trustee thinks fit) or a representative of, Spouse, Child, parent or guardian of, or a person who has for the time being the care or custody of, the recipient or any Dependant of the recipient, or appears to have the financial expense of the care or custody of the recipient or of any Dependant of, the recipient; and
- (d) where the recipient is not a Member or former Member, to a person who appears to the Trustee to be a trustee for (including a trustee appointed by the Trustee under a separate trust established by the Trustee, which trust may be subject to such trusts and powers as the Trustee thinks fit), a representative, parent or guardian of, or a person who has for the time being the care or custody of, or appears to have the financial expense of the care or custody of, the recipient.

The Trustee is not under any duty to have recourse to this Rule or to consider whether recourse should be had to it, notwithstanding that the Trustee may have actual notice of any infirmity, lack of fitness or other relevant matter as provided in this Rule.

6.6 Discharge to Trustee

The banking of the Trustee's cheque by or on behalf of any person to whom the Trustee is authorised to make payment shall be a full and true discharge to the Trustee, and the Trustee shall not be bound or concerned to see to the application of such payment.

6.7 Preservation of Benefits

If all or any part of the Benefit payable under Rule 6 is a Preserved Benefit, then the Preserved Benefit will only be payable in the following circumstances:

- (a) the Member's retirement from the workforce having attained the age prescribed under the Relevant Law; or
- (b) the retirement of the Member from the workforce on the grounds of Total and Permanent Disablement where the Trustee is given proof that the disability is such that the payment may be made in accordance with the Relevant Law; or
- (c) the death of the Member; or
- (d) the Member's permanent departure from Australia; or
- (e) the Member attaining age 65; or

- (f) such other circumstances as may be prescribed under the Relevant Law or approved by the Relevant Authority, either generally, or in the specific instance.

6.8 Application of Preserved Benefit

With the written consent of the Member, the Preserved Benefit may be transferred by the Trustee to an Approved Benefit Arrangement nominated by the Member and acceptable under the Relevant Law.

If the Member does not nominate an acceptable Approved Benefit Arrangement, then the Trustee may, subject to the Relevant Law, nominate such a facility and make such transfer on behalf of the Member, or otherwise retain the Preserved Benefit in the Member's Account until it is payable in accordance with Rule 6.7 or is required under the Relevant Law to be applied in a certain manner, in which case it shall be so applied.

6.9 Payment

- (a) Subject to the payment complying with the Relevant Law, Benefits under the Division shall be payable as:

- (1) a lump sum;
- (2) a pension;
- (3) an Allocated Pension; or
- (4) a combination of all, or any, of a lump sum, a pension and an Allocated Pension;

as required under the Appendices (if applicable) but otherwise as determined by the Trustee, taking into account the request of the Beneficiary.

- (b) The Trustee shall pay the Benefit to the Beneficiary as soon as practicable or may, at the request of the Beneficiary, defer payment of the whole or part of the Benefit but only for the period, if any, permitted under the Relevant Law.
- (c) The Trustee may provide a Benefit payable as a pension by purchasing from the Manager, in the name of the Beneficiary, an annuity on such terms as is determined by the Trustee after consulting the Beneficiary. Such annuity shall, to the extent necessary, comply with the Relevant Law.
- (d) On the death of an Allocated Pensioner the Trustee shall pay the balance of the Allocated Pension Account in accordance with Appendix 2.
- (e) The Trustee may provide a Benefit or part of a Benefit payable as a lump sum by transferring to the relevant Beneficiary an asset or assets of the Division equal in value, as determined by the Trustee, to the Benefit or part of the Benefit so payable.

6.10 Payment under Relevant Law

If any Benefit is under the Relevant Law:

- (a) required to be applied in a certain manner, including by way of payment to the Relevant Authority, the Trustee shall apply the Benefit in accordance with the Relevant Law;
- (b) permitted to be applied in a certain manner, the Trustee may apply the Benefit in accordance with the Relevant Law.

7 Trustee's power to invest and insure

7.1 Authorised Investments

- (a) The Trustee shall invest the Division in one or more Life Insurance Policies which may provide for the segregation of such investments into separate sub-funds with differing investment objectives.
- (b) The Trustee shall provide Members and Allocated Pensioners with a description of any available investment sub-funds in the Life Insurance Policies, including the investment objectives and charges applicable to each. The Trustee shall notify Members and Allocated Pensioners of any material change in the investment objectives of, and charges applicable to, the investment sub-funds, if any.
- (c) Each Member and Allocated Pensioner shall, in such form as the Trustee specifies, designate the investment sub-funds in the Life Insurance Policies into which the Member's Account or the Allocated Pension Account, as the case may be, are to be allocated. The Trustee shall make an allocation in accordance with that designation.
- (d) Current and future allocations made pursuant to Rule 7.1(c) may be varied, but only in accordance with the terms specified by the Trustee from time to time.
- (e) Notwithstanding anything in the Governing Provisions or Rules to the contrary, in the event that no designation has been made by a Member, Beneficiary or Guardian or the Trustee cannot for any reason comply with the investment designation made by the Member, Beneficiary or Guardian, then the Trustee will invest the amount in the following manner:
 - (1) 100% in the TOWER Conservative Portfolio;
 - (2) if this portfolio is not available at the time of the designation of the Allocated Pension, the Trustee may invest the amount in another investment strategy or strategies at its discretion;
 - (3) the Trustee may at its absolute discretion apply any other investment strategy in lieu of the strategy in sub-clause (1) which it determines to be appropriate.
- (f) The Trustee will not:
 - (1) for the purposes of Rule 7.1(e), be under any obligation to invest in any investment strategy other than the TOWER Conservative Portfolio or to consider such investment; or
 - (2) be liable in respect of the investment in any investment strategy determined by it pursuant to Rule 7.1 or otherwise invested in by it, except to the extent that Rule 3.3(c) may otherwise provide.

7.2 Additional powers

- (a) The Trustee may, if requested by a Member, effect a Life Insurance Policy to secure the Insured Benefits of the Member, subject to the insurance cover being available.
- (b) The Trustee may generally do all acts and things as it may consider necessary or convenient for the administration, maintenance and preservation of any investment of the Division and in the performance of its obligations under the Rules.

7.3 Investment and insurance costs

Premiums for Insured Benefits, and fees charged, under a Life Insurance Policy will be deducted by the Trustee from the Member's Account or the Allocated Pension Account, as the case may be, and remitted to the insurer.

7.4 Restrictions

The Trustee shall not:

- (a) make any loans or advances to any Member or Allocated Pensioner; or
- (b) borrow any sum of money except, subject to the Relevant Law, for the purpose of obtaining temporary finance and then only in the form of a bank overdraft or any other facility permitted under the Relevant Law.

8 Records, financial accounts and reports

8.1 Division Records

The Trustee shall require the Manager to keep or cause to be kept all records and financial accounts of this Division in accordance with Clause 7.

8.2 Auditor

The Trustee shall appoint an Auditor of the Division who shall have access to all accounts, records and other information relating to the Division.

9 Administration

9.1 Appointment of administrator and advisers

- (a) If necessary to perform functions which are required under the Relevant Law, or which the Trustee may consider desirable for the proper administration of the Fund, the Trustee may appoint an Actuary, investment managers, solicitors, counsel, brokers, agents, consultants or such other advisers as the Trustee considers to be appropriate.
- (b) The appointment of an administrator or adviser shall be on such terms as the Trustee determines in its discretion.

9.2 Administration costs

All costs, charges, and expenses incurred in connection with the establishment, maintenance, administration, and operation of the Division may be deducted from the Member's Accounts, the Allocated Pension Accounts, the Division or the Fund, as appropriate, on the basis determined by the Trustee, subject to the Relevant Law, to be the most appropriate and equitable manner of allocating expenses under the Fund.

10 Transfers

10.1 Transfers from other funds

Subject to the Relevant Law, the Trustee:

- (a) shall have the power at any time to arrange with a Member who was a member of another Approved Benefit Arrangement to accept the transfer of a benefit in respect of that Member to the Division, to be applied as provided in the Rules; and
- (b) shall pay that part of the Benefit derived from such transferred amount no earlier than the date specified in the trust deed or other relevant instrument governing the Approved Benefit Arrangement from which it was transferred, and no later than the date prescribed under the Relevant Law;

and the Trustee may, subject to the Relevant Law but notwithstanding any other provision in these Rules, determine that a person shall be a Member of the Fund for the purposes of a transfer to the Fund from any other Approved Benefit Arrangement and, in respect of such transfer, specify such terms and conditions as the Trustee may determine in respect of the membership of the person, including terms and conditions necessary to ensure that the Fund will be a 'successor fund' under the Relevant Law for the purposes of the transfer.

10.2 Transfers to other funds

- (a) Subject to Rules 10.2(b) and 10.2(c), the Trustee, on the written request of a Member or Beneficiary who:
 - (1) is entitled to receive a Benefit, may transfer all or part of that Benefit to another Approved Benefit Arrangement; or
 - (2) is not entitled to be paid a Benefit but is entitled to join another superannuation fund which is a complying superannuation fund under the Relevant Law, may transfer to that fund the balance in the Member's Account.
- (b) To the extent any part of the amount to be transferred is a Preserved Benefit, the Preserved Benefit will not be transferred unless the transferee Approved Benefit Arrangement or fund, as the case may be, restricts payment of the Preserved Benefit in the manner prescribed under the Relevant Law.
- (c) An amount must not be transferred in respect of a Member or Beneficiary unless the Trustee is satisfied that the transferee Approved Benefit Arrangement or fund, as the case may be, prohibits payment of the relevant amount to the Member or Beneficiary in circumstances corresponding to those in which payment would be prohibited under Rule 6.1.
- (d) The Benefit in the Division of a Member or Beneficiary in respect of whom an amount is transferred under this Rule shall be reduced by the amount transferred.
- (e) A Benefit or entitlement may be transferred pursuant to this clause by way of a transfer of assets, including a life insurance policy or policies.
- (f) A Benefit or entitlement may be transferred to an Approved Benefit Arrangement without the consent of the Member in the circumstances permitted by the Relevant Law and subject to paragraphs (b) and (c) of this Rule.

10.3 Transfer to another division

The Trustee may transfer a Member from this Division to another division of the Fund in accordance with Clause 11.3.

11 Taxation

11.1 Power to make provision for tax liability

The Trustee shall make adequate provision to meet the taxation liability of the Division in accordance with Rule 5.

11.2 Power to pay tax

The Trustee shall pay the tax, duties or other governmental imposts it is lawfully required to pay, whether in respect of contributions, other income of the Division or on Benefits or other payments out of the Division.

11.3 Power to transfer tax liability

The Trustee may, to the extent permissible under the Income Tax Assessment Act 1936, transfer the tax liability of the Division to an institution or organisation which consents to such transfer.

11.4 Deduction of tax

The Trustee shall deduct from any Benefit or other payment made from the Division the amount of any tax, duty, or other impost applicable in respect of such payments.

12 Forfeiture of entitlements

12.1 Conditions of forfeiture

If any of the following events or circumstances occur:

- (a) a Member or Beneficiary or any other person assigns or charges or attempts to assign or charge his or her interest in the Fund other than in circumstances which amount to the commission of an act of bankruptcy under the Bankruptcy Act 1966;
- (b) prior to 1 July 1994, a Member or Beneficiary is declared bankrupt;
- (c) the Member would otherwise be deprived of the enjoyment of his or her Benefit;

such Member or Beneficiary shall forfeit all of his or her interest in the Division or right to receive his or her Benefit, to the extent such forfeiture is not proscribed by the Relevant Law or any other law. If, by virtue of this Rule, a Member no longer has any interest in the Division, or a right to receive his or her Benefit, then such Member shall cease to be a Member of the Fund and any Beneficiary who might otherwise be entitled shall forfeit all his or her interest in the Division.

12.2 Application of Forfeited Benefits

Forfeited Benefits shall be credited to the Foregone Benefits Account.

13 Lien over benefits

The Trustee shall have a lien over the Benefit payable to or in respect of a Member to the extent of an identified debt owed by a Member to the Trustee, as Trustee of the Fund and shall deduct the amount from the Member's Benefit.

14 Limits on contributions and benefits

14.1 Contributions

The Trustee shall only accept contributions which can be made to the Division in accordance with the Relevant Law.

14.2 Benefits

Despite anything in the Rules to the contrary, the Trustee shall ensure that any Benefit paid or payable from the Division (together with any other relevant benefit which the Trustee is required to take into account) is limited to the extent necessary to ensure the Trustee and the Fund are not in breach of the Relevant Law or any other legislation which limits the amount of any Benefit payable from the Division. In order to give effect to this Rule, the Trustee has power:

- (a) to require the Member, or Beneficiary, to provide details of any other relevant benefits which have been, are being or may be provided for the Member or Beneficiary or for Dependants of the Member;
- (b) to refuse to accept part or all of a contribution by or in respect of a Member or Beneficiary;
- (c) to adjust the Benefit payable to or in respect of a Member.

15 Variation of Rules

15.1 Method of Variation

- (a) All or any of the provisions of the Rules (including this Rule) may be varied in accordance with Clause 3.

16 Winding up of the Division

16.1 Dissolution of the Division

If the Manager has resigned or been removed and the Trustee is unable to locate a suitable replacement Manager, or the Trustee has resigned or been removed and the Manager cannot locate a suitable party to act as Trustee of the Division, or in the event that all the Members cease to make contributions to the Division, or in such other circumstances as the Trustee considers to be appropriate and which will not result in the Fund being ineligible for the maximum income tax concessions available to superannuation funds for any period prior to dissolution of the Division, then the Trustee or Manager, or both, as appropriate, may determine that the Division shall be dissolved

and determine the final balance date of the Division (in this Rule referred to as 'the Closure Date').

All contributions to the Division shall cease on the day immediately prior to the Closure Date and any arrears in contributions and other payments to the Division due up to the Closure Date shall be paid forthwith. The Trustee shall promptly advise or cause to be advised all Members and Beneficiaries that the Division is to be wound up and notwithstanding any contrary provision in the Rules, no Benefits shall be paid from the Division to or in respect of Members or Beneficiaries until after the Closure Date.

16.2 Trustee's expenses and payment of Benefits

On the Closure Date the Trustee or the Manager, as appropriate, shall value the Division and, after providing for the payment of the costs and disbursements of administering and dissolving the Division and any outstanding tax payable from the Division, adjust the value of the Member's Account of each Member and the Allocated Pension Accounts of each Allocated Pensioner on an equitable basis, such that the Division is thereby fully allocated to such accounts. The Trustee or the Manager, as appropriate, then:

- (a) shall pay the balance of those accounts to the Beneficiary entitled; or
- (b) transfer the Benefit in accordance with Rule 10.2;

but shall not pay a Benefit to or in respect of a Member other than in the circumstances acceptable under the Relevant Law.

16.3 Power of Trustee in winding up of the Division

The Trustee or the Manager, as appropriate, may do all things necessary or convenient for giving effect to this Rule 16.

17 Resolution of questions or disputes

The Trustee shall take all reasonable steps to ensure that there are at all times in force arrangements under which Members and Beneficiaries may make enquires or complaints in relation to the operation or management of the Division as it affects them, and that such enquires or complaints are properly dealt with as required by the Relevant Law and the terms of the Deed.

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Appendix 1

- 1 For the purposes of this Appendix, a person who became a Member prior to the First Changeover Date shall be referred to as an 'A Member', with a person who became a Member on or after the First Changeover Date referred to as a 'B Member'. An A Member may, if permitted by the trustee, become a B Member and will, in any event, become a B Member upon agreeing with the Trustee to commence an Allocated Pension within a specified period of time (but a B Member cannot become an A Member).
- 2 On the death of an A Member, the Benefit payable under Rule 6.3 shall be paid to such one or more of the Member's Dependants and/or Personal Representative, in such manner and such proportions (if paying to more than one) as the Trustee in its absolute discretion shall determine. The Benefit may be paid by the Trustee to a person who is neither the deceased Member's Personal Representative nor a Dependant of the deceased Member, if the Relevant Law permits.
- 3 On the death of a B member where paragraph 6 does not apply the Benefit payable under Rule 6.3 shall be paid in accordance with the death benefit category which has most recently been selected by the Member from the following categories:

Category 1

- A lump sum to the Member's Spouse (if there is more than one Spouse, the amount to be paid to them in equal shares) at the date of the Member's death, subject to a maximum of the Member's pension RBL. The Trustee shall be obliged only to make reasonable enquiries to identify a Spouse and, if there is no Spouse, the amount shall be paid as lump sum to the Member's Personal Representative.
- The balance (if any) to the Member's Eligible Children at the date of the Member's death, in equal shares and payable in each case as an Allocated Pension. The Trustee shall be obliged only to make reasonable enquiries to identify Eligible Children and, if there are no Eligible Children, the amount shall be paid as a lump sum to the Member's Personal Representative.

Category 2

- 50% to the Member's Spouse (if there is more than one Spouse, the amount to be paid to them in equal shares) at the date of the Member's death, as a lump sum. The Trustee shall be obliged only to make reasonable enquiries to identify a Spouse and, if there is no Spouse, the amount shall be paid as a lump sum to the Member's Personal Representative.
- The balance to the Member's eligible Children at the date of the Member's death, in equal shares and payable in each case as an Allocated Pension. The Trustee shall be obliged only to make reasonable enquires to identify Eligible Children and, if there are no Eligible Children, the amount shall be paid as a lump sum to the Member's Personal Representative.

Category 3

- A lump sum to the Member's Personal Representative, subject to a maximum of the member's pension RBL.
- The balance (if any) to the Member's Eligible Children at the date of the Member's death, in equal shares and payable in each case as an Allocated Pension. The Trustee shall be obliged only to make reasonable enquiries to identify Eligible Children and, if there are no Eligible Children, the amount shall be paid as a lump sum to the Member's Personal Representative.

Category 4

- A lump sum to the Member's Personal Representative, subject to a maximum of the Member's pension RBL.
- 50% of the balance (if any) to the Member's Spouse (if there is more than one Spouse, the amount to be paid to them in equal shares) at the date of the Member's death, as an Allocated Pension. The Trustee shall be obliged only to make reasonable enquires to identify a Spouse and, if there is no Spouse, the amount shall be paid as a lump sum to the Member's Personal Representative.
- The balance (if any) to the Member's Eligible Children at the date of the Member's death, in equal shares and payable in each case as an Allocated Pension. The Trustee shall be obliged only to make reasonable enquiries to identify Eligible Children and, if there are no Eligible Children, the amount shall be paid as a lump sum to the member's Personal Representative.

Category 5

- A lump sum to the Member's Personal Representative, subject to a maximum of the Member's pension RBL.
- The balance (if any) to the Member's Spouse (if there is more than one Spouse, the amount to be paid to them in equal shares) at the date of the Member's death, as an allocated Pension. The Trustee shall be obliged only to make reasonable enquiries to identify a spouse and, if there is no Spouse, the amount shall be paid as a lump sum to the member's Personal Representative.

Category 6

- An arrangement agreed by the Trustee and the Member prior to the Second Changeover Date.

Category 7

- A Benefit to such one or more of the Member's Dependants and/or Personal Representative, in such manner, form and such proportions (if paying to more than one) as the Trustee in its absolute discretion shall determine.

Category 8

- A lump sum to a person that has or had an Interdependency Relationship with the Member at the date of the Member's death, subject to a maximum of the Member's pension RBL. The Trustee shall be obliged only to make reasonable enquiries to identify a person that has or had an Interdependency Relationship with the Member and if there is no such person, the amount shall be paid as a lump sum to the Member's Personal Representative.

- The balance (if any) to the Member's Eligible Children at the date of the Member's death, in equal shares and payable in each case as an Allocated Pension. The Trustee shall be obliged only to make reasonable enquiries to identify Eligible Children and if there are no Eligible Children, the amount shall be paid as a lump sum to the Member's Personal Representative.

Category 9

- 50% to a person that has or had an Interdependency Relationship with the Member at the date of the Member's death, as a lump sum. The Trustee shall be obliged only to make reasonable enquiries to identify a person that has or had an Interdependency Relationship with the Member and if there is no such person, the amount shall be paid as a lump sum to the Member's Personal Representative.
- The balance (if any) to the Member's Eligible Children at the date of the Member's death, in equal shares and payable in each case as an Allocated Pension. The Trustee shall be obliged only to make reasonable enquiries to identify Eligible Children and if there are no Eligible Children, the amount shall be paid as a lump sum to the Member's Personal Representative.

Category 10

- A lump sum to the Member's Personal Representative, subject to a maximum of the Member's pension RBL.
- 50% of the balance to a person that has or had an Interdependency Relationship with the Member at the date of the Member's death, as an Allocated Pension. The Trustee shall be obliged only to make reasonable enquiries to identify a person that has or had an Interdependency Relationship with the Member and if there is no such person, the amount shall be paid as a lump sum to the Member's Personal Representative.
- The balance (if any) to the Member's Eligible Children at the date of the Member's death, in equal shares and payable in each case as an Allocated Pension. The Trustee shall be obliged only to make reasonable enquiries to identify Eligible Children and if there are no Eligible Children, the amount shall be paid as a lump sum to the Member's Personal Representative.

Category 11

- A lump sum to the Member's Personal Representative, subject to a maximum of the Member's pension RBL.
- The balance (if any) to a person that has or had an Interdependency Relationship with the Member at the date of the Member's death, as an Allocated Pension. The Trustee shall be obliged only to make reasonable enquiries to identify a person that has or had an Interdependency Relationship with the Member and if there is no such person, the amount shall be paid as a lump sum to the Member's Personal Representative.

4 A Binding Nomination may be given by the Member to the Trustee, if permitted by the Trustee, on or after Second Changeover Date, in which case the following provisions apply:

- if, at the time of the Member's death, the Trustee holds a Binding Nomination which is valid, subject to SIS and any other applicable law the Trustee shall, in accordance with the Binding Nomination, pay the

- Member's Benefit to each nominee entitled to receive a Benefit, with any balance (whether arising from the nomination not being effective for a nominee or from a nominee not being paid because of SIS or any other applicable law) paid as lump sum to the Member's Personal Representative;
- if, at the time of the Member's death, the Trustee does not hold a Binding Nomination which is valid, the Trustee shall pay the Member's Benefit as a lump sum to the Member's Personal Representative.
- 5 A B Member's Death Benefit Selection may be changed in accordance with the following provisions, if the Trustee so permits:
- on written notification to the Trustee in a form specified by the Trustee, a Member may change from any category to any other category;
 - on written notification to the Trustee in a form specified by the Trustee a Member may change from any category to a Binding Nomination;
 - a Category 6 selection may be treated as a Binding Nomination by the Trustee if so determined by the Trustee and from a date specified by the Trustee if the arrangement under Category 6 already complies with the relevant requirements of the Relevant Law or the Member subsequently satisfies those requirements in relation to the arrangement; and
 - a Member cannot change from a Binding Nomination to any category unless permitted by the Trustee.
- 6 If a B Member is admitted as a Member by the Trustee (or, having been an A Member, becomes a B Member) on the basis that the Member will, within a specified period of time, commence an Allocated Pension, the Trustee shall apply the Benefit payable under Rule 6.3 in accordance with Appendix 2, as if the B Member became an Allocated Pensioner on the date he or she became a B Member and there was no person nominated as a reversionary Allocated Pensioner or to receive a Spouse Allocated Pension.
- 7 If because of:
- (a) the Relevant Law;
 - (b) the expiry of a Binding Nomination;
 - (c) the beneficiary dying prior to the Benefit being paid (or commencing being paid in the case of an Allocated Pension); or
 - (d) any other reason,
- a Benefit cannot be paid to a specific beneficiary:
- (e) where the beneficiary is not the Member's Personal Representative, the Benefit shall be paid to the Member's Personal Representative;
 - (f) if the Member does not have a Personal Representative or the Benefit cannot be paid to a Personal Representative for whatever other reason, the Trustee may pay the Benefit to one or more Dependants of the Member in such proportions as it determines; and
 - (g) if there are no Dependants or Personal Representative of the Member, the Trustee may pay the Benefit to any other person or person permitted by the Relevant Law in such proportions it determines.
- 8 Where the Trustee commences an Allocated Pension in respect of an Eligible Child using all or a portion of the Benefit of a Member the Trustee will invest that amount in the manner described in Rule 7.1(e).

- 9 An Eligible Child:
- (a) cannot change any feature of the Allocated Pension without the approval of the Trustee; and
 - (b) cannot commute the Allocated Pension until the Eligible Child attains age 18.

Appendix 2

- 1 For the purposes of this Appendix, a person who became an Allocated Pensioner prior to the Second Changeover Date shall be referred to as an 'A Allocated Pensioner', with a person who became an Allocated Pensioner on or after the Second Changeover Date referred to as a 'B Allocated Pensioner'. An A Allocated Pensioner may, with the consent of the Trustee, become a B Allocated Pensioner, but not while paragraph 4 of Appendix 1 is applicable.
- 2 On the death of an A Allocated Pensioner, the balance of the Allocated Pension Account shall be applied as follows:
- (a) **Reversionary Allocated Pension:** If, at the time of the Allocated Pensioner's death, there is a person presently entitled to receive the Allocated Pension as a reversionary Allocated Pensioner, having been nominated as such in writing by the deceased Allocated Pensioner and accepted by the Trustee, which nomination was not revoked prior to his or her death with the consent of the Trustee, subject to paragraph (e) the Allocated Pension shall continue and be paid by the Trustee to the reversionary Allocated Pensioner.
 - (b) **Spouse Allocated Pension:** If, at the time of the Allocated Pensioner's death, the Trustee holds a written Spouse Allocated Pension nomination completed by the deceased Allocated Pensioner and accepted by the Trustee, which was not revoked by the Allocated Pensioner prior to his or her death with the consent of the Trustee, subject to paragraph (e) the Trustee shall pay an Allocated Pension to the nominated Spouse.
 - (c) **Lump Sum to Dependant or Personal Representative:** If, at the time of the Allocated Pensioner's death, the Trustee holds a written lump sum death benefit nomination completed by the deceased Allocated Pensioner and accepted by the Trustee, which was not revoked by the Allocated Pensioner prior to his or her death with the consent of the Trustee, subject to paragraph (e) the Trustee shall pay the Benefit in accordance with the nomination.
 - (d) **Default:** If there is no reversionary Pensioner, no current Spouse Allocated Pension nomination and no current lump sum death benefit nomination at the time of the Allocated Pensioner's death, whether because the Allocated Pensioner did not make a relevant nomination which was accepted by the Trustee or because such a nomination was revoked by the Allocated Pensioner with the Trustee's consent and no relevant nomination was subsequently made by the Allocated Pensioner and accepted by the Trustee, the Trustee shall pay the Benefit to the Allocated Pensioner's Personal Representative.
 - (e) **Miscellaneous:** If there is a nomination for the purposes of any of paragraphs (a), (b) or (c) at the time of the Allocated Pensioner's death:
 - (1) being a nomination made under paragraph (a) of a reversionary Allocated Pensioner who cannot receive the Allocated Pension under the Relevant Law or did not survive the Allocated Pensioner;

- (2) being a nomination made under paragraph (b) of a Spouse who cannot receive the Allocated Pension under the Relevant Law or did not survive the Allocated Pensioner;
- (3) being a nomination made under paragraph (c) specifying a nominee who cannot be paid the Benefit under the Relevant Law or did not survive the Allocated Pensioner;

the Trustee shall pay the Benefit to the Allocated Pensioner's Personal Representative.

If a person nominated for the purposes of paragraph (a), paragraph (b) or paragraph (c) survives the Allocated Pensioner but dies before being paid his or her Benefit, the person's entitlement shall be paid to his or her Personal Representative as a lump sum.

If, for any reason, a Benefit cannot be paid in accordance with these provisions, it may be paid by the Trustee to any other person, if the Relevant Law permits.

3 On the death of a B Allocated Pensioner, the balance of the Allocated Pension Account shall be applied as follows:

- (a) **Reversionary Allocated Pension:** If, at the time of the Allocated Pensioner's death, there is a person presently entitled to receive the Allocated Pension as a reversionary Allocated Pensioner, having been nominated as such in writing by the deceased Allocated Pensioner and accepted by the Trustee, which nomination was not revoked prior to his or her death with the consent of the Trustee, the Allocated Pension shall continue and be paid by the Trustee to the reversionary Allocated Pensioner. If the reversionary Allocated Pensioner pre-deceased the Allocated Pensioner or is precluded by SIS from receiving a Benefit, the Trustee shall pay the Benefit to the Allocated Pensioner's Personal Representative.
- (b) **Binding Nomination - Spouse Allocated Pension:** If, at the time of the Allocated Pensioner's death, the Trustee holds a Binding Nomination nominating the Spouse of the Allocated Pensioner to receive an Allocated Pension (not being a reversionary Allocated Pension), subject to SIS and any other applicable law the Trustee shall, in accordance with the Binding Nomination, pay an Allocated Pension to the Spouse. If the Benefit is not paid to the Spouse (whether because the nomination is not effective or because of SIS or any other applicable law), the Trustee shall pay the Benefit as a lump sum to the Allocated Pensioner's Personal Representative.
- (c) **Binding Nomination - Lump Sum to Dependant or Personal Representative:** If, at any time prior to the Allocated Pensioner's death, the Trustee held a Binding Nomination which is not covered by paragraph (b), the following provisions apply:
 - (1) if, at the time of the Allocated Pensioner's death, the Trustee holds a Binding Nomination which is valid, subject to SIS and any other applicable law the Trustee shall, in accordance with the Binding Nomination, pay the Allocated Pensioner's Benefit as a lump sum to each nominee entitled to receive a Benefit, with any balance (whether arising from the nomination not being effective for a nominee or from a nominee not being paid because of SIS or any other applicable law) to the Allocated Pensioner's Personal representative as a lump sum;
 - (2) if, at the time of the Allocated Pensioner's death, the Trustee does not hold a Binding Nomination which is valid, the Trustee shall pay the Allocated Pensioner's Benefit as a

lump sum to the Allocated Pensioner's Personal Representative;

subject to Regulation 6.17A of SIS, if after reasonable enquiry the Trustee is unable to locate a nominee who is entitled to receive a Benefit and who is not the Allocated Pensioner's Personal Representative, then at the expiration of such period of time as it reasonably determines the Trustee may pay the nominee's Benefit to the Allocated Pensioner's Personal Representative as a lump sum.

If a person entitled to a Benefit under paragraph (a), paragraph (b) or paragraph (c) survives the Allocated Pensioner but dies before being paid his or her Benefit, the person's entitlement shall be paid to his or her Personal Representative as a lump sum.

If, for any reason, a Benefit cannot be paid in accordance with these provisions, it may be paid by the Trustee to any other person, if the Relevant Law permits.

Appendix 3

- 1 For the purposes of this Appendix, a person who becomes a Member on or after the Third Changeover Date shall be referred to as a 'C Member'. An A or B Member may, if permitted by the Trustee become a C Member.
- 2 On the death of a C Member where paragraph 6 does not apply, the Benefit payable under Rule 6.3 shall be paid in accordance with the death benefit category which has most recently been selected by the Member from the following categories:

Category 1

- A lump sum to the Member's Spouse (if there is more than one Spouse, the amount to be paid to one or more of them will be in accordance with the Trustee's discretion) at the date of the Member's death, subject to a maximum of the Member's pension RBL. The Trustee shall be obliged only to make reasonable enquiries to identify a Spouse and, if there is no Spouse, the amount shall be paid as a lump sum to the Member's Personal Representative.
- The balance (if any) to the Member's Eligible Children at the date of the Member's death, in equal shares and payable in each case as an Allocated Pension. The Trustee shall be obliged only to make reasonable enquiries to identify Eligible Children and, if there are no Eligible Children, the amount shall be paid as a lump sum to the Member's Personal Representative.

Category 2

- Such portion of the Benefit as is specified by the Member in percentage terms to the Trustee in a form of notice approved by the Trustee to the Member's Spouse (if there is more than one Spouse, the amount to be paid to them will be in accordance with the Trustee's discretion) at the date of the Member's death, as a lump sum. If the Member does not specify a percentage, 50% of the Benefit shall be payable to the Member's Spouse (if there is more than one Spouse, the amount to be paid to one or more of them will be in accordance with the Trustee's discretion). The Trustee shall be obliged only to make reasonable enquiries to identify a Spouse and, if there is no Spouse, the amount shall be paid as a lump sum to the Member's Personal Representative.
- The balance to the Member's Eligible Children at the date of the Member's death, in equal shares and payable in each case as an Allocated Pension. The Trustee shall be obliged only to make reasonable enquires to identify Eligible Children and, if there are no Eligible Children, the amount shall be paid as a lump sum to the Member's Personal Representative.

Category 3

- A lump sum to the Member's Personal Representative, subject to a maximum of the Member's pension RBL.

- The balance (if any) to the Member's Eligible Children at the date of the Member's death, in equal shares and payable in each case as an Allocated Pension. The Trustee shall be obliged only to make reasonable enquiries to identify Eligible Children and, if there are no Eligible Children, the amount shall be paid as a lump sum to the Member's Personal Representative.

Category 4

- A lump sum to the Member's Personal Representative, subject to a maximum of the Member's pension RBL.
- 50% of the balance (if any) to the Member's Spouse (if there is more than one Spouse, the amount to be paid to one or more of them will be in accordance with the Trustee's discretion) at the date of the Member's death, as an Allocated Pension. The Trustee shall be obliged only to make reasonable enquiries to identify a Spouse and, if there is no Spouse, the amount shall be paid as a lump sum to the Member's Personal Representative.
- The balance (if any) to the Member's Eligible Children at the date of the Member's death, in equal shares and payable in each case as an Allocated Pension. The Trustee shall be obliged only to make reasonable enquiries to identify Eligible Children and, if there are no Eligible Children, the amount shall be paid as a lump sum to the member's Personal Representative.

Category 5

- A lump sum to the Member's Personal Representative, subject to a maximum of the Member's pension RBL.
- The balance (if any) to the Member's Spouse (if there is more than one Spouse, the amount to be paid to one or more of them will be in accordance with the Trustee's discretion) at the date of the Member's death, as an Allocated Pension. The Trustee shall be obliged only to make reasonable enquiries to identify a Spouse and, if there is no Spouse, the amount shall be paid as a lump sum to the Member's Personal Representative.

Category 6

- A Benefit to such one or more of the Member's Dependents and/or Personal Representative, in such manner, form and such proportions (if paying to more than one) as the Trustee in its absolute discretion shall determine.

Category 7

- A lump sum to a person that has or had an Interdependency Relationship with the Member at the date of the Member's death, subject to a maximum of the Member's pension RBL. If there is more than one such person, the amount to be paid to one or more of them will be in accordance with the Trustee's discretion. The Trustee shall be obliged only to make reasonable enquiries to identify a person that has or had an Interdependency Relationship with the Member and if there is no such person, the amount shall be paid as a lump sum to the Member's Personal Representative.
- The balance (if any) to the Member's Eligible Children at the date of the Member's death, in equal shares and payable in each case as an Allocated Pension. The Trustee shall be obliged only to make reasonable enquiries to identify Eligible Children and if there are no

Eligible Children, the amount shall be paid as a lump sum to the Member's Personal Representative.

Category 8

- 50% to a person that has or had an Interdependency Relationship with the Member at the date of the Member's death, as a lump sum. If there is more than one such person, the amount to be paid to one or more of them will be in accordance with the Trustee's discretion. The Trustee shall be obliged only to make reasonable enquiries to identify a person that has or had an Interdependency Relationship with the Member and if there is no such person, the amount shall be paid as a lump sum to the Member's Personal Representative.
- The balance (if any) to the Member's Eligible Children at the date of the Member's death, in equal shares and payable in each case as an Allocated Pension. The Trustee shall be obliged only to make reasonable enquiries to identify Eligible Children and if there are no Eligible Children, the amount shall be paid as a lump sum to the Member's Personal Representative.

Category 9

- A lump sum to the Member's Personal Representative, subject to a maximum of the Member's pension RBL.
- 50% of the balance to a person that has or had an Interdependency Relationship with the Member at the date of the Member's death, as an Allocated Pension. If there is more than one such person, the amount to be paid to one or more of them will be in accordance with the Trustee's discretion. The Trustee shall be obliged only to make reasonable enquiries to identify a person that has or had an Interdependency Relationship with the Member and if there is no such person, the amount shall be paid as a lump sum to the Member's Personal Representative.
- The balance (if any) to the Member's Eligible Children at the date of the Member's death, in equal shares and payable in each case as an Allocated Pension. The Trustee shall be obliged only to make reasonable enquiries to identify Eligible Children and if there are no Eligible Children, the amount shall be paid as a lump sum to the Member's Personal Representative.

Category 10

- A lump sum to the Member's Personal Representative, subject to a maximum of the Member's pension RBL.
- The balance (if any) to a person that has or had an Interdependency Relationship with the Member at the date of the Member's death, as an Allocated Pension. If there is more than one such person, the amount to be paid to one or more of them will be in accordance with the Trustee's discretion. The Trustee shall be obliged only to make reasonable enquiries to identify a person that has or had an Interdependency Relationship with the Member and if there is no such person, the amount shall be paid as a lump sum to the Member's Personal Representative.

Category 11

- A lump sum to the Member's Spouse (if there is more than one Spouse, the amount to be paid to one or more of them will be in accordance with the Trustee's discretion) at the date of the Member's

death, subject to a maximum of the Member's pension RBL. The Trustee shall be obliged only to make reasonable enquiries to identify a Spouse and, if there is no Spouse, the amount shall be paid as a lump sum to the Member's Personal Representative.

- The balance (if any) to the Member's Spouse at the date of the Member's death, payable as an Allocated Pension. The Trustee shall be obliged only to make reasonable enquiries to identify a Spouse and, if there is no Spouse, the amount shall be paid as a lump sum to the Member's Personal Representative.

Category 12

- A benefit to the Member's Spouse (if there is more than one Spouse, the amount to be paid to one or more of them will be in accordance with the Trustee's discretion) at the date of the Member's death, payable as an Allocated Pension. The Trustee shall be obliged only to make reasonable enquiries to identify a Spouse and, if there is no Spouse, the amount shall be paid as a lump sum to the Member's Personal Representative.

Category 13

- A benefit to the Member's Eligible Children at the date of the Member's death, in equal shares and payable in each case as an Allocated Pension. The Trustee shall be obliged only to make reasonable enquiries to identify Eligible Children and, if there are no Eligible Children, the amount shall be paid as a lump sum to the Member's Personal Representative.

- 3 A Binding Nomination may be given by the Member to the Trustee, if permitted by the Trustee, on or after the Third Changeover Date, in which case the following provisions apply:
- (a) the Member shall cease to be a Member of a Category under this Appendix 3 to which he or she was previously admitted;
 - (b) if, at the time of the Member's death, the Trustee holds a Binding Nomination which is valid, subject to SIS and any other applicable law the Trustee shall, in accordance with the Binding Nomination, pay the Member's Benefit to each nominee entitled to receive a Benefit, with any balance (whether arising from the nomination not being effective for a nominee or from a nominee not being paid because of SIS or any other applicable law) paid as lump sum to the Member's Personal Representative;
 - (c) if, at the time of the Member's death, the Trustee has previously received a Binding Nomination on or after the Third Changeover Date but does not then hold a Binding Nomination which is valid, the Trustee shall pay the Member's Benefit as a lump sum to the Member's Personal Representative;
- 4 A C Member's Death Benefit Selection may be changed in accordance with the following provisions, if the Trustee so permits:
- (a) on written notification to the Trustee in a form specified by the Trustee, a C Member may change from any category to any other category;
 - (b) on written notification to the Trustee in a form specified by the Trustee a C Member may change from any category to a Binding Nomination; and

- (c) a C Member cannot change from a Binding Nomination to any category unless permitted by the Trustee.
- 5 If a C Member is admitted as a C Member by the Trustee (or, having been an A or B Member, becomes a C Member) on the basis that the C Member will, within a specified period of time, commence an Allocated Pension, the C Member omits to nominate a Category set out in this Appendix 3 and the Member's benefit is not payable under another provision of this Appendix 3, the Trustee shall apply the Benefit payable under Rule 6.3 in accordance with Rule 3(c) of Appendix 2, as if the C Member became an Allocated Pensioner on the date he or she became a C Member and there was no person nominated as a reversionary Allocated Pensioner or to receive a Spouse Allocated Pension.
- 6 If because of:
- (a) the Relevant Law;
 - (b) the expiry of a Binding Nomination;
 - (c) the beneficiary dying prior to the Benefit being paid (or commencing being paid in the case of an Allocated Pension); or
 - (d) any other reason,
- a Benefit cannot be paid to a specific beneficiary:
- (e) where the beneficiary is not the Member's Personal Representative, the Benefit shall be paid to the Member's Personal Representative;
 - (f) if the Member does not have a Personal Representative or the Benefit cannot be paid to a Personal Representative for whatever other reason, the Trustee may pay the Benefit to one or more Dependants of the Member in such proportions as it determines; and
 - (g) if there are no Dependants or Personal Representative of the Member, the Trustee may pay the Benefit to any other person or person permitted by the Relevant Law in such proportions it determines.
- 7 Where the Trustee commences an Allocated Pension in respect of a Beneficiary using all or a portion of the Benefit of a Member the Trustee will invest that amount in the manner designated by the Member, Beneficiary or Guardian in accordance with Rule 7.1(c) of this Division or failing such designation or where it cannot for any reason comply with a designation, in accordance with Rule 7.1(e) of this Division.
- 8 In regards to an Allocated Pension for an Eligible Child his or her Guardian:
- (a) cannot change any feature of the Allocated Pension without the approval of the Trustee; and
 - (b) cannot commute the Allocated Pension until the Eligible Child reaches the age of 18, 21 or 25 years as specified by the Member, or if no such age is specified, than age 18 years.

Appendix 4

- 1 For the purposes of this Appendix, a person who becomes a Member on or after the Fourth Changeover Date shall be referred to as a 'D Member'. An A, B or C Member may, if permitted by the Trustee become a D Member. A D Member may, if permitted by the Trustee become a C Member.
- 2 On the death of a D Member where paragraph 6 does not apply, the Benefit payable under Rule 6.3 shall be paid in accordance with the death benefit category which has most recently been selected by the Member from the following categories:

Category 1

- Such portion (if any) of the Benefit as is specified by the Member in percentage terms to the Trustee in a form of notice approved by the Trustee to the Member's Spouse at the date of the Member's death (if there is more than one Spouse, the amount to be paid to them will be in accordance with the Trustee's discretion), as a lump sum. If the Member does not specify a percentage, 100% of the Benefit shall be payable to the Member's Spouse (if there is more than one Spouse, the amount to be paid to one or more of them will be in accordance with the Trustee's discretion). The Trustee shall be obliged only to make reasonable enquiries to identify a Spouse and, if there is no Spouse, the amount shall be paid as a lump sum to the Member's Personal Representative.
- The balance (if any) to the Member's Eligible Children at the date of the Member's death, in equal shares and payable in each case as an Allocated Pension. The Trustee shall be obliged only to make reasonable enquires to identify Eligible Children and, if there are no Eligible Children, the amount shall be paid as a lump sum to the Member's Personal Representative.

Category 2

- Such portion (if any) of the Benefit as is specified by the Member in percentage terms to the Trustee in a form of notice approved by the Trustee to the Member's Eligible Children at the date of the Member's death, in equal shares and in each case as a lump sum. If the Member does not specify a percentage, 100% of the Benefit shall be payable to the Member's Eligible Children. The Trustee shall be obliged only to make reasonable enquires to identify Eligible Children and, if there are no Eligible Children, the amount shall be paid as a lump sum to the Member's Personal Representative.
- The balance (if any) to the Member's Spouse at the date of the Member's death (if there is more than one Spouse, the amount to be paid to them will be in accordance with the Trustee's discretion), payable as an Allocated Pension. The Trustee shall be obliged only to make reasonable enquiries to identify a Spouse and, if there is no Spouse, the amount shall be paid as a lump sum to the Member's Personal Representative.

Category 3

- Such portion (if any) of the Benefit as is specified by the Member in percentage terms to the Trustee in a form of notice approved by the Trustee to the Member's Personal Representative as a lump sum. If the Member does not specify a percentage, 100% of the Benefit shall be payable to the Member's Personal Representative.
- The balance (if any) to the Member's Spouse at the date of the Member's death (if there is more than one Spouse, the amount to be paid to them will be in accordance with the Trustee's discretion), payable as an Allocated Pension. The Trustee shall be obliged only to make reasonable enquiries to identify a Spouse and, if there is no Spouse, the amount shall be paid as a lump sum to the Member's Personal Representative.

Category 4

- Such portion (if any) of the Benefit as is specified by the Member in percentage terms to the Trustee in a form of notice approved by the Trustee to a person that had an Interdependency Relationship with the Member at the date of the Member's death (if there is more than one person who had an Interdependency Relationship with the Member at the date of the Member's death, the amount to be paid to them will be in accordance with the Trustee's discretion) as a lump sum. If the Member does not specify a percentage, 100% of the Benefit shall be payable to a person with whom the Member had an Interdependency Relationship (if there is more than one person with whom the Member had an Interdependency Relationship, the amount to be paid to one or more of them will be in accordance with the Trustee's discretion). The Trustee shall be obliged only to make reasonable enquiries to identify a person with whom the Member had an Interdependency Relationship and, if there is no person with whom the Member had an Interdependency Relationship, the amount shall be paid as a lump sum to the Member's Personal Representative.
- The balance (if any) to the Member's Eligible Children at the date of the Member's death, in equal shares and payable in each case as an Allocated Pension. The Trustee shall be obliged only to make reasonable enquires to identify Eligible Children and, if there are no Eligible Children, the amount shall be paid as a lump sum to the Member's Personal Representative.

Category 5

- Such portion (if any) of the Benefit as is specified by the Member in percentage terms to the Trustee in a form of notice approved by the Trustee to the Member's Personal Representative as a lump sum. If the Member does not specify a percentage, 100% of the Benefit shall be payable to the Member's Personal Representative.
- The balance (if any) to a person that had an Interdependency Relationship with the Member at the date of the Member's death (if there is more than one person who had an Interdependency Relationship with the Member at the date of the Member's death, the amount to be paid to them will be in accordance with the Trustee's discretion), payable as an Allocated Pension. The Trustee shall be obliged only to make reasonable enquiries to identify a person with whom the Member had an Interdependency Relationship and, if there is no person with whom the Member had an Interdependency Relationship, the amount shall be paid as a lump sum to the Member's Personal Representative.

Category 6

- A Benefit to such one or more of the Member's Dependants and/or Personal Representative, in such manner, form and such proportions (if paying to more than one) as the Trustee in its absolute discretion shall determine.
- 3 A Binding Nomination may be given by a D Member to the Trustee, if permitted by the Trustee, on or after the Fourth Changeover Date, in which case the following provisions apply:
- (a) the Member shall cease to be a Member of a Category under this Appendix 4 to which he or she was previously admitted;
 - (b) if, at the time of the Member's death, the Trustee holds a Binding Nomination which is valid, subject to SIS and any other applicable law the Trustee shall, in accordance with the Binding Nomination, pay the Member's Benefit to each nominee entitled to receive a Benefit, with any balance (whether arising from the nomination not being effective for a nominee or from a nominee not being paid because of SIS or any other applicable law) paid as lump sum to the Member's Personal Representative;
 - (c) if, at the time of the Member's death, the Trustee has previously received a Binding Nomination on or after the Fourth Changeover Date but does not then hold a Binding Nomination which is valid, the Trustee shall pay the Member's Benefit as a lump sum to the Member's Personal Representative;
- 4 A D Member's Death Benefit Selection may be changed in accordance with the following provisions, if the Trustee so permits:
- (a) on written notification to the Trustee in a form specified by the Trustee, a D Member may change from any category to any other category;
 - (b) on written notification to the Trustee in a form specified by the Trustee a D Member may change from any category to a Binding Nomination; and
 - (c) a D Member cannot change from a Binding Nomination to any category unless permitted by the Trustee.
- 5 If a D Member is admitted as a D Member by the Trustee (or, having been an A, B or C Member, becomes a D Member) on the basis that the D Member will, within a specified period of time, commence an Allocated Pension, the D Member omits to nominate a Category set out in this Appendix 4 and the Member's benefit is not payable under another provision of this Appendix 4, the Trustee shall apply the Benefit payable under Rule 6.3 in accordance with Rule 3(c) of Appendix 2, as if the D Member became an Allocated Pensioner on the date he or she became a D Member and there was no person nominated as a reversionary Allocated Pensioner or to receive a Spouse Allocated Pension.
- 6 If because of:
- (a) the Relevant Law;
 - (b) the expiry of a Binding Nomination;
 - (c) the beneficiary dying prior to the Benefit being paid (or commencing being paid in the case of an Allocated Pension); or
 - (d) any other reason,
- a Benefit cannot be paid to a specific beneficiary:

- (e) where the beneficiary is not the Member's Personal Representative, the Benefit shall be paid to the Member's Personal Representative;
 - (f) if the Member does not have a Personal Representative or the Benefit cannot be paid to a Personal Representative for whatever other reason, the Trustee may pay the Benefit to one or more Dependants of the Member in such proportions as it determines; and
 - (g) if there are no Dependants or Personal Representative of the Member, the Trustee may pay the Benefit to any other person or person permitted by the Relevant Law in such proportions it determines.
- 7 Where the Trustee commences an Allocated Pension in respect of a Beneficiary using all or a portion of the Benefit of a Member the Trustee will invest that amount in the manner designated by the Member, Beneficiary or Guardian in accordance with Rule 7.1(c) of this Division or failing such designation or where it cannot for any reason comply with a designation, in accordance with Rule 7.1(e) of this Division.
- 8 In regards to an Allocated Pension for an Eligible Child his or her Guardian:
- (a) cannot change any feature of the Allocated Pension without the approval of the Trustee; and
 - (b) cannot commute the Allocated Pension until the Eligible Child reaches the age of 18, 21 or 25 years as specified by the Member, or if no such age is specified, than age 18 years.

TOWER General Public Division

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TOWER General Public Division

Date ▶ 30 June 2010

Recitals

- 1 The name of this division is the TOWER General Public Division (**Division**).
 - 2 The Division commences on the date of execution of the Deed of Amendment.
 - 3 The following rules and appendices (**Rules**), as amended from time to time, are the Rules of the Division.
 - 4 The Division must be managed and administered in all respects according to the Rules.
 - 5 The provisions of the Division may be amended in the manner set out in Clause 3.
 - 6 In the event of any inconsistencies between the Governing Provisions and the Rules of this Division, the Rules in the Division shall prevail.
-

1 Definitions and interpretation

1.1 Definitions

The meanings of the terms used in this deed are set out below.

Term	Meaning
Accumulated Credit	the total value of the Benefit Accounts of a Member.
Act	the <i>Superannuation Industry (Supervision) Act 1993</i> and any replacement or additional legislation in respect of the regulation of superannuation funds and any regulations, declarations, orders, rulings or guidelines made or issued under those Acts.
Allocated Pension	a pension that meets the standards of Regulation 1.06(4) of the Act.
Annuity	an eligible annuity as defined in the Act.
APRA	the Australian Prudential Regulation Authority.
Benefit	in relation to a Member, the amount standing to the account of the Member's Benefit Account.
Benefit Account	the preserved benefit account and the non-preserved benefit account as established in accordance with Rule 12.3.
Child	includes a step-child, ex-nuptial child, a legally adopted child, posthumous natural child, a child of the Member's Spouse and any child recognised under the Act.
Clause	a clause of the Governing Provisions.
Commencement Day	the first day of the period to which the first payment under the pension relates.
Complaint	a complaint made to the Superannuation Complaints Tribunal in accordance with the Complaints Act.

Complaints Act	the <i>Superannuation (Resolution of Complaints) Act 1993</i> .
Complying Fund	a superannuation fund that complies in terms of Section 45 of the Act.
Complying Pension	a pension that meets the standards of Regulation 1.06(2) or 1.06(7) of the Act.
Death Benefit	a benefit payable under the rules of each Sub-Division.
Deed, the Deed or this Deed	the Governing Provisions and the Rules of this Division as are in force from time to time governing the Fund and this Division, as amended from time to time.
Deed of Amendment	the Deed of Amendment for the TOWER Master Fund which establishes this Division.
Dependant	a Spouse, a Child, any other person whom the Trustee believes is, or was at the date of death, dependent on the Member or any other person with whom the Member has or had an Interdependency Relationship.
Division	the TOWER General Public Division.
Employer	any participating employer and in relation to any particular Member the employer by which that Member is employed.
Employment or Employed	employed or self-employed for gain or reward in any business, trade, professions, vocation, calling, occupation or employment.
Financial Year	Financial Year as defined in Clause 1.1 of the Governing Provisions.
Fund	the TOWER Master Fund.
Gainful Occupation	any business trade, profession, vocation, calling occupation or employment for gain.
Gainfully Occupied Person	a person in Gainful Occupation or any person described under the Relevant Requirements as a person from whom a regulated superannuation fund may accept contributions.

General Sub-Division	the sub-division constituted as the General Sub-Division under Rule 3.1.
General Sub-Division Member	a person who has been admitted to membership of the General Sub-Division and who has not ceased to be a member under Rule 4.6.
Governing Provisions	the provisions of Clauses 1 – 13 of the TOWER Master Fund.
Guaranteed Payment Period	a period within 10 years after the Commencement Day of the pension.
Index Number	has the meaning given by the Social Security Act.
Insurance Costs	the cost of effecting insurance cover agreed between the Trustee and any Member.
Insurer	TOWER Australia Limited or any other insurer registered to carry on life insurance business in Australia nominated by the Trustee.
Interdependency Relationship	has the meaning assigned to that term in the Act.
Investment Component	that part of the cover under a Life Policy that accrues by reference to investments made under that Policy.
Life Expectancy Asset-Test Exempt Superannuation Pension	a life expectancy or 15 minimum year term asset-test exempt income stream in accordance with Section 9B of the Social Security Act.
Life Policy	in relation to a Member a policy issued on the life of the Member. However, if the policy is on the life of a group of Members, it means that part of the policy that relates to the Member.
Lifetime Asset-Test Exempt Superannuation Pension	a lifetime asset-test exempt income stream in accordance with Section 9A of the Social Security Act.
Member	a person who has been admitted to membership and has not ceased to be a Member.
Minimum Amount	\$200.00 or such other amount as is determined by the Trustee from time to time.

Non-dependant Benefit	a benefit which may be paid in accordance with Regulation 6.22(3) of the Act.
Pension Age	has the meaning ascribed to the term in sub-paragraph (b) of the definition of that term in the Social Security Act.
Permanent Incapacity	<p>in relation to Member:</p> <ol style="list-style-type: none"> 1 if any insurance policy is maintained by the Trustee in respect of the Member for total and permanent disablement benefits the same as a corresponding term in the insurance policy; and 2 if 1 above does not apply in relation to a Member who has ceased to be gainfully employed, means ill-health (whether physical or mental), where the Trustee is reasonably satisfied that the Member is unlikely, because of the ill-health, ever again to engage in gainful employment for which the Member is reasonably qualified by education, training or experience.
Relevant Requirements	the Act and where the Trustee determines any requirement that must be satisfied for the Fund or Members to qualify for any concessional taxation treatment available.
Required Payment Date	any date at which a Member's benefit must be paid or commenced to be paid to satisfy the Relevant Requirements.
Reserve Account	the account kept under Rule 12.4.
Retirement	<ol style="list-style-type: none"> 1 in the case of a Member who has reached a preservation age that is less than 60 <ul style="list-style-type: none"> • if an arrangement under which the Member was gainfully employed has come to an end; and • the Trustee is reasonably satisfied that the person intends never to again become gainfully employed, either on a full-time or a part-time basis; or 2 in the case of a Member who has attained age 60 – an arrangement under which the Member was gainfully employed has come to an end on or after the Member attained that age.
Retirement Date	the day on which a Member reaches such age agreed on by the Trustee and Member which is permitted by the Relevant Requirements.
Retirement Saving Account	a retirement savings account as defined in Section 8 of the <i>Retirement Savings Account Act 1997</i> .

Reversionary Beneficiary	any Spouse or Child of the Member selected to be the Member's reversionary pensioner in the Member's application form. A reversionary beneficiary may not be varied once selected, unless agreed to by the Trustee.
Risk Component	that part of the cover under a Life Policy that is not Investment Component.
Roll-over Amount	the amount transferred from any other superannuation entity.
Social Security Act	the <i>Social Security Act</i> 1991.
Spouse	includes: <ul style="list-style-type: none"> (a) another person with whom the Member is in a relationship that is registered under a law of a State or Territory; and (b) another person who, although not legally married to the Member, lives with the Member on a genuine domestic basis in a relationship as a couple.
Staff Current Pension	a pension provided to a Staff Current Pensioner in accordance with Rule 10 of the Rules of the General Sub-Division.
Staff Current Pensioner	a person designated as such by the Trustee, being a person who was admitted to membership of the General Division of the Tower Superannuation Fund for the General Public pursuant to the Staff Successor Fund Transfer from the TOWER Staff Superannuation Fund to that fund. The persons so designated will be persons who were immediately before the Transfer Date persons in receipt of pension benefits from TOWER Staff Superannuation Fund.
Staff Deferred Pension	a pension entitlement for a Staff Deferred Pensioner in accordance with Rule 11 of the Rules of the General Sub-Division.
Staff Deferred Pensioner	a person designated as such by the Trustee, being a person who was admitted to membership of the General Division of the Tower Superannuation Fund for the General Public pursuant to the Staff Successor Fund Transfer from the TOWER Staff Superannuation. The persons so designated will be persons who were immediately before the Transfer Date persons entitled to a Benefit in the form of a deferred pension on retirement or such other form of Benefit as would have been available in the TOWER Staff Superannuation Fund depending on the circumstances in which the Benefit was payable from that fund.
Staff Successor Fund	the transfer pursuant to a successor fund transfer deed from the TOWER Staff Superannuation Fund to the TOWER

Transfer	Superannuation Fund for the General Public of the benefits of the Staff Current Pensioners and Staff Deferred Pensioners.
Sub-Division	a sub-division of this Division.
Successor Fund	has the meaning given to it in the Relevant Requirements.
Superannuation Contributions Surcharge	the tax imposed under the <i>Superannuation Contributions Tax Imposition Act 1997</i> .
Tax Act	the <i>Income Tax Assessment Act 1936</i> and the <i>Income Tax Assessment Act 1997</i> .
Temporary Total Disablement	temporary and total disablement as defined in any policy entered into by the Member or if there is no policy containing such a definition, disablement arising from an incapacity such that in the opinion of the Trustee after considering two medical certificates, each signed by different registered medical practitioners, the Member is temporarily unable to work in the Member's pre-disablement employment.
TOWER Staff Superannuation Fund	the TOWER Staff Superannuation Fund originally constituted by deed dated 9 September 1969.
Transfer Date	31 December 2003 or such other date as the Staff Successor Fund Transfer occurred.
Transfer Fund	a Complying Fund, an approved deposit fund that is a complying approved deposit fund for the purposes of Section 43 of the Act, a Retirement Savings Account and where permitted by the Act an Annuity.
Trustee	the trustee for the time being of the Fund.

2 Constitution of the Division

2.1 Establishment of the Division

The Division known as the TOWER General Public Division came into operation on the execution of the Deed of Amendment.

3 The Sub-Divisions

3.1 The Fund comprises Sub-Divisions

- (a) General Sub-Division; and
- (b) any other Sub-Division as determined from time to time by the Trustee.

3.2 Rights and obligations

The rights and obligations of the Members of the Sub-Division are governed by:

- (a) Rules 1 to 17; and
- (b) the Rules relating to the Sub-Division; and
- (c) the Governing Provisions.

3.3 Supremacy of the Rules of this Division

- (a) If there is any inconsistency between the Rules of this Division and the Governing Provisions, the Rules of this Division prevail.
- (b) If there is any inconsistency between the Rules of the Sub-Division and the Governing Provisions, the Rules of the Sub-Division prevail.
- (c) If there is any inconsistency between the Rules of this Division and the Rules of the Sub-Division, the Rules of the Division prevail.

4 Eligibility and membership

4.1 Eligibility

The requirements for admission for Members of each Sub-Division are set out in the Rules of the relevant Sub-Division.

4.2 Non-member spouses

- (a) In this Rule 4.2, 'member spouse' and 'non-member spouse' have the same meanings as in section 90MD of the *Family Law Act 1975* (Cth).
- (b) Notwithstanding any other provision of this Deed, but subject to paragraph (c) of this Rule and the Act, the Trustee may create a new interest in the Division for a non-member spouse as contemplated by the Act, in which case:
 - (1) when creating a new interest in the Division for a non-member spouse the Trustee may determine:
 - (A) the terms and conditions that will apply to the new interest; and
 - (B) the Sub-Division, category of membership and/or plan (as applicable) in which the non-member spouse will participate;
 - (2) the Trustee may adjust the benefit of the member spouse in such manner as it considers appropriate to reflect the creation of a new interest for the non-member spouse;
 - (3) if the non-member spouse is already a Member of the Division, the amount that would otherwise be applied to create the non-member

spouse's interest may instead be applied to increase the non-member spouse's existing interest in the Division; and

- (4) the Trustee may make Rules from time to time that apply to a Member for whom an interest was created in accordance with this Rule 4.2 and who was not previously a Member.
- (c) A non-member spouse is not permitted to become a Member of the Division if the value of the new interest as at the date of creating the new interest would be less than the minimum investment amount (if any) at that date. In this paragraph (c), 'minimum investment amount' means the minimum one-off initial contribution that a person must make in order to become a Member of the Division and participate in the Division, category of membership and/or plan (as applicable) determined by the Trustee in accordance with paragraph (b) of this Rule as set out in the relevant disclosure document or such lesser amount as the Trustee may from time to time determine for the purposes of this (c).
- (d) The Trustee has fiduciary obligations to Members, not non-member spouses.
- (e) The Trustee may charge such fees as the Trustee determines in connection with requests for information, splitting or flagging of interests or other matters pursuant to the *Family Law Act 1975* (Cth) and related legislation.

4.3 Transfer to the Division

The Trustee may make arrangements it considers appropriate with:

- (a) a Member; or
- (b) any previous employer of the Member; or
- (c) the trustees of any superannuation fund or approved deposit fund of which the Member has been a member or the issue of any roll over annuity in which the person has participated,

to transfer assets to the Division and to provide benefits in respect of the Member which may be calculated in a different manner than set out in this Deed. The arrangement must be consistent with the Relevant Requirements.

4.4 Transfer from the Division

- (a) If a Member becomes eligible to join another superannuation fund or approved deposit fund or to purchase a roll over annuity and requests the Trustee in writing to transfer all or part of the Member's benefits to the other fund or to purchase the roll over annuity the Trustee may do so. However:
 - (1) the transfer must be consistent with the Relevant Requirements; and
 - (2) the transfer must be on the following conditions:
 - (A) any preserved benefit continues to be preserved in the transferee fund;
 - (B) the benefits will not be transferred from the transferee fund except on the same terms and conditions contained in this Rule.
- (b) The Trustee may transfer a Member from this Division to another division of the Fund in accordance with Clause 11.3.

4.5 Transfer to Successor Fund

- (a) If the Trustee determines for any reason that it is appropriate, it may pay the whole or part of any benefit of a Member's Accumulated Credit to a fund that the Trustee is satisfied is a Successor Fund.
- (b) No claims shall lie against the Trustee by the Member as a result of the Trustee paying such amount to a Successor Fund.
- (c) The receipt of the Trustee of the Successor Fund to which the transfer is made shall be a complete discharge to the Trustee in respect of any money or asset so paid or transferred.

4.6 Cessation of membership

A person ceases to be a Member when:

- (a) all benefits which are or may be payable in respect of a Member have been paid;
- (b) a transfer is made under Rules 4.4 or 4.5 in satisfaction of all the Member's entitlement to benefits; or
- (c) all the Member's entitlement to benefits is terminated.

4.7 Cessation of participation by Employer

- (a) An Employer ceases to participate in the Division with effect from:
 - (1) 14 business days after the date that it gives the Trustee written notice of its intention to cease being an Employer in the Division or to cease contributing to the Division;
 - (2) the date it becomes bankrupt or is placed in liquidation or ceases to carry on business; or
 - (3) the date that it receives written notice from the Trustee that it is to cease to be an Employer participating in the Division.
- (b) Subject to the Relevant Requirements, when an Employer ceases to participate in the Division, the Trustee may at any time and in its absolute discretion terminate the plan within the Division to which the Employer contributed and shall notify the Employer and the Members for whom the Employer contributed to the Division of such termination and the date of such termination.
- (c) Subject to the Relevant Requirements upon termination under Rule 4.7(b) the Trustee shall pay or transfer an amount equal to the Accumulated Credit Benefit of each Member for whom the Employer contributed to the Division:
 - (1) forthwith at the absolute discretion of the Trustee to another Complying Fund selected by the Trustee; or
 - (2) within 30 days of termination to another Complying Fund nominated by the Member, or if none is nominated within 30 days of termination to the Fund's eligible rollover fund.

Such payment or transfer under Rule 4.7(c) is full discharge of all claims by the Member in respect of the Division.

5 Contributions

5.1 Employer and Member contributions

- (a) Each Employer and Member must contribute in the manner and at the time set out in the Rules relevant to that Member.
- (b) The Employer may cease, suspend or reduce its contributions in respect of any Member by written notice to the Trustee. The Trustee must notify the Member and the Member may cease contributions.
- (c) Any person authorised by the Relevant Requirements may, subject to the consent of the Trustee, contribute to the Division on behalf of a Member, any such contributions to be applied in accordance with the provisions of this Deed.

5.2 Refusal to accept contributions

- (a) The Trustee may refuse to accept contributions without having to assign any reason for its refusal.
- (b) The Trustee must refuse to accept contributions to the Division if:
 - (1) the person making the contribution is not permitted to do so by the Relevant Law;
 - (2) acceptance of the contribution is otherwise contrary to the requirements of the Relevant Law;
 - (3) an Employer's participation in the Division has been terminated in accordance with Rule 4.7(b); or
 - (4) the Trustee is directed not to accept the contribution by APRA.
- (c) Nothing in this Rule limits the Trustee's discretion to otherwise refuse to accept any contribution made by or on behalf of a Member.

5.3 Refund of contributions

The Trustee, subject to the Relevant Requirements:

- (a) must repay contributions to or for the benefit of the relevant Member or Employer:
 - (1) where such contributions have been received contrary to the Relevant Requirements;
 - (2) where the Trustee is satisfied such contributions were paid by mistake;
 - (3) where the Member or Employer requests a refund of the initial contributions or purchase price, in the case of a pension, within 14 days (or such other date required by the Relevant Requirements) of the relevant Member being admitted to participate in the Division and where the Relevant Requirements require such a repayment; or
- (b) may repay contributions to or for the benefit of the relevant Member if the contributions have been made to finance premiums to an Insurer and the Insurer refuses such premiums;

in which case:

- (a) an adjustment shall be made to the extent permitted under the Relevant Requirements for tax, income or expenses;

- (b) the person shall be deemed not to have become a Member in the case of contributions first made in respect of that person; and
- (c) the Trustee will not be liable to pay any interest in relation to such contributions.

6 Benefit entitlement

6.1 Benefits

Each Member is entitled to benefits calculated in the manner set out in the Rules of the Sub-Division of which he or she is a Member.

6.2 Preservation

If the Trustee considers it necessary under the Relevant Requirements to preserve any part of a benefit then the Trustee must retain it in the Fund until it:

- (a) may be paid under this Deed in accordance with the Relevant Requirements or in accordance with the terms as to preservation that apply to the benefit; or
- (b) pays that part of the benefit to a fund or organisation nominated by the Member which also preserves it under the Relevant Requirements or in accordance with the same terms as to preservation that apply to the benefit under this Deed; or
- (c) is transferred to a Successor Fund.

6.3 Retained Benefits

Any part of the benefit retained under Rule 6.2 remains credited to the appropriate contribution account until payment. If the Member dies before the benefit is paid in full then the Trustee must pay the remainder of the benefit as a Death Benefit.

6.4 Trustee determinations

- (a) A benefit is only payable if this Deed permits it.
- (b) The Trustee may act on any proofs or presumptions which it considers satisfactory whether or not they are strictly legal proofs or presumptions.

6.5 Adjustment of benefits

Subject to the Relevant Requirements, the Trustee may postpone or adjust benefits to take account of (but not limited to) the following circumstances:

- (a) any contributions which have been reduced, suspended, terminated or not otherwise paid;
- (b) any tax or any expenses, charges or costs of the Division;
- (c) any incorrect, inaccurate or misleading information supplied or lack of information supplied in respect of a Member; or
- (d) any refund of co-contributions and/or any other amounts as required by the *Superannuation (Government Co-Contributions for Low Income Earners) Act 2003*.

7 Restrictions on benefit entitlement

7.1 Assignment

- (a) The interest of a Member in the Division is personal to the Member and the Trustee shall not recognise any assignment, claim or charge in respect of that interest unless that assignment, claim or charge is permitted expressly or by necessary implication by the Relevant Requirements.
- (b) The benefit or any interest in the benefit may only be cashed in favour of the Member or if the Member has died his Dependants and / or legal personal representative or in the case of a Non-dependant Benefit in accordance with Rule 9.

8 Unclaimed money

- (a) The Trustee shall pay any unclaimed money in accordance with the Relevant Requirements.
- (b) Where a benefit is payable other than in circumstances where Rule 9 applies and the Trustee is unable to pay the benefit then the Trustee may transfer the benefits to an eligible roll-over fund and where required by the Act must do so.
- (c) Payment in accordance with Relevant Requirements shall be a good discharge to the Trustee.

9 Payment of benefits

9.1 Payments to another fund

If a person entitled to a benefit requests the Trustee in writing to pay all or part of it to another fund, and the payment complies with the Relevant Requirements and the provisions of this Deed, the Trustee may comply with the request.

9.2 Payment of Death Benefit

Where the Member has died:

- (a) the Trustee must pay the Death Benefit to or for the benefit of such of the Dependants and legal personal representatives of the deceased as the Trustee in its absolute discretion considers appropriate; or
- (b) where permitted by the Act the Trustee may pay the benefit to a person or persons selected by the Trustee.

9.3 Member's wishes

A Member may give the Trustee a notice indicating how the Member would prefer the Member's Death Benefit to be distributed among the Member's Dependants and may give a new notice at any time. A notice under this Rule is given for information only and does not limit the Trustee's discretion on the distribution of the Death Benefit.

9.4 Trustee's discharge

The Trustee is discharged from all obligations in respect of a benefit if the Trustee pays it in good faith to or on behalf of a person the Trustee believes to be entitled to it.

9.5 Financial incapacity or Child under 18

If a person who is entitled to a benefit is under 18 or the Trustee believes the person is unable to manage his or her financial affairs, and the Relevant Rule Requirements permit, the Trustee may:

- (a) pay the benefit to another person to be used for the advantage of the person entitled to it; and
- (b) accept the other person's receipt as a good discharge.

The Trustee is not responsible for the application of the benefit by the person to whom it is paid.

10 Insurance

10.1 Terms and conditions

- (a) A Member may request the Trustee to arrange a Life Policy or Policies with the Insurer on the life of the Member.
- (b) The Life Policy or Policies shall include such Investment Component and Risk Component as is determined between the Trustee and the Insurer having regard to:
 - (1) the monies which the Trustee shall in its absolute discretion determine are or are likely to be held in the Division in respect of the Member;
 - (2) the Member's age at the commencement date of that Life Policy;
 - (3) the Member's Retirement Date;
 - (4) the type of Life Policy selected by the Member and approved by the Trustee; and
 - (5) the conditions imposed by the Insurer.
- (c) A Member will not be insured for a Risk Component under the Life Policy until:
 - (1) the Member has provided any information required by the Insurer;
 - (2) the Member has submitted to any medical examinations required by the Insurer; and
 - (3) the Insurer has notified the Trustee in writing that the Member has been accepted for cover.
- (d) The Trustee is authorised and empowered to:
 - (1) arrange for the issue of any Life Policy required to be effected and determine what is the Risk Component and the Investment Component;
 - (2) give full and effectual receipts, releases and discharges as the Trustee from time to time thinks proper and the Insurer requires;
 - (3) hold the Life Policy in its name;
 - (4) receive all monies payable under the Life Policy; and

- (5) enforce any right, remedy or contract in connection with the Life Policy and shall be solely entitled to the full benefits under the Life Policy.
- (e) A Member's interest in and rights under any Risk Component of a Life Policy arranged by the Trustee ceases:
 - (1) upon the Member ceasing to be within the class of persons covered by the Life Policy or otherwise ceasing to be covered under the terms of the Life Policy;
 - (2) upon the Insurer terminating the Life Policy or the Member's cover;
 - (3) on written request to the Trustee given by the Member;
 - (4) on the Trustee determining that it is not reasonably practicable to obtain or renew a policy of life insurance on terms acceptable to the Trustee;
 - (5) on the Trustee determining that the amount standing to the credit of a Member's accounts (after taking into account the likelihood of further receipts) is insufficient to pay for the Member's cover; or
 - (6) if the Member gives notice to the Trustee of its intention to withdraw from the Fund or the Division.
- (f) The Insurance Costs payable by a Member will be deducted from the Member's accounts.

10.2 Scope of insurance cover

Any insured benefit shall be subject to the terms of the Life Policy or Policies taken out by the Trustee to provide the relevant benefit. The Trustee shall not be required to pay a benefit that is greater than the amount received by the Trustee under the insurance policy insuring the benefit in respect of a Member after deduction of all administration charges and expenses and taxes attributable to those amounts.

11 Taxation

The Trustee shall be empowered to deduct and pay as required all taxes payable on contributions made to the Division and on benefits payable from the Division.

12 Records and accounts

12.1 Division records and accounts

The Trustee must keep records for the Division of:

- (a) Members;
 - (b) assets and liabilities;
 - (c) income and expenditure;
 - (d) all other matters specified by the Relevant Requirements,
- and retain them for the period specified by the Relevant Requirements.

12.2 Accounts and audit

The Trustee must appoint an auditor who meets the Relevant Requirements.

12.3 Benefit Account

The Trustee must establish a Benefit Account under which benefits must be clearly identified as preserved or non-preserved benefits within that account for each Member. Amounts shall be recorded to this account showing the Sub-Division to which the Members belong as follows:

- (a) Amounts to be recorded as preserved benefits:
 - (1) contributions made by the Employer for the Member other than non-preserved contributions;
 - (2) any other contributions required to be preserved (whether under the governing rules of the superannuation fund in which the amounts accrued or in accordance with the Act);
 - (3) any part of a Roll-over Amount that must be preserved; and
- (b) Amounts to be recorded as non-preserved benefits:
 - (1) non-preserved employer contributions;
 - (2) any other contributions not required to be preserved (whether under the governing rules of the superannuation fund in which the amounts accrued or in accordance with the Act);
 - (3) any part of a Roll-over Amount that is not required to be preserved.
- (c) The Trustee must also record in each Member's account:
 - (1) amounts credited or debited to the accounts due to returns on the Investment Component of the Life Policy or Policies;
 - (2) Insurance Costs for the Risk Component attributable to the Member;
 - (3) the proceeds of any insured benefit;
 - (4) amounts debited to the account for tax or other charges or expenses;
 - (5) amounts paid as benefits or transferred to other funds from the account;
 - (6) amounts transferred to or from the Reserve Account.

12.4 Reserve Account

- (a) The Trustee may establish a Reserve Account to hold any other unallocated moneys.
- (b) The Trustee must apply amounts held in the Reserve Account for one or more of the following purposes:
 - (1) additional benefits for Members;
 - (2) other purposes which the Trustee determines.
- (c) However, the Trustee may only apply amounts as permitted by the Relevant Requirements.

12.5 Other accounts

The Trustee shall keep such other accounts as may be necessary to record Member entitlements and changes in the nature of entitlements.

13 Assets, investments, borrowings

- (a) The assets of the Division consist of:
 - (1) money or other assets received or receivable by the Trustee for the purposes of the Division; and
 - (2) investments made by the Trustee and all income on those investments.
- (b) The Trustee holds the assets of the Division on trust to apply them in the manner set out in this Deed.
- (c) The Trustee must apply all moneys received for a Member on one or more Life Policies for the life of the Member or Members. Each Life Policy must be:
 - (1) effected with the Insurer;
 - (2) either an individual policy on the life of an individual Member or a group policy on the lives of one or more Members.
- (d) Where a Life Policy provides a choice as to investment of a Member's contributions then subject to the Relevant Requirements the Trustee must give effect to any written direction by a Member as to the exercise of such choice if the direction is not provided to the Insurer directly.

14 Trustee

14.1 Trustee's powers

The Trustee may do anything it considers appropriate to administer the Division and comply with the Relevant Requirements, including:

- (a) giving receipts and discharges;
- (b) conducting and settling legal proceedings;
- (c) referring claims to arbitration;
- (d) giving any guarantee or indemnity;
- (e) insuring any risks;
- (f) acting as an underwriter;
- (g) establishing reserves;
- (h) paying expenses out of assets or income of the Division;
- (i) making rules for rounding off contributions and benefits;
- (j) providing for and transferring liability for any tax.

14.2 Trustee decisions

The Trustee in the exercise of the authorities, powers and discretions hereby vested in it shall have an absolute and uncontrolled discretion and may exercise or enforce all or any of the authorities, powers or discretions from time to time or may refrain from exercising all or any of such authorities, powers or discretions from time to time and its decision as to the interpretation and effect of this Deed shall be final.

14.3 Corporate Trustee

The exercise of any discretion or power vested in the Trustee shall be deemed to be duly made on the passing of a resolution of the board of directors approving of the exercise of that discretion or power and whether made before or after the happening of the event or the performance of the act in respect to which such discretion or power is exercised.

14.4 Trustee's liability

(a) No Personal Liability

No Trustee or director of the Trustee shall be under any personal liability in respect of any loss or breach of trust in respect of the Division or the benefits of a Member unless the same shall have been due to:

- (1) its own failure to act honestly in a matter concerning the Division; or
- (2) intentional or reckless failure to exercise, in relation to a matter affecting the Division, the degree of care and diligence that the Trustee or director was required to exercise.

(b) The Trustee may take out such indemnity and fidelity insurance as it thinks fit and the cost of such shall be an expense of the Division.

14.5 Indemnity

The Trustee and the directors shall be indemnified against all liabilities incurred by it or them in the execution of its or their duties and shall have a lien on the Division for such indemnity. The costs, charges and expenses incurred by the Trustee in and incidental to the administration and winding up of the Division or otherwise in relation thereto to the extent to which it is not paid by the Employer shall be paid out of the Division. This indemnity shall not apply where the Trustee or director of the Trustee:

- (a) fails to act honestly in a matter concerning the Division; or
- (b) intentionally or recklessly fails to exercise, in relation to a matter affecting the Division, the degree of care and diligence that the Trustee or director is required to exercise; or
- (c) the liability is for a monetary penalty under a civil penalty order under the Relevant Requirements.

14.6 Employer authorisation

The Trustee may treat a written or oral authorisation given, or purported to be given, by a director of the Employer as a valid authorisation by the Employer.

14.7 Member authorisation

The Trustee may treat an authorisation purported to be given by a Member as given by the Member.

14.8 Trustee's discretions

- (a) The Trustee, or any officer of the Trustee, may exercise individually or jointly a power or discretion even though that person has another interest in the result of the exercise.
- (b) The Trustee is unrestricted in the exercise of its powers and discretions subject to the Relevant Requirements.

14.9 Remuneration

The Trustee and any manager may receive remuneration for their offices from the Division. The remuneration of the manager must be agreed by the Trustee.

15 Administration

15.1 Expenses

All expenses in connection with the Division which are not paid by Members or charged under any Life Policy are payable from the Division. The Trustee must determine the proportions in which it considers the expenses to be fairly attributable to individual Members and having regard to the Relevant Requirements. The Trustee may recoup expenses from subsequent contributions for the Members concerned, or from the proceeds of Policies, as it considers appropriate.

15.2 Giving of information

- (a) Every Member, person claiming a benefit and Employer must give the Trustee any information or documents that the Trustee requires to administer the Division.
- (b) The Trustee may require a Member to have such medical examination and to provide such information as the Insurer may require.
- (c) The Trustee must give each Member the information which must be given under the Relevant Requirements at that time.
- (d) The Trustee must give the Employer and APRA on any occasion the information which must be given under the Relevant Requirements at that time.

15.3 Power of attorney

Each Member irrevocably appoints the Trustee as the Member's attorney to do all things which the Trustee considers appropriate to administer the Division.

16 Termination of the Division

16.1 When terminated

The Trustee may wind the Division up by giving written notice to each Member. The notice must specify a termination date upon which the Division will terminate.

16.2 Contributions

- (a) Any contributions in arrears at the termination date must be paid immediately.
- (b) The Trustee must not accept any other contributions after the termination date.

16.3 Application of Division

On termination, subject to the Relevant Requirements, the Trustee must apply the Division assets in the following order of priority:

- (a) to provide for all expenses and liabilities for which the Trustee is or may become liable;
- (b) to provide in respect of each Member benefits in accordance with this Deed;
- (c) to pay any additional benefits to any Member as the Trustee may decide;
- (d) to pay any remaining amounts to Members or former Members or their Dependants in proportions determined by the Trustee.

16.4 Payment of benefits

- (a) A Member may not receive a benefit under Rule 16.3 before the Relevant Requirements permit.
- (b) If a Member dies after notice is given of the winding up of the Division but before receiving a benefit provided under Rule 16.3, the Trustee must pay it as if it were a Death Benefit.

16.5 Complaint to delay payment

The Trustee shall have no obligation to make any payment of benefits on the death of a Member until:

- (a) the time to lodge a Complaint by the Dependants notified by the Trustee under the Complaints Act has lapsed; and
- (b) if a Complaint is lodged under the Complaints Act, that Complaint has been dealt with.

17 Amendment of division

17.1 Power to amend

The Trustee may from time to time make any alteration or addition to this Division in accordance with Clause 3.

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Rules of the General Sub-Division

1 Interpretation

1.1 Reference to the Rules of the Sub-Division

In these Rules of the General Sub-Division, a reference to the Rules of the Sub-Division, a Member or an Employer is a reference to the Rules of the Sub-Division, a Member or Employer to which the General Sub-Division applies.

2 Eligibility and membership

- (a) Except in the case of a Staff Current Pensioner or a Staff Deferred Pensioner who is admitted to the Division pursuant to the Staff Successor Fund Transfer, a person wishing to participate in the Division must apply for admission in the form approved by the Trustee.
- (b) A Gainfully Occupied Person is also eligible for membership if that person's Employer directs the Trustee to admit the Gainfully Occupied Person as a Member and the Employer is accepted as an Employer under Rule 3.
- (c) Before admitting a person as a Member the Trustee may require that person:
 - (1) to have a medical examination; and
 - (2) to provide information which the Trustee considers relevant to the administration of the Division.
- (d) The person becomes a Member on the date when the Trustee has approved the person's application.
- (e) The Trustee may:
 - (1) reject the application; or
 - (2) impose special conditions when accepting an application.
- (f) Each Member agrees to be bound by this Deed.

3 Participation by an employer

- (a) An employer wishing to contribute for a Member must apply to the Trustee in such form as may be prescribed by the Trustee.
- (b) An employer will be taken to have applied if it contributes for a Member and the Trustee accepts the contribution.
- (c) An employer who has applied or is taken to have applied under Rule 3(a) to contribute in respect of the Member becomes an Employer on the date when the Trustee accepts the employer's application or contribution as the case may be.

4 Contributions

- (a) Each Member shall be entitled to contribute under this Sub-Division such amounts as agreed between the Member and the Trustee.
- (b) Each Employer shall be entitled to contribute under this Sub-Division such amounts as agreed between the Employer and the Trustee. When the Employer makes contributions, the Employer must advise the Trustee of the Member for whom the contributions are being made.
- (c) Unless the Member and the Employer agree otherwise the Employer may deduct the Member's contributions from the Member's remuneration. The Employer must pay the contributions to the Trustee in accordance with the Relevant Requirements.

5 Payment of benefits generally

5.1 Lump sum payment

Benefits payable under this Deed will be by way of lump sum or, if the Trustee agrees in any case, a pension or in purchase of an Annuity.

5.2 When payable

- (a) The Trustee must pay (or where a pension, commence to pay) the Benefit to a Member on attaining age 65 unless after that age:
 - (1) in the case where cashing of benefits is not required whilst the Member is Employed for a minimum number of hours of Employment - the Member continues to work those hours - in which case payment of the benefit must be made on the Member ceasing to be Employed for the minimum number of hours; and
 - (2) in the case of any other cashing condition that permits retention of the Benefit whilst that condition is satisfied - on ceasing to satisfy that condition.
- (b) On the death of a Member the Benefit shall be paid in accordance with Rule 5.5.
- (c) The Trustee may pay the Benefit:
 - (1) on Retirement or on attaining age 65;
 - (2) on suffering Permanent Incapacity;
 - (3) if the Benefit is unrestricted non-preserved:
 - (A) on leaving the Division;
 - (B) where the Trustee has determined that such benefits should be available for payment before the Member leaves the Division - on request;
 - (4) in circumstances of severe financial hardship or on compassionate grounds where APRA approves the payment and the Trustee's restrictions on payment are met - a single lump sum, not exceeding the amount determined by APRA; and
 - (5) on termination of gainful employment with an Employer where the Member's preserved benefit in the Division is less than the Minimum

Amount and the Trustee has determined to permit payment in such circumstances - the whole of the Benefit.

5.3 Temporary Total Disablement

If the Trustee has effected a policy for temporary total disablement and if a Member suffers Temporary Total Disablement before the Member's Retirement Date, the Trustee must pay an income benefit equal to the amount received by the Trustee under the policy in respect of that Member.

5.4 Evidence of entitlement

As a precondition to payment, the Trustee may require the payee of any Benefit to produce satisfactory evidence of his or her entitlement and to execute documents and do other things reasonably required by the Trustee. Payment of the benefit payable in respect of a Member to the person entitled will discharge the Trustee and satisfy that Member's rights under the Trust.

5.5 Death of Member

Where a Member has died:

- (a) the Trustee must pay the Benefit to or for the benefit of such of the Dependants and legal personal representative of the deceased Member as the Trustee in its absolute discretion considers appropriate; and
- (b) in the case of a Non-dependant Benefit it may be paid to one or more of the person or persons who would benefit on the intestacy of the Member as the Trustee in its absolute discretion considers appropriate.

5.6 Determining pension and commutation entitlements

- (a) In determining any pension amount or commutation amount payable the Trustee may take and rely upon such advice including actuarial advice as it thinks fit.
- (b) Where any sums are about to or are being paid by way of pension, the person or persons entitled to receive the same may, where the Act permits commutation of such benefits, by notice in writing to the Trustee elect to commute part or the whole of such pension.
- (c) The commuted amount will be paid:
 - (1) where the Act does not impose any restrictions on method of payment of the commuted amount - as a lump sum or to a Transfer Fund; and
 - (2) where the Act does impose restrictions on method of payment of the commuted amount - to a Transfer Fund where the amount will be held and applied in accordance with the Act's requirements applying to payment of amounts.
- (d) An election made in accordance with this paragraph shall be irrevocable and upon any such election being made that part or the whole thereof as the case may be, shall be commuted.
- (e) No amount of pension shall be commuted by a factor which is greater than the factor permitted by the Act.

6 Lifetime asset-test exempt pension rules

- (a) Where a Member has elected to be paid a Lifetime Asset-Test Exempt Superannuation Pension the provisions of this Rule 6 apply to that pension, notwithstanding any inconsistent provision in this Deed.
- (b) A payment of pension shall be made at least annually throughout the life of the Member.
- (c) If a Reversionary Beneficiary is selected and the pension reverts:
 - (1) payments shall be made throughout the life of the Reversionary Beneficiary;
 - (2) if the Reversionary Beneficiary is a Child of the Member, payments shall be made at least until the Child is 16 years old;
 - (3) if the Reversionary Beneficiary is a Child of the Member and is a full time student who is 16 years old or more, payments shall be made until full time studies end or the Reversionary Beneficiary is 25 years old, whichever occurs sooner.
- (d) The total amount of the payment or payments to be made in the first year after the Commencement Day (not taking commuted amounts into account) shall be specified and that payment, or the first of those payments, relates to the period commencing on the day when the Member became entitled to the pension.
- (e) The total amount of the payments that may be made under the income stream in any other year (not taking commuted amounts into account) may not fall below the total amount of the payments made under the income stream in the immediately preceding year (**the previous total**), and may not exceed the previous total:
 - (1) if sub-rule 6(b) does not apply - by more than 5% of the previous total; or
 - (2) if the Index Number for the second last quarter before the day on which the first of those payments is to be made (**recent Index Number**) exceeds the Index Number for the same quarter in the immediately preceding year (**base Index Number**) by more than 4% of the base Index Number - by more than such percentage as is worked out under the formula:

$$100 \times \frac{(\text{recent Index Number} - \text{base Index Number})}{(\dots\dots\dots) + 1} \left(\frac{\text{base Index Number}}{\dots\dots\dots} \right)$$
- (f) The amount paid as the purchase price for the pension is wholly converted into income.
- (g) A pension payable in accordance with this Rule 6 shall not have a residual capital value.
- (h) A pension payable in accordance with this Rule 6 cannot be commuted except:
 - (1) within 6 months after the Commencement Day of the pension; or
 - (2) if the commutation is made to the benefit of the Reversionary Beneficiary or the Member's estate on the death of the Member and is made within 10 years after the Commencement Day of the pension;
 - (3) if the payment resulting from the commutation is transferred directly to the purchase of another income stream arising under a contract, or governing rules that meet the requirements of subsections 9A(2) or 9B(2) of the Social Security Act; or

- (4) to the extent necessary to cover any Superannuation Contributions Surcharge that the Member is liable to pay in his or her capacity as purchaser of the pension.
- (i) The pension may only be transferred:
 - (1) upon the death of the Member; and then
 - (2) only to a Reversionary Beneficiary.
- (j) Neither the capital value of the pension, nor the income from it may be used as security for a borrowing.
- (k) If the pension reverts, it shall not have a reversionary component greater than the benefit that was payable immediately before the reversion.
- (l) If the pension is commuted, the commuted amount shall not exceed the benefit that was payable immediately before the commutation.
- (m) A Member may select a Guaranteed Payment Period, such period not to exceed 10 years.
- (n) If a Member selects a Guaranteed Payment Period and the Member dies within the Guaranteed Payment Period, the Trustee may pay:
 - (1) a surviving Reversionary Beneficiary an amount not exceeding the total payments that the Member would have received from the day of death until the end of the period expiring 10 years after the Commencement Day of the pension;
 - (2) where there is no surviving Reversionary Beneficiary, to the Member's estate an amount not exceeding the difference between:
 - (A) the sum of the amounts that would have been so payable to the Member in the period expiring 10 years after the Commencement Day of the pension; and
 - (B) the sum of the amounts paid to the Member; and
 - (3) where there is a surviving Reversionary Beneficiary who dies within 10 years after the Commencement Day of the pension, to the Reversionary Beneficiary's estate an amount not exceeding the difference between:
 - (A) the sum of the amounts that would have been so payable to the Reversionary Beneficiary in the period expiring 10 years after the Commencement Day of the pension; and
 - (B) the sum of the amounts paid to the Reversionary Beneficiary.

7 Life expectancy asset-test exempt pension rules

- (a) Where a Member has elected to be paid a Life Expectancy Asset-Test Exempt Superannuation Pension the provisions of this Rule 7 apply to that pension notwithstanding any inconsistent provision in this Deed.
- (b) The Member must have reached Pension Age on or before the day on which the Member purchases or acquires the pension.
- (c) A payment of pension must be made at least annually:
 - (1) if the life expectancy of the Member on the Commencement Day is less than 15 years - throughout a period equal to the Member's life expectancy (rounded up, at the Member's option, not later than the

- (j) Neither the capital value of the pension, nor the income from it may be used as security for a borrowing.
- (k) If the pension reverts, it shall not have a reversionary component greater than 100% of the benefit that was payable before the reversion.
- (l) If the pension is commuted, the commuted amount cannot exceed the benefit that was payable immediately before the commutation.

8 Complying pension rules

Where a Member has elected to be paid a Complying Pension, the pension may be paid in such manner as is agreed between the Trustee and the Member, provided the pension satisfies the standards of a Complying Pension under the Act.

9 Allocated pension rules

Where a Member has elected in his or her application form to be paid an Allocated Pension, the pension may be paid in such manner as is agreed between the Trustee and the Member, provided the pension satisfies the standards of an Allocated Pension under the Act.

10 Staff Current Pension rules

- (a) Notwithstanding any inconsistent provision in the Deed this Rule applies to a Staff Current Pensioner.
- (b) A Staff Current Pensioner shall be paid a pension from the Division from the Transfer Date on the same basis as was his or her entitlement to be paid a pension from the TOWER Staff Superannuation Fund immediately before the Transfer Date and in accordance with his or her entitlement to be paid such pension from the TOWER Staff Superannuation Fund pursuant to that fund's trust deed.
- (c) On the death of a Staff Current Pensioner no Death Benefit is payable.

11 Staff Deferred Pension rules

- (a) Notwithstanding any inconsistent provision in the Deed this Rule applies to a Staff Deferred Pensioner.
- (b) Subject to the remaining provisions of this Rule 11, a Staff Deferred Pensioner shall be entitled to a Benefit from the Division from the Transfer Date in the same circumstances as the Member would have been entitled to receive a benefit from the TOWER Staff Superannuation Fund had the Staff Deferred Pensioner remained a member of the TOWER Staff Superannuation Fund
That Benefit will be paid in the same form as the benefit would have been paid if the Staff Deferred Pensioner had remained a member of the TOWER Staff Superannuation Fund, and where the Staff Deferred Pensioner or trustee of the TOWER Staff Superannuation Fund would have had discretion as to the form of

the benefit payable from that fund they will have the same discretion as to the Benefit paid from the Division.

- (c) The value of the Benefit of a Staff Deferred Pensioner before becoming entitled to a Benefit in the form of a pension shall be the amount standing to the account of the Staff Deferred Pensioner's Benefit Account. If the Staff Deferred Pensioner receives payment of a pension, the amount of the pension and the associated rights including, where relevant, to nominate a Reversionary Beneficiary, will be determined on the same basis as the Staff Deferred Pensioner would have been entitled under the trust deed for the TOWER Staff Superannuation Fund.
- (d) On the death of a Staff Deferred Pensioner before he or she has begun to receive a Benefit from the Division, the Staff Deferred Pensioner's Benefit shall be paid in accordance with Rule 5.5.
- (e) If a Staff Deferred Pensioner cannot attend in any way to his or her Employment on account of permanent ill health or disablement the Staff Deferred Pensioner will be entitled to a Benefit from the Fund. For the purposes of this Rule 11(e) permanent ill health or disablement will have the same meaning as it had under the trust deed for the TOWER Staff Superannuation Fund prior to the Transfer Date.

TOWER Employer Sponsored Division

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TOWER Employer Sponsored Division

Date ▶ 30 June 2010

Recitals

- 1 The name of this division is the TOWER Employer Sponsored Division (**Division**).
 - 2 The Division commences on the date of execution of this Deed of Amendment.
 - 3 The following rules and appendices (**Rules**), as amended from time to time, are the Rules of the Division.
 - 4 The Division must be managed and administered in all respects according to the Rules.
 - 5 The provisions of the Division may be amended in the manner set out in Clause 3.
 - 6 In the event of any inconsistencies between the Governing Provisions and the Rules of this Division, the Rules in the Division shall prevail.
-

1 Definitions and interpretation

1.1 Definitions

The meanings of the terms used in this Division are set out below.

Term	Meaning
Actuary	an Actuary, whose accreditation is acceptable for the purposes of the Relevant Law, who is for the time being appointed by the Trustee for the purposes of the Rules.
Allocated Pension	<ol style="list-style-type: none"> 1 a pension under which a Beneficiary receives payments from the Fund, such payments to be determined on the basis agreed between the Manager and the Beneficiary from time to time and which may include rights of commutation; 2 which is payable only for so long as the Allocated Pension Account is in credit; and 3 which complies with the Relevant Law.
Allocated Pension Account	the account established by the Manager in respect of a Beneficiary and managed in accordance with Rule 5.4.
Approved Benefit Arrangement	a fund or benefit arrangement, other than the Fund, to which a payment may be made from the Fund, or from which a payment may be accepted into the Fund, in accordance with the Relevant Law.
Auditor	an Auditor whose accreditation is acceptable for the purposes of the Relevant Law.
Benefit	the amount paid or payable (as the case may be) from the Fund to or in respect of a Beneficiary.
Beneficiary	a person presently beneficially entitled to receive a Benefit.
Child	includes a step-child, ex-nuptial child, a legally adopted child, posthumous natural child, a child of the Member's Spouse and any other child recognised under SIS.
Clause	a clause within the Governing Provisions.

Term	Meaning
Commissioner	either or both of the persons for the time being holding the office of Commissioner of Taxation or Insurance and Superannuation Commissioner, according to the context in which the expression is used.
Compulsory Contributions	those contributions paid or payable to the Division by an Employer, in respect of a Member, pursuant to any legislative enactment (including where a contribution is made by an Employer in order that the employer not be liable for a charge under the SGC Legislation) or industrial agreement or industrial award.
Deed, the Deed or this Deed	the Governing Provisions and the Rules of this Division as are in force from time to time governing the Fund and this Division, as amended from time to time.
Deed of Amendment	the Deed of Amendment for the TOWER Master Fund which establishes this Division.
Dependant	in relation to a Member or former Member, a Spouse or Child of the Member or former Member, any other person who in the opinion of the Trustee is or was at the relevant time wholly or partially dependent on the Member or former Member for maintenance and support or any person with whom the Member has or had an Interdependency Relationship.
Division	TOWER Employer Sponsored Division.
Division Credit	in relation to a Member, the total balance of the Member's Accounts.
Employee	an employee of an Employer, a director of the Employer if the Employer is a corporation and any person for whom the Employer must make superannuation contributions in order that the Employer will not be subject to a charge under the SGC Legislation.
Employer	a Participating Employer and, in relation to a particular Member or former Member, means the Employer in whose service that person is or was at the relevant time.
Employer Compulsory Account	the account (if any) established by the Manager in respect of a Member and managed in accordance with Rule 5.2.
Employer Voluntary Account	the account (if any) established by the Manager in respect of a Member and managed in accordance with Rule 5.3.

Term	Meaning
Family Law Act	the <i>Family Law Act 1975</i> (Cth).
Foregone Benefits Account	the account established and managed by the Manager in accordance with Rule 5.6.
Fund	the TOWER Master Fund.
Fund Year	Financial Year as defined in Clause 1.1 of the Governing Provisions.
Governing Provisions	the provisions of Clauses 1-13 of the TOWER Master Fund.
Insured Benefits	in relation to a Member, those benefits in respect of which the Trustee has effected risk life insurance cover.
Insurer	TOWER Australia Limited or such insurer as the Trustee shall from time to time determine.
Interdependency Relationship	has the meaning assigned to that term in SIS.
Life Insurance Policy	a life insurance contract issued on the life of a Member or group of Members by TOWER Australia Limited.
Manager	TOWER Australia Limited (ABN 70 050 109 450), or the company replacing it as Manager in accordance with the Rules.
Member	any person who has been admitted as Schedule 1 Member or a Schedule 2 Member or a Schedule 3 Member pursuant to Rule 2.1.
Member Contribution Account	means the account established by the Manager in respect of a Member and managed in accordance with Rule 5.1.
Member's Account	the accounts kept in respect of each Member pursuant to Rule 5.
Non-Member Spouse	has the meaning assigned to that term in the Family Law Act.
Normal Retirement Date	in respect of a Schedule 1 Member or a Schedule 2 Member the date specified in the Participation Terms in respect of that Member,

Term	Meaning
	or if no date is specified, the date the Member attains age 65.
Participating Employer	an Employer admitted as a Participating Employer under Rule 2.2.
Participation Terms	<p>1 in relation to a Participating Employer which is the Employer of one or more Schedule 1 Members:</p> <ul style="list-style-type: none"> • the terms under which the Employer has arranged with the Trustee to contribute to the Division in respect of those Members; or • where Rules 2.1(a)(2) or 2.1(a)(3) apply, the terms determined by the Trustee; <p>2 in relation to a Schedule 2 or Schedule 3 Member, the terms on which the Trustee has admitted the Member to the Division.</p> <p>The Participation Terms may be varied from time to time by agreement between the Trustee and the Participating Employer, or the Member, as the case may be.</p>
Personal Representative	in relation to a Member or Beneficiary, the 'legal personal representative' of that Member or Beneficiary as defined under the Relevant Law.
Preserved Benefit	that part of a Benefit in respect of a Member, or that part of the Member's interest in the Division, as appropriate, which is required to be preserved under, and in accordance with, the Relevant Law.
Relevant Law	has the meaning set out in Clause 1.1.
Rule or Rules	a Rule or group of Rules in the Rule identified by the same initial number, as altered or amended from time to time.
Schedule	any one of Schedule 1 (also known as the Standard Employer Sponsored Schedule), Schedule 2 and Schedule 3.
Schedule 1 Member	an Employee who has been admitted to membership of Schedule 1 and who has not ceased to be a Member of Schedule 1.
Schedule 2 Member	a person who has been admitted to membership of Schedule 2 and who has not ceased to be a Member of Schedule 2.
Schedule 3 Member	a person who has been admitted to membership of Schedule 3 and who has not ceased to be a Member of Schedule 3.

Term	Meaning
Service	in relation to a Member, continuous service with the Employer.
SGC Legislation	the <i>Superannuation Guarantee Charge Act 1992</i> , the <i>Superannuation Guarantee (Administration) Act 1992</i> and other related legislation and regulations or rulings issued thereunder.
SIS	the <i>Superannuation Industry (Supervision) Act, 1993</i> and any regulations made or issued thereunder.
Spouse	includes: <ol style="list-style-type: none"> (a) another person with whom the Member is in a relationship that is registered under a law of a State or Territory; and (b) another person who, although not legally married to the Member, lives with the Member on a genuine domestic basis in a relationship as a couple.
Taxation Reserve Account	an account established and managed by the Manager in accordance with Rule 5.5.
Temporary Disablement	in respect of a Member, the definition of 'temporary disablement' or the equivalent term in a policy of insurance effected by the Trustee to provide a benefit on the temporary disablement of the Member.
Total and Permanent Disablement	in respect of a Member: <ol style="list-style-type: none"> 1 to the extent that the Trustee is entitled to claim under a policy of insurance which the Trustee has effected to provide a benefit on the total and permanent disablement of the Member, the definition of 'total and permanent disablement' or the equivalent term in that policy; and 2 otherwise the ill health (whether physical or mental) of a Member where the Trustee is reasonably satisfied that the Member is, because of ill health, unlikely ever again to engage in gainful employment for which the Member is reasonably qualified by education, training or experience.
Trustee	the trustee or trustees for the time being of the Fund or the Division whether original or substituted as hereafter provided.
Voluntary Contributions	those contributions paid or payable to the Division by an Employer in respect of a Member, other than Compulsory Contributions.

1.2 Supremacy of the Rules of this Division

If there is any inconsistency between the Rules of this Division and the Governing Provisions, the Rules of this Division prevail.

2 Participation and membership

2.1 Membership

- (a) The Trustee may:
 - (1) upon the nomination of an Employer, admit an Employee or the Spouse of such Employee (but only where the Relevant Law permits) to membership of the Division as a Schedule 1 Member, in accordance with the Participation Terms; or
 - (2) admit an Employee who has been transferred from an Approved Benefit Arrangement pursuant to Rule 11.1, or the Spouse of such Employee (but only where the Relevant Law permits), to membership of the Division as a Schedule 1 Member on the Participation Terms;
 - (3) admit an Employee who has been transferred from another Schedule pursuant to Rule 2.9, or the Spouse of such Employee (but only where the Relevant Law permits), as a Schedule 1 Member on the Participation Terms.
- (b) The Trustee may admit persons who are employees of an employer (which will upon making contributions to the Division become an Employer) or the Spouse of such person (but only where the Relevant Law permits) to membership of the Division as a Schedule 2 Member on the Participation Terms.
- (c) The Trustee may admit persons who are eligible to be Members under the Relevant Law, but who are not admitted as Schedule 1 or Schedule 2 Members, as Schedule 3 Members on the Participation Terms.

2.2 Participating Employer

- (a) The Trustee may admit an employer as a Participating Employer on the Participation Terms.
- (b) An employer of a Schedule 2 Member will be deemed to have been admitted as a Participating Employer in respect of that Member on the date the Employer first contributes to the Division in respect of that Member.
- (c) A Participating Employer, once admitted, shall be bound by the Rules.

2.3 Information

- (a) The Trustee may require both applicants for membership, and Members, to provide information and evidence, complete documents and undergo medical examinations and tests, as the Trustee considers necessary or desirable.
- (b) Subject to the Rules if -
 - (1) an applicant for membership or a Member fails to comply with paragraph (a) of this Rule or to satisfy any test, standard or requirement to the satisfaction of the Trustee; or
 - (2) any statement made or evidence provided by or in respect of an applicant for membership or a Member (whether in connection with an

application to become a Member or otherwise) is found to contain any mis-statement, or there has been a material non-disclosure of relevant information;

the Trustee may impose special terms, conditions and restrictions in respect of membership of, and Benefits under, the Division.

2.4 Terms of membership

Upon becoming a Member of the Division, the Member is deemed to have approved of and is bound by the Rules and the Deed.

2.5 Power to comply with Family Law Act

The following provisions apply notwithstanding any other provision of this Deed:

- (a) a new interest must not be created in the Division for a Non-Member Spouse;
- (b) the Trustee may in accordance with the *Family Law Act* and the Relevant Law:
 - (1) provide a Non-Member Spouse or any other person with information (including, without limitation, information in relation to a Member's interest in the Division);
 - (2) give effect to a superannuation agreement, payment flag, flag lifting agreement (within the meaning of those expressions in Part VIIIIB of the *Family Law Act*) or any other agreement or court order made pursuant to Part VIIIIB of the *Family Law Act*, in relation to a Member's interest in the Division;
 - (3) give effect to a payment split under Part VIIIIB of the *Family Law Act* in relation to a Member's interest in the Division including, without limitation:
 - (A) rolling over or transferring to another Approved Benefit Arrangement or paying to the Non-Member Spouse, the Non-Member Spouse's entitlement under the payment split in the circumstances permitted by the *Family Law Act* and the Relevant Law;
 - (B) reducing the entitlement of the Member, or any other person to whom the Member's interest would have been paid, by the amount of the Non-Member Spouse's entitlement under the payment split in accordance with the *Family Law Act* and the Relevant Law;
 - (C) commuting a pension or annuity payable from the Division; and
 - (D) apportioning the 'minimum benefits', 'preserved benefits', 'restricted non preserved benefits' and 'unrestricted non preserved benefits' (within the meaning of those expressions in the Relevant Law) as between the Member's interest in the Division and the Non-Member Spouse's entitlements under the payment split in accordance with the *Family Law Act* and the Relevant Law; and
 - (4) charge, and deduct amounts payable from the Division, fees in respect of any matter or thing done under this clause, an application for information about a Member's interest in the Division or any other thing done pursuant to Part VIIIIB of the *Family Law Act*.

- (c) The Trustee must treat the Non-Member Spouse as a Member where required by the *Family Law Act* and the Relevant Law.

2.6 Cessation of membership

A Member shall cease to be a Member upon:

- (a) payment of the Benefit in full to, or in respect of, the Member under the Rules; or
- (b) forfeiture of the Member's entire interest in the Division under Rule 13; or
- (c) transfer of the Member's entire interest in the Division under Rule 11.2, 11.3 or 11.4,

whichever occurs first.

2.7 Notice to applicants and new Members

The Trustee shall make available, provide or cause to be provided to prospective Employers, prospective members, applicants and new Members the statements and other information, and in the manner, the circumstances and at the times, prescribed by the Relevant Law.

2.8 Employment relationship

Nothing in these Rules:

- (a) shall affect the powers or rights of an Employer with respect to the remuneration, terms of employment or dismissal of a Member, or any other dealings of the Employer with such Member in respect of the Member's employment; and
- (b) without limiting the generality of paragraph 2.8(a), shall be used to vary damages in any action brought against the Employer in respect of the dismissal of the Member, or affect the rights of the Member or the Member's Personal Representative or other persons to claim damages or compensation at common law or under workers compensation legislation, and the Benefit payable shall not be reduced by reason of payment of such damages or compensation except as provided under the Rules or required by law.

2.9 Transfers between Schedules

A Member who has been admitted to membership of one Schedule may cease to be a Member of that Schedule and become a Member of another Schedule:

- (a) if agreed by the Trustee, the Participating Employer (in the case of a Schedule 1 Member who is still employed by the Participating Employer) and the Member; and
- (b) if the Trustee so determines, in circumstances where the Trustee is satisfied that the new Schedule will confer on the Member equivalent rights to the rights that the Member had under the previous Schedule in respect of Benefits.

2.10 Transfers between divisions

The Trustee may transfer a Member from this Division to another division of the Fund in accordance with Rule 11.4.

3 Trustee and Manager

3.1 Appointment and resignation or removal of the Trustee

Save as set out in this Rule 3.1, the appointment and resignation of the Trustee shall be governed by Clause 5.

- (a) Upon retirement, the retiring Trustee shall vest the assets of the Division or cause them to be vested in the new Trustee and must deliver to such new Trustee all books, documents, records and other property relating to the Division. The costs and expenses incidental to such vesting and delivery shall be borne by the Division.
- (b) The new Trustee shall execute a deed in such form as the retiring Trustee may require whereby it undertakes to the retiring Trustee and to the Participating Employers and Members jointly and severally to be bound by the Rules.
- (c) From the date of its retirement, the retiring Trustee shall be released from complying with the Rules and the new Trustee may exercise all the powers and enjoy all the rights and shall be subject to all the duties and obligations of the Trustee under the Rules as though it had been originally named as the Trustee, but no release under this paragraph shall extend to any existing or antecedent breach of trust on the part of the retiring Trustee or any existing or antecedent breach of its duties imposed by law.
- (d) The new Trustee may settle with the retiring Trustee the amount of any sums payable to the Division by the retiring Trustee or by the Fund to the retiring Trustee under the Rules, and may give or accept from the retiring Trustee a discharge in respect of such liability. Any such settlement or discharge shall be conclusive and binding, except in the case of fraud, but shall not be binding on Participating Employers and Members.
- (e) Upon the retirement of the Trustee under the Rules, the retiring Trustee ceases to be liable for losses, taxes or claims in respect of the Division except to the extent that such losses, taxes or claims arise by reason of any existing or antecedent breach of trust on the part of the retiring Trustee or any existing or antecedent breach of its duties imposed by law.

3.2 Appointment and resignation or removal of Manager

- (a) The Manager may resign as Manager of the Division by giving 1 month's written notice to the Trustee, or such shorter period as is agreed with the Trustee.
- (b) The Manager shall be removed by the Trustee forthwith upon the happening of any of the following events:
 - (1) if the Manager goes into liquidation (except for the purpose of amalgamation or reconstruction or some similar purpose) or ceases to carry on business; or
 - (2) if a receiver of the property or undertaking of the Manager is appointed; or
 - (3) if after reasonable notice from the Trustee, the Manager fails to carry out or satisfy any duty or obligation imposed on the Manager under the Rules; or
 - (4) if 75% of the Members and Beneficiaries, being Beneficiaries receiving an Allocated Pension, so require.
- (c) In the event the Manager resigns, the Trustee shall appoint a new Manager acceptable under the Relevant Law and nominated by the retiring Manager. If the Manager is removed, or the retiring Manager fails to nominate a new

Manager within 2 months after having been requested to do so by the Trustee, then the Trustee shall appoint a new Manager in its absolute discretion, subject to the Relevant Law. Pending such appointment, the Trustee may act as Manager. The company or person so appointed, and the Trustee during such times as the Trustee acts as Manager, shall be entitled to exercise all powers conferred on the Manager under the Rules.

- (d) On the retirement or removal of the Manager, the Trustee shall pay the outgoing Manager the amount, if any, due for services rendered prior to the date of retirement or removal.
- (e) The Trustee shall settle with the Manager the amount of any sums payable by the Manager to the Trustee or by the Trustee to the Manager under the Rules and give to, or accept from, the Manager a discharge in respect of the same. Such discharge shall be conclusive and binding upon all persons who may claim under the Rules. The Trustee may also make such arrangements as it thinks fit in discharge of the Manager from any existing or future liability under the Rules and may discharge the Manager in accordance with such arrangements and any such discharge shall be conclusive and binding upon all persons who may claim under the Rules, except in relation to an antecedent breach of the Rules on the part of the Manager.

3.3 Liability of Trustee and Manager

- (a) A reference in this Rule to 'Trustee and/or Manager' shall, unless the context requires otherwise, also be regarded as a reference to a director of the Trustee and/or Manager.
- (b) Subject to Rule 3.3(c), the Trustee and/or Manager shall not incur any liability for:
 - (1) any loss suffered by the Division or suffered by any Member or any person having at any time an interest in the Division;
 - (2) the act or default of any Member or Beneficiary;
 - (3) the neglect or default of any solicitor, banker, accountant, broker, Auditor, Actuary, adviser, agent or other such person, firms or companies employed in good faith by the Trustee and/or Manager;
 - (4) the bankruptcy or insolvency of, or any fraudulent or negligent act by, any servant or delegate of the Trustee and/or Manager or any person with whom any investment may be deposited;
 - (5) the payment of an amount or benefit to a person reasonably believed to be entitled thereto but whom is in fact not so entitled;
 - (6) any action taken or thing suffered in reliance upon any document, record, authority, representation, statement or evidence reasonably believed by the Trustee and/or Manager, or a servant or delegate, in good faith to be genuine, accurate and effective;
 - (7) any act or acts done or omitted to be done bona fide in conformity with any decisions of the Trustee and/or Manager; or
 - (8) any mistake or determination or erroneous decision that exposes the Trustee and/or Manager to any claim by any person having an interest in the Division.
- (c) Rule 3.3(b) shall not operate to preclude any liability of the Trustee and/or Manager in the event of:
 - (1) fraud;
 - (2) wilful neglect or misconduct; or

- (3) such other circumstances as the Relevant Law prescribes.
- (d) If any of the provisions of this Rule are void or ineffective by operation of law, or declared void by any Court of competent jurisdiction, such avoidance or ineffectiveness shall not affect the operation of the remaining provisions to the extent that the ineffective or void provisions can be severed from the Rule.

3.4 Indemnity of Trustee and Manager

- (a) A reference in this Rule to 'Trustee and/or Manager' shall, unless the context requires otherwise, also be regarded as a reference to a director of the Trustee and/or Manager.
- (b) The Trustee and/or the Manager and each of them severally shall, to the extent permitted by law, be indemnified from the Fund against all liabilities (except those incurred in the event of fraud or wilful neglect or misconduct on the part of the Trustee and/or the Manager) incurred in the exercise or purported exercise or as a consequence of the failure to exercise any of the trusts, powers, authorities and discretions vested in the Trustee and/or the Manager under the Rules or at law and, to the extent permitted under the Relevant Law, shall have a lien on and may use the assets forming part of the Division or the Fund for the purposes of this indemnity.
- (c) This indemnity shall extend to any payments made to any person whom the Trustee and/or the Manager bona fide believes to be entitled thereto although it may be subsequently found that the person was not in fact so entitled.

3.5 Remuneration of Trustee and Manager

The Trustee and the Manager shall be entitled to charge professional fees and to recover costs and disbursements incurred in respect of the provision of services as a Trustee and/or as a professional adviser to the Division.

3.6 Delegation by Trustee and Manager

The Trustee and the Manager may, as the case may be, delegate any function in accordance with Clause 5.3(a).

3.7 Confidentiality

The Trustee, the Manager, their directors and any member of a policy committee shall be required to treat as confidential any information acquired in the course of performing their responsibilities and only use that information for the purposes of the Fund.

3.8 Trustee and Manager discretion

Subject to Rule 3.6, the Trustee and the Manager, in the exercise of powers and discretion vested in it under the Rules, shall have an absolute and uncontrolled discretion and may exercise or enforce all or any powers and discretions from time to time or at any time, or may refrain from exercising all or any powers or discretions from time to time, or at all.

3.9 Signing of documents by the Trustee

Unless otherwise provided in the constituent document of the Trustee, any two directors of the Trustee are authorised to execute, sign, enter into or acknowledge cheques, negotiable instruments, contracts, agreements, proposals for insurance, applications, transfers or assignments of policies of insurance or other assets of the Division, on behalf of the Trustee.

3.10 Trustee covenants

The Trustee covenants that it shall comply with the covenants (if any) required of it by the Relevant Law.

3.11 Manager covenants

The Manager will make available, or ensure that there is made available, all books, records or other information required by the Trustee for the purposes of the Fund. The Manager will use its best endeavours to carry out its functions and duties under the Rules in a proper and an efficient manner.

3.12 Member acting as Trustee

No director, officer or employee of the Trustee, the Manager or an Employer, shall by virtue of such position, or of powers being delegated by the Trustee to him or her, be disqualified from being a Member of the Fund or from exercising any rights or deriving any benefits as a Member. If permitted by the Trustee's constituent document and to the extent permitted by law, a director of the Trustee who is, or is about to become a Member, may be counted in a quorum and vote at any meeting of the Trustee when the Trustee is exercising powers pursuant to the Rules and may attest the affixing of the common seal of the Trustee notwithstanding that, as a Member, he or she is interested in the matter.

4 Contributions

4.1 Member contributions

- (a) Subject to Rule 15.1, a Member may contribute to the Division on terms agreed with the Manager.
- (b) The Trustee may assume, without enquiry, that the Employer is authorised to deduct the contributions of a Schedule 1 Member or Schedule 2 Member from the Member's salary and the Trustee, and the Division, shall not be liable if such deduction is not authorised by the Member, or otherwise by law.
- (c) The Trustee may accept contributions in respect of a Member from the Commissioner of Taxation, paid pursuant to the SGC Legislation. The Trustee may also accept contributions in respect of a Member from any other person who is permitted under the Relevant Law to make contributions in respect of the Member. Such contributions will be deemed to be contributions made by the Member.

4.2 Employer contributions

- (a) Compulsory Contributions by an Employer in respect of a Schedule 1 Member or Schedule 2 Member shall be made in accordance with the Participation Terms.
- (b) Subject to Rule 15.1, Voluntary Contributions by an Employer in respect of a Schedule 1 Member or Schedule 2 Member shall be made in accordance with the Participation Terms.

4.3 Additional contributions

In addition to contributions specified under Rules 4.1 and 4.2 but subject to Rule 15, an Employer may make additional Voluntary Contributions in respect of a Schedule 1 Member or Schedule 2 Member and any Member may make additional contributions to the Division, if the Manager agrees. Additional contributions by the Member shall be credited to the Member's Member Contribution Account. Additional Voluntary Contributions by the Employer shall be credited to the Employer Voluntary Account of the Member in respect of whom the additional contribution is made.

4.4 Payment of contributions

- (a) Contributions shall be paid to the Trustee on a monthly basis, or at such other intervals acceptable to the Trustee.
- (b) Contributions shall be paid in cash or by other means acceptable to the Trustee.

4.5 Payment to life insurance company

If a payment, which is designated to be a contribution or an additional contribution to the Division, is made by a Member or an Employer directly to an Insurer, it is deemed to be a payment of the contribution to the Trustee and a payment by the Trustee to that company.

5 Accounts, valuation and allocation of profits and losses

5.1 Member Contribution Account

The Manager shall maintain, if necessary or convenient for the purposes of the Rules, a Member Contribution Account in respect of a Member, to which the following amounts shall be credited or debited, as appropriate:

- (a) contributions to the Division by the Member pursuant to Rule 4.1;
- (b) that proportion of the assets received by the Trustee pursuant to Rule 11 which was standing to the credit of the Member under another Approved Benefit Arrangement (provided that if the transfer is from a superannuation fund conducted by, or contributed to by an Employer of a Schedule 1 Member, the Manager shall, if so requested by that Employer, only allocate that proportion of the amount transferred as is vested in the Member under such fund);
- (c) amounts debited to meet taxation liabilities pursuant to Rule 12;
- (d) amounts not required to pay tax and which are credited pursuant to Rule 5.5;
- (e) amounts credited pursuant to Rules 4.3, 5.6 and 6.9;
- (f) allocations of profits and losses pursuant to Rule 5.8;
- (g) administration expenses, if any, deducted pursuant to Rule 10;
- (h) insurance charges and premiums, if any, deducted pursuant to Rule 7.3; and
- (i) Benefit payments.

5.2 Employer Compulsory Account

The Manager shall maintain, if necessary or convenient for the purposes of the Rules, an Employer Compulsory Account in respect of each Schedule 1 Member, to which the following amounts shall be credited or debited, as appropriate:

- (a) Compulsory Contributions to the Division pursuant to Rule 4.2 in respect of that Member;
- (b) amounts debited to meet taxation liabilities pursuant to Rule 12;
- (c) amounts not required to pay tax and which are credited pursuant to Rule 5.5;
- (d) amounts credited pursuant to Rule 5.6;
- (e) allocations of profits and losses pursuant to Rule 5.8;
- (f) administration expenses, if any, deducted pursuant to Rule 10;
- (g) insurance charges and premiums, if any, deducted pursuant to Rule 7.3; and
- (h) Benefit payments.

5.3 Employer Voluntary Account

The Manager shall maintain, if necessary or convenient for the purposes of the Rules, an Employer Voluntary Account in respect of each Schedule 1 Member or Schedule 2 Member, to which the following amounts shall be credited or debited, as appropriate:

- (a) Voluntary Contributions to the Division made pursuant to Rule 4.2 in respect of that Member;
- (b) the balance, if any, of the assets received by the Trustee pursuant to Rule 11 after crediting the Member Contribution Account in respect of the Member pursuant to Rule 5.1(b);
- (c) amounts debited to meet taxation liabilities pursuant to Rule 12;
- (d) amounts not required to pay tax and which are credited pursuant to Rule 5.5;
- (e) amounts credited pursuant to Rules 4.3 and 5.6;
- (f) allocations of profits and losses pursuant to Rule 5.8;
- (g) administration expenses, if any, deducted pursuant to Rule 10;
- (h) insurance charges and premiums, if any, deducted pursuant to Rule 7.3; and
- (i) Benefit payments.

5.4 Allocated Pension Account

If a Benefit is payable as an Allocated Pension, the Manager shall establish an Allocated Pension Account in respect of the Beneficiary, which account shall be maintained for any reversionary Beneficiary in relation to the Benefit, to which the following amounts shall be credited or debited, as appropriate:

- (a) the value of the Benefit at the time the Allocated Pension Account is established;
- (b) amounts debited to meet taxation liabilities pursuant to Rule 12;
- (c) amounts not required to pay tax and which are credited pursuant to Rule 5.5;
- (d) amounts credited pursuant to Rule 5.6;
- (e) allocations of profits and losses pursuant to Rule 5.8;
- (f) administration expenses, if any, deducted pursuant to Rule 10;
- (g) insurance charges and premiums, if any, deducted pursuant to Rule 7.3; and
- (h) Allocated Pension payments.

5.5 Taxation Reserve Accounts

The Manager shall establish one or more Taxation Reserve Accounts as it considers necessary or convenient for the purposes of the Division, to which the Trustee shall credit amounts which, in the Trustee's opinion, are required to be set aside to meet the taxation liabilities of the Division, including:

- (a) income tax on contributions to the Division;
- (b) income tax on earnings of the Division;
- (c) income tax on Benefits payable to Members or Beneficiaries;
- (d) an allowance for capital gains tax which may be payable in respect of unrealised gains on assets of the Division;
- (e) capital gains tax on realised assets;
- (f) any other taxes payable by the Trustee as may be required by the Commissioner of Taxation or other lawfully empowered taxing authority.

The Taxation Reserve Accounts shall be debited by the Trustee as required to pay tax, or to transfer to the Member's Accounts and Allocation Pension Accounts, on an equitable basis, amounts set aside to pay tax but which are no longer required for this purpose.

5.6 Foregone Benefits Account

The Manager shall maintain a Foregone Benefits Account to which amounts are credited as provided in the Rules and which shall be applied, within the period (if any) specified under the Relevant Law, as follows:

- (a) if the Benefit of a Member, or interest of a Beneficiary, has been forfeited and, in the case of a Member, membership terminated under Rule 13.1, the Trustee may in its discretion, but only to the extent permitted under the Relevant Law, apply all or part of the Benefit or interest forfeited to or for the benefit or maintenance of that former Member or Beneficiary and/or the Spouse or Child of the former Member or any other person who, in the opinion of the Trustee, is dependent on the former Member for maintenance and support; or
- (b) in any one or more of the ways approved, either generally or in the specific instance, by the Commissioner.

In the absence of any such approved means of applying the proceeds of the Foregone Benefits Account, the Trustee shall apply the proceeds in any one or more of the following ways to the extent such application is not prohibited by, and is within the period (if any) specified under, the Relevant Law:

- (a) to reduce any contributions which the Employer of the former Member would otherwise make to the Division; or
- (b) toward the provision of additional benefits for Members, former Members and/or their Dependants; or
- (c) to pay any expenses of the Division; or
- (d) to assist a Member, former Member and/or Dependant, in the event of financial hardship, ill health, accident or other misfortune causing hardship.

5.7 Valuation

At the end of each Fund Year, on the winding up of the Division, or at any other time the Trustee or the Manager considers appropriate, the Manager shall value the interest in the Division of each Member and each Beneficiary receiving an Allocated Pension.

5.8 Allocation of profit and losses

After valuing the interest of each Member and Beneficiary receiving an Allocated Pension under Rule 5.7, the Manager shall allocate profits or losses, as appropriate, to the Member's Accounts of each Member and each Allocated Pension Account at the valuation date.

5.9 Allocation on payment of a Benefit

When the Trustee is required to pay all or part of the Benefit to or in respect of a Member or an Allocated Pensioner, the Manager shall adjust the value of the Member's Accounts or the Allocated Pension Account of the Beneficiary, having regard to the current value of the interest of the Member or Beneficiary, as appropriate.

5.10 Manager's powers - accounts

- (a) The Manager may sub-divide any account established under this Rule, or establish additional accounts, if, in the opinion of the Manager, it is appropriate or desirable to do so for the purposes of the Division.
- (b) Subject to the Relevant Law, the Manager may vary the items to be credited or debited to any of the accounts established under this Rule if, in the opinion of the Manager, it is necessary or desirable to do so, for the purposes of the Division, having regard to the interests of Members and Allocated Pensioners.

6 Payment of Benefits

6.1 Overriding restrictions

Notwithstanding anything expressed or implied to the contrary in the Rules:-

- (a) the Trustee shall limit, adjust, pay or delay the payment of a Benefit (including, but not limited to) refunding co-contributions and/or any other amounts as required by the *Superannuation (Government Co-Contributions for Low Income Earners) Act* or take such other appropriate action as is, in the opinion of the Trustee, necessary to ensure the Division complies with the Relevant Law;
- (b) no deduction, reduction, forfeiture or other adjustment shall be made to or from any Benefit that has accrued, or become payable, to a Beneficiary in breach of the Relevant Law;
- (c) in any case where the Trustee applies for Insured Benefits in respect of a Member, such Insured Benefit shall (unless otherwise determined by the Trustee) be reduced to the extent to which the Trustee is unable to effect insurance on terms acceptable to the Trustee, or by the amount the Insured Benefit or part thereof which, having been effected, the Insurer declares void, or refuses liability for, for any reason;
- (d) a Beneficiary shall accept payment of the Benefit calculated by the Trustee in full discharge of all claims on the Division;
- (e) the Trustee shall ensure Benefits are fully secured as provided under the Relevant Law, but the Trustee shall not be liable to provide Benefits greater in amount than can be secured by the assets of the Division;
- (f) the Trustee may, at the request of a Member, pay to or apply on behalf of the Member any part or the whole of the Member's Accounts, subject to the consent of the Participating Employer (if applicable) and to the Relevant Law.

6.2 Retirement

- (a) If a Schedule 1 Member or Schedule 2 Member or Schedule 3 Member leaves Service at or after the Normal Retirement Date or a Schedule 3 Member has permanently retired then they will be entitled to a Benefit equal to the Division Credit **provided** the Benefit shall be paid earlier if and (if so) when:
- (1) having attained the age of 65, he or she ceases working full-time or part-time; or
 - (2) having attained the age of 70, he or she ceases working full-time.
- For the purposes of this paragraph, the expressions 'full time' and 'part time' have the same meanings as they have for the time being under the Relevant Law.
- (b) At the request of a Member who has attained the age of 65, the Trustee may permit the Member to receive a Benefit prior to retirement, in which case the Member shall receive a Benefit equal to the Division Credit.

6.3 Death

On a Member's death, the Trustee shall pay to his or her Dependants, in such manner and in such proportions (if paying to more than one) as the Trustee thinks fit, a Benefit equal to:

- (a) the Division Credit; and
- (b) the Insured Benefit, if any, in respect of the Member.

If the Manager is unable to establish within 6 months (or such longer period as the Manager determines) of the Member's death that there are any Dependants, the Benefit shall be paid to the Member's Personal Representative, provided that if a grant of probate or letters of administration in respect of the estate of the Member is not made within 3 years of his or her death (or such longer period as the Manager determines), the Benefit, subject to the Relevant Law, may be treated as a forfeited Benefit and applied by the Trustee in accordance with the provisions of Rule 13.

6.4 Disablement

- (a) On the Total and Permanent Disablement (proved to the satisfaction of the Trustee) of a Member, there shall be payable to the Member a Benefit equal to:
- (1) the Division Credit; and
 - (2) the Insured Benefit, if any, in respect of the Member.
- (b) On the Temporary Disablement (proved to the satisfaction of the Trustee) of a Member, the Trustee must pay to the Member the Insured Benefits, as soon as reasonably practicable after they are paid to the Trustee by the Insurer. For the purposes of Rule 6.5, the payment of a Benefit under this paragraph (b) will not be taken to be an entitlement to a Benefit under Rule 6.

6.5 Leaving Service Benefit

- (a) A Schedule 1 Member or Schedule 2 Member leaving Service with no entitlement to a Benefit otherwise under Rule 6, shall subject to paragraphs (b) and (c) of this Rule, be entitled to receive a Benefit equal to:
- (1) the balances of the Employer Compulsory Account, if any, and the Member Contribution Account;
 - (2) the balance of the Employer Voluntary Account, unless pursuant to a vesting schedule specified in the Participation Terms part of the

Employer Voluntary Account is not payable, in which event that part shall, subject to sub-paragraph (3), not be paid; and

- (3) any other part of the Employer Voluntary Account vested in the Member under the Relevant Law.
- (b) The Trustee may, with the consent of the Employer, increase the Member's Benefit to include all or part of the balance of the Employer Voluntary Account, which would not otherwise be payable to the Member.
- (c) The balance of the Employer Voluntary Account of such former Member (if any) shall be credited to the Foregone Benefits Account.

6.6 Beneficiary under disability

Subject to the Relevant Law, if it appears to the Trustee that a Member, former Member or other Beneficiary (in this Rule 6.6 referred to as 'the recipient') is under any legal disability, or is unable for any reason to satisfactorily deal with an amount otherwise payable to the recipient from the Division, the Trustee may pay or apply the whole or part of any Benefit payable to the recipient in one or more of the following ways:

- (a) where the recipient is a Member or former Member, to any Dependant of the recipient;
- (b) where the recipient is a Member or former Member, for or towards the maintenance, education, advancement or otherwise for the benefit of the recipient or of any Dependant of the recipient, in such form and manner and subject to such terms and conditions as the Trustee thinks fit;
- (c) where the recipient is a Member or former Member and without limiting the generality of paragraph (b), to a person who appears to the Trustee to be a trustee for (including a trustee appointed by the Trustee under a separate trust established by the Trustee, which trust may be subject to such trusts and powers as the Trustee thinks fit) or a representative, Spouse, Child, parent or guardian of, or a person who has for the time being the care or custody of, the recipient or any Dependant of the recipient, or appears to have the financial expense of the care or custody of the recipient or of any Dependant of, the recipient; and
- (d) where the recipient is not a Member or former Member, to a person who appears to the Trustee to be a trustee for (including a trustee appointed by the Trustee under a separate trust established by the Trustee, which trust may be subject to such trusts and powers as the Trustee thinks fit), a representative, parent or guardian of, or a person who has for the time being the care or custody of, or appears to have the financial expense of the care or custody of, the recipient.

The Trustee is not under any duty to have recourse to this Rule or to consider whether recourse should be had to it, notwithstanding that the Trustee may have actual notice of any infirmity, lack of fitness or other relevant matter as provided in this Rule.

6.7 Discharge to Trustee

The banking of the Trustee's cheque by or on behalf of any person to whom the Trustee is authorised to make payment shall be a full and true discharge to the Trustee, and the Trustee shall not be bound or concerned to see to the application of such payment.

6.8 Preservation of Benefits

If all or any part of the Benefit payable under Rule 6 is a Preserved Benefit, then the Preserved Benefit will only be payable in the following circumstances:

- (a) the Member's retirement from the workforce having attained the age prescribed under the Relevant Law;
- (b) the retirement of the Member from the workforce on the grounds of Total and Permanent Disablement where the Trustee is given proof that the disability is such that the payment may be made in accordance with the Relevant Law;
- (c) the death of the Member;
- (d) the Member's permanent departure from Australia;
- (e) the Member attaining age 65; or
- (f) such other circumstances as may be prescribed under the Relevant Law or approved by the Commissioner, either generally, or in the specific instance.

6.9 Application of Preserved Benefit

- (a) With the written consent of the Member, the Preserved Benefit may be transferred by the Trustee to an Approved Benefit Arrangement nominated by the Member and acceptable under the Relevant Law.
- (b) If the Member does not nominate an acceptable Approved Benefit Arrangement, then the Trustee may, subject to the Relevant Law, nominate such a facility and make such transfer on behalf of the Member, or otherwise retain the Preserved Benefit in the Member's Member Contribution Account until it is payable in accordance with Rule 6.8 or is required under the Relevant Law to be applied in a certain manner, in which case it shall be so applied.

6.10 Payment

- (a) Benefits under the Division shall be payable as:
 - (1) a lump sum;
 - (2) a pension;
 - (3) an Allocated Pension; or
 - (4) a combination of all, or any, of a lump sum, a pension and an Allocated Pension;as determined by the Trustee, taking into account the request of the Member, but subject to the payment complying with the Relevant Law.
- (b) The Trustee shall pay the Benefit to the Beneficiary as soon as practicable or may, at the request of the Beneficiary, defer payment but only for the period, if any, permitted under the Relevant Law.
- (c) The Trustee may provide a Benefit payable as a pension by purchasing, in the name of the Beneficiary, an annuity on such terms, and from such institution, as is determined by the Trustee after consulting the Beneficiary. Such annuity shall, to the extent necessary, comply with the Relevant Law.
- (d) On the death of a Beneficiary who is receiving a Benefit as an Allocated Pension (where there is no person presently entitled to receive the Allocated Pension as a reversionary Beneficiary) the Trustee shall pay to the Dependents and/or Personal Representative of the Member in respect of whom a Benefit was initially credited to the deceased Beneficiary's Allocated Pension Account, and/or such other persons as the Relevant Law permits, in such proportions (if paying to more than one) as the Trustee thinks fit, a Benefit equal to the value of the Beneficiary's Allocated Pension Account.
- (e) The Trustee may provide a Benefit or part of a Benefit payable as a lump sum by transferring to the relevant Beneficiary an asset or assets of the Division

equal in value, as determined by the Trustee, to the Benefit or part of the Benefit so payable.

6.11 Payment under Relevant Law

If any Benefit is under the Relevant Law:

- (a) required to be applied in a certain manner, including by way of payment to the Commissioner, the Trustee shall apply the Benefit in accordance with the Relevant Law;
- (b) permitted to be applied in a certain manner, the Trustee may apply the Benefit in accordance with the Relevant Law.

7 Trustee's power to invest and insure

7.1 Authorised investments

- (a) The Trustee shall invest the Division in one or more Life Insurance Policies which may provide for the segregation of such investments into separate sub-funds with differing investment objectives.
- (b) The Manager shall provide Members, and Beneficiaries for whom an Allocated Pension Account is to be established under Rule 5.4, with a description of any available investment sub-funds in the Life Insurance Policies, including the investment objectives and charges applicable to each. The Trustee shall notify Members and Beneficiaries receiving an Allocated Pension, of any material change in the investment objectives of, and charges applicable to, the investment sub-funds, if any.
- (c) Each Member, and Beneficiary for whom an Allocated Pension Account is to be established under Rule 5.4, shall, in such form as the Manager specifies, designate the investment sub-funds in the Life Insurance Policies into which the Member's Accounts or Allocated Pension Account, as the case may be, are to be allocated. The Trustee shall make an allocation in accordance with that designation.
- (d) Current and future allocations made pursuant to paragraph (c) may be varied, but only in accordance with the terms specified by the Trustee from time to time.
- (e) The Trustee shall advise a Member, or Beneficiary for whom an Allocated Pension Account is established under Rule 5.4, of a default allocation which will apply if a designation as required by paragraph (c), is not made.

7.2 Additional powers

- (a) The Trustee shall, if applicable, effect a Life Insurance Policy to secure the Insured Benefits of Members in accordance with the applicable Participation Terms, subject to the insurance cover being available.
- (b) The Trustee may generally do all acts and things as it may consider necessary or convenient for the administration, maintenance and preservation of any investment of the Division and in the performance of its obligations under the Rules.

7.3 Investment and insurance costs

Premiums for Insured Benefits, and fees charged, under a Life Insurance Policy will be deducted by the Trustee from one or more of the Member's Accounts or the Allocated Pension Account, as the case may be, and remitted to the Insurer.

7.4 Trustee indemnity insurance

Without limiting the generality of Rule 7.2, the Trustee may effect and maintain professional indemnity insurance covering the Trustee in its capacity as Trustee of the Division and the directors of the Trustee in their capacity as directors of the Trustee. Premiums in respect of such insurance shall be paid in accordance with Rule 10.2.

8 Withdrawal of Participating Employers

- (a) The participation of the Participating Employer may be terminated:
- (1) by the Participating Employer by notice in writing to the Trustee; or
 - (2) by the Trustee, with the consent of the Manager, by notice in writing to the Participating Employer; or
 - (3) if an order is made or an effective resolution is passed for the winding up of a Participating Employer, other than for the purpose of amalgamation or reconstruction.

The date upon which such participation is terminated shall be nominated by the Trustee on the advice of the Manager.

- (b) If the withdrawing Participating Employer has established, or intends to participate in, another superannuation fund (**'the Transferee Fund'**) which is an Approved Benefit Arrangement then, if requested to do so by a Member who is employed by the Participating Employer on the Termination Date and who is admitted as a member of the Transferee Fund, the Trustee shall transfer all or such part of the Member's interest in the Fund, as nominated by the Member, to the trustee of the Transferee Fund to hold for the benefit of the Member.

9 Records, financial accounts and reports

9.1 Division records

The Trustee shall require the Manager to keep or cause to be kept all records and financial accounts of this Division in accordance with Clause 7.

9.2 Auditor

The Trustee shall appoint an Auditor of the Division who shall have access to all accounts, records and other information relating to the Division. The Trustee shall require the Auditor to:

- (a) audit the accounts and records of the Division;
- (b) provide a report to the Trustee in accordance with the requirements of the Relevant Law; and
- (c) otherwise provide services to the Division as specified by the Trustee or the Manager.

The appointment of the Auditor shall be on such terms as the Trustee may determine and the Trustee may remove the Auditor at any time and appoint another Auditor.

9.3 Disclosure and reporting requirements

The Trustee shall make available, provide or cause to be provided to:

- (a) each Member, prospective Member, former Member or person receiving a Benefit, as the case may be; and
- (b) each Employer;

such information (including a copy of the Deed and Rules) in such manner and form and at such times as shall be required to comply with the Relevant Law.

10 Administration

10.1 Appointment of administrator and advisers

- (a) If necessary to perform functions which are required under the Relevant Law, or which the Trustee may consider desirable for the proper administration of the Division, the Trustee may appoint an Actuary, investment managers, solicitors, counsel, brokers, agents, consultants or such other advisers as the Trustee or the Manager considers to be appropriate.
- (b) The appointment of an administrator or adviser shall be on such terms as the Trustee determines in its discretion.

10.2 Administration costs

All costs, charges, and expenses incurred in connection with the establishment, maintenance, administration, and operation of the Division may be deducted from one or more of the Member's Accounts or the Allocated Pension Accounts, as appropriate, on the basis determined by the Trustee, subject to the Relevant Law, to be the most appropriate and equitable manner of allocating expenses under the Division.

11 Transfers

11.1 Transfers from other funds

Subject to the Relevant Law, the Trustee:

- (a) shall have the power at any time to arrange with a Member who was a member of another Approved Benefit Arrangement to accept the transfer of a benefit in respect of that Member to the Division, to be applied as provided in the Rules; or
- (b) shall have the power at any time to arrange with a trustee of another Approved Benefit Arrangement to accept the transfer of a benefit to the Fund in respect of a Member from that Approved Benefit Arrangement without that Member's consent, to be applied as provided in the Rules; and
- (c) shall pay that part of the Benefit derived from such transferred amount no earlier than the date specified in the trust deed or other relevant instrument governing the Approved Benefit Arrangement from which it was transferred, and no later than the date prescribed under the Relevant Law;

and the Trustee may, subject to the Relevant Law but notwithstanding any other provision in these Rules, determine that a person shall be a Member of the Fund for the purposes of a transfer to the Fund from any other Approved Benefit Arrangement and, in respect of such transfer, specify such terms and conditions as the Trustee may determine in respect of the membership of the person, including terms and conditions necessary to ensure that the Fund will be a 'successor fund' under the Relevant Law for the purposes of the transfer.

11.2 Transfers to other funds

- (a) Subject to Rule 11.2(b), the Trustee, on the written request of a Member or Beneficiary who:
 - (1) is entitled to receive a Benefit, may transfer all or part of that Benefit to another Approved Benefit Arrangement; or
 - (2) is not entitled to be paid a Benefit but is entitled to join another superannuation fund which is a complying superannuation fund under the Relevant Law, may, in the case of a Schedule 1 Member, with the consent of the Employer transfer to that fund the Benefit the Member would have been entitled to receive had he or she voluntarily left employment at the time of the transfer (or such greater amount as the Trustee, with the consent of the Employer, determines) or, in the case of a Schedule 2 Member or a Schedule 3 Member, transfer to that fund the Division Credit.
- (b) To the extent any part of the amount to be transferred is a Preserved Benefit, the Preserved Benefit will not be transferred unless the transferee Approved Benefit Arrangement or fund, as the case may be, restricts payment of the Preserved Benefit in the manner prescribed under the Relevant Law.
- (c) The Benefit in the Division of a Member or Beneficiary in respect of whom an amount is transferred under this Rule shall be reduced by the amount transferred.

11.3 Transfers to other funds without Member consent

The Trustee may transfer the whole or a part of a Member's Benefit to the trustee of another Approved Benefit Arrangement on such terms it considers appropriate without the consent of the Member if:

- (a) the Approved Benefit Arrangement to which the Member's Benefit is to be transferred is a successor fund within the meaning of the Relevant Law; and
- (b) the Relevant Law permits.

11.4 Transfers between divisions

The Trustee may transfer a Member from this Division to another division of the Fund in accordance with Clause 11.3.

12 Taxation

12.1 Power to make provision for tax liability

The Manager with the agreement of the Trustee shall make adequate provision to meet the taxation liability of the Division in accordance with Rule 5.

12.2 Power to pay tax

The Trustee shall pay the tax, duties or other governmental imposts it is lawfully required to pay, whether in respect of contributions, other income of the Division or on Benefits or other payments out of the Division.

12.3 Power to transfer tax liability

The Trustee may, to the extent permissible under the *Income Tax Assessment Act 1936*, transfer the tax liability of the Division to an institution or organisation which consents to such transfer.

12.4 Deduction of tax

The Trustee shall deduct from any Benefit or other payment made from the Division the amount of any tax, duty, or other impost applicable in respect of such payments.

13 Forfeiture of entitlements

13.1 Conditions of forfeiture

If any of the following events or circumstances occur:

- (a) a Member or Beneficiary or any other person assigns or charges or attempts to assign or charge his or her interest in the Division other than in circumstances which amount to the commission of an act of bankruptcy under the *Bankruptcy Act 1966*;
- (b) prior to 1 July 1994, a Member or Beneficiary is declared bankrupt or, in the opinion of the Trustee, is insolvent;
- (c) if, after making reasonable enquires, a Beneficiary cannot be located for such period (not being longer than 5 years) as the Trustee considers reasonable in the circumstances;
- (d) he is declared mentally ill or becomes liable to have his affairs dealt with under the laws relating to mental health;

such Member or Beneficiary shall forfeit all of his or her interest in the Division or right to receive his or her Benefit, to the extent such forfeiture is not proscribed by the Relevant Law or any other law. If, by virtue of this Rule, a Member no longer has any interest in the Division, or a right to receive his or her Benefit, then such Member shall cease to be a Member of the Fund and any Beneficiary who might otherwise be entitled shall forfeit all his or her interest in the Division.

13.2 Application of Forfeited Benefits

Forfeited Benefits shall be credited to the Foregone Benefits Account.

14 Lien over Benefits

14.1 Trustee's lien

The Trustee shall have a lien over the Benefit payable to or in respect of a Member to the extent of an identified debt owed by a Member to the Trustee, as Trustee of the Fund.

14.2 Employer's lien

- (a) Subject to paragraph 14.2(b), the Employer shall have a lien over the Benefit payable to or in respect of an Member for any amount owed to the Employer by the Member, or an amount equal to the value of any loss (including costs on a solicitor/client basis in respect of any legal proceedings related thereto) arising from the misconduct of such Member in relation to any funds, or property in the care or control of, or belonging to, the Employer, and interest thereon.
- (b) An Employer's lien shall not extend to such part (if any) of the Benefit which is required under the Relevant Law to be vested in the Member or to be preserved.

14.3 Deduction from Benefit

The Trustee shall deduct the amount of the Trustee's lien and, if the Employer so directs after producing evidence satisfactory to the Trustee that the Member owes the amount, or was responsible for the loss, deduct the amount of the Employer's lien (including interest at such rate and in respect of such periods as the Trustee considers appropriate) from the Benefit. The Trustee shall pay the amount of the Employer's lien to the Employer or as the Employer directs.

15 Limits on contributions and benefits

15.1 Contributions

The Trustee shall only accept contributions which can be made to the Division in accordance with the Relevant Law.

15.2 Benefits

Despite anything in the Rules to the contrary, the Trustee shall ensure that any Benefit paid or payable from the Division (together with any other relevant benefit which the Trustee is required to take into account) is limited to the extent necessary to ensure the Trustee and the Fund are not in breach of the Relevant Law or any other legislation which limits the amount of any Benefit payable from the Division. In order to give effect to this Rule, the Trustee has power:

- (a) to require the Member, or Beneficiary receiving an Allocated Pension, to provide details of any other relevant benefits which have been, are being or may be provided for the Member or for Dependants of the Member;
- (b) to refuse to accept part or all of a contribution by or in respect of a Member or Beneficiary receiving an Allocated Pension;
- (c) to adjust the Benefit payable to or in respect of a Member.

16 Variation of Deed and Rules

16.1 Method of variation

All or any of the provisions of the Deed and Rules (including this Rule) may be varied (whether by way of addition, deletion or amendment) from time to time:

- (a) by written resolution of the Trustee with the agreement of the Manager; or

- (b) by deed executed by the Trustee and the Manager;
to take effect from the date on which the resolution is made or the deed is executed or from such earlier or later date as specified in the resolution or deed.

16.2 Advice to Members

After the provisions of the Deed and/or the Rules or any of them have been varied, the Trustee shall advise the Members, and Beneficiaries receiving an Allocated Pension, of the nature and purpose of the variation, the effect (if any) on their entitlements or rights, and any other matters required under the Relevant Law, in the manner provided under the Relevant Law.

16.3 Trustee's right to vary limited

The right to vary the Rules provided in Rule 16.1 is limited to the extent that no variation shall have the effect of varying the main purpose of the Fund, or:

- (a) reduce or prejudice the amount of a Benefit, calculated on the basis of contributions to the Division and earnings thereon, that has accrued or become payable to a Member, or Beneficiary receiving an Allocated Pension, before the date of the proposed variation; or
- (b) reduce or prejudice the amount of any other Benefit that is, or may become, payable to a Member, or Beneficiary receiving an Allocated Pension, in relation to the period before the date of the proposed variation;

unless the reduction is:

- (c) required because of, and does not exceed the value of, any tax payable on the income of the Fund;
- (d) required to ensure the Fund complies with the Relevant Law;
- (e) approved in writing by the Member or Allocated Pensioner and relates only to such part of the Benefit as the Relevant Law permits; or
- (f) approved in writing by the Commissioner and relates only to such part of the Benefit as the Relevant Law permits.

17 Notices

17.1 Notice to Members or Beneficiaries

Notices shall be properly given by the Trustee, or by the Manager on behalf of the Trustee, to Members, former Members or Beneficiaries if:

- (a) handed to the Member, former Member or the Beneficiary personally;
- (b) sent by prepaid post to the last known address or place of employment of the Member, former Member or Beneficiary,

and the requirements of the Relevant Law (if any) in relation to the provision of notices are complied with.

17.2 Notice to Trustee or Manager

Notices to the Trustee or the Manager shall be properly given if sent by pre-paid post addressed to the Trustee or the Manager, as the case may be, at its registered office, or place of business.

17.3 Notice to Employer

Notices to the Employer shall be properly given if:

- (a) handed to a responsible officer of the Employer personally;
- (b) sent by pre-paid post addressed to the Employer at its registered office or place of business.

17.4 Service by post

In the case of service by post, notice shall be deemed to have been effectively given on the third day after the day of posting.

18 Winding up of the Division

18.1 Dissolution of the Division

- (a) If the Manager has resigned or been removed and the Trustee is unable to locate a suitable replacement Manager, or the Trustee has resigned or been removed and the Manager cannot locate a suitable party to act as Trustee of the Division, or in the event that all the Participating Employers and all of the Members cease to make contributions to the Division, or in such other circumstances as the Trustee determines to be appropriate and which will not result in the Fund being ineligible for the maximum income tax concessions available to superannuation funds for any period prior to dissolution of the Division, then the Trustee may determine that the Division shall be dissolved and determine the final balance date of the Division (in this Rule referred to as 'the Closure Date').
- (b) All contributions to the Division shall cease on the day immediately prior to the Closure Date and any arrears in contributions and other payments to the Division due up to the Closure Date shall be paid forthwith. The Trustee shall promptly advise or cause to be advised all Members and Beneficiaries that the Division is to be wound up and notwithstanding any contrary provision in the Rules, no Benefits shall be paid from the Division to or in respect of Members or Beneficiaries until after the Closure Date.

18.2 Trustee's expenses and payment of Benefits

On the Closure Date the Trustee or the Manager, as appropriate, shall value the Division and, after providing for the payment of the costs and disbursements of administering and dissolving the Division and any outstanding tax payable from the Division, adjust the value of the Member's Accounts of each Member and the Allocated Pension Account of Beneficiaries receiving an Allocated Pension on an equitable basis, such that the Division is thereby fully allocated to such accounts. The Trustee or the Manager, as appropriate, then:

- (a) shall pay the balance of those accounts to the Beneficiary entitled; or
- (b) transfer the Benefit in accordance with Rule 11.2 or 11.3;

but shall not pay a Benefit to or in respect of a Member other than in the circumstances acceptable under the Relevant Law.

18.3 Power of Trustee in winding up of the Division

The Trustee or the Manager, as appropriate, may do all things necessary or convenient for giving effect to this Rule 18.

19 Resolution of questions or disputes

The Trustee shall take all reasonable steps to ensure that there are at all times in force arrangements under which Members and Beneficiaries may make enquires or complaints in relation to the operation or management of the Fund as it affects them, and that such enquiries or complaints are properly dealt with as required by the Relevant Law.

BMA Division

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BMA Division

Date ► 30 June 2010

Recitals

- 1 The name of this division is the BMA Division (**Division**).
 - 2 The Division commences on the date of execution of the Deed of Amendment.
 - 3 The following rules and appendices ('**Rules**'), as amended from time to time, are the Rules of the Division.
 - 4 The Division must be managed and administered in all respects according to the Rules.
 - 5 The provisions of the Division may be amended in the manner set out in Clause 3.
 - 6 In the event of any inconsistencies between the Governing Provisions and the Rules of this Division, the Rules of the Division shall prevail.
-

1 Definitions and interpretation

1.1 Definitions

The meanings of the terms used in this deed are set out below.

Term	Meaning
Amendment	includes alteration, modification and variance.
Benefit	any benefit to which a Member (or a Dependant or Personal Representative of that Member or such other person in relation to that Member as the Trustee shall decide) is or will become entitled in accordance with the Deed and the Rules and the Plan Rules.
Benefits Fund	any superannuation fund, approved deposit fund or roll-over annuity (within the meaning of those terms as they are defined in Section 27A (1) of the Taxation Act).
Commissioner	any person to whom responsibility for supervising superannuation funds is delegated by legislation.
Corporate Member	a Member who has been admitted to membership of the Corporate Plan.
Corporate Plan	the plan constituted by these Rules comprising the persons admitted pursuant to Rule 4(c)(1) and their respective benefits.
Corporations Act	the <i>Corporations Act 2001</i> (Cth).
Declared Rate	the rate which is from time to time declared by the insurer as being the earning rate which will apply to the capital guaranteed statutory fund.
Deed	the Governing Provisions as they may from time to time be amended and includes this Division, the Corporate Plan, the Personal Plan and the Participation Agreements.
Deed of Amendment	the Deed of Amendment for the TOWER Master Fund which establishes this Division.

Term	Meaning
Dependant	in relation to a Member or former Member, a Spouse or child of the Member or former Member, any person who in the opinion of the Trustee is or was at the relevant time wholly or partially dependent on the Member or former Member for maintenance or support or any person with whom the Member has or had an Interdependency Relationship.
Division	BMA Division.
Eligible Contributor	in relation to a Member <ol style="list-style-type: none"> 1 in the case of a Personal Member - that Member and the employer of that Member; and 2 in the case of a Corporate Member - that Member, the employer of that Member, any other person who is associated with the employer of that Member and any company in which the employer of that Member has a controlling interest.
Engaged	in respect of a Member, a Member's engagement in any business, trade, vocation, occupation or employment for gain.
Family Law Act	the <i>Family Law Act 1975</i> (Cth).
Financial Year	Financial Year as defined in Clause 1.1 of the Governing Provisions.
Fund	the TOWER Master Fund.
Governing Provisions	the provisions of Clauses 1-13 of the TOWER Master Fund.
Interdependency Relationship	has the meaning assigned to that term in the SIS Act.
Member	any person who has been admitted to membership of this Division either as a Corporate Member or as a Personal Member.
Non-Member Spouse	has the meaning assigned to that term in the Family Law Act.
Participation	the agreement entered into between the Trustee and a Participating

Term	Meaning
Agreement	Employer which provides information in respect of persons invited to join the Division by the Participating Employer, including: - <ol style="list-style-type: none"> 1 the classes of persons; 2 the contributions by and in respect of each person; 3 the benefits to be provided; and such other matters as the Trustee requires to be specified.
Participating Employer	any employer who has been admitted to the Corporate Plan pursuant to Rule 6(a).
Personal Member	a Member who has been admitted to membership of the Personal Plan pursuant to Rule 5(a).
Personal Plan	the plan constituted by these Rules comprising the persons admitted pursuant to Rule 4(c)(2) and their respective Benefits.
Personal Representative	the person who has been granted probate of a deceased Member's will or letter of administration of a deceased Member's estate.
Plan	the Corporate Plan or the Personal Plan.
Plan Rules	the rules set out in a Plan established under this Division.
Prescribed Event	in relation to a Member- <ol style="list-style-type: none"> 1 death; 2 retirement from the work-force on or after age 55 years; 3 attainment of age 55 years on or after retirement from the work-force; 4 if the Trustee is satisfied that a Member has ceased to be Engaged in consequence of ill health or disability PROVIDED THAT in respect of a benefit which is a Preserved Benefit a benefit payable as a result of permanent incapacity or permanent inability shall only be paid in the circumstances permitted by the Relevant Law; 5 permanent departure of the Member from Australia; or 6 such other circumstances as the Commissioner shall permit.

Term	Meaning
Preservation Age	in respect of a Member aged 55 or such other age as the Trustee from time to time decrees in accordance with the Relevant Law.
Preserved Benefit	any benefit (or part thereof) which, under the Relevant Law, is required to be preserved for the Member in the Fund or in another fund until he retires from the workforce after attaining age 55.
Qualifying Eligible Termination Payment	shall have the meaning ascribed in Section 27A (12) of the Taxation Act or any replacement legislation.
Regulator	has the same meaning as that term is defined in Clause 1.1
Relevant Authority	Regulator as that term is defined in Clause 1.1.
Relevant Law	<ul style="list-style-type: none"> (a) the <i>Superannuation Industry (Supervision) Act 1993</i> (Cth); (b) the <i>Superannuation Industry (Supervision) Regulations 1994</i> (Cth); (c) the <i>Corporations Act 2001</i> (Cth); (d) the <i>Income Tax Assessment Act 1936</i> (Cth); (e) the <i>Income Tax Assessment Act 1997</i> (Cth); (f) the <i>Family Law Act 1975</i> (Cth); (g) the <i>Superannuation (Government Co-contribution for Low Income Earners) Act 2003</i> (Cth); and (h) any replacement or additional Commonwealth or State law or administrative rulings, circulars, guidelines or instruments which relate to superannuation arrangements and which apply to the Fund or any other present, future or proposed legal requirements which the Trustee is legally obliged to comply with, or which the Trustee must comply with to obtain the maximum Tax concessions available to the Fund including any proposed requirements which the Trustee believes will have retrospective effect
Relevant Participating Employer	in relation to a Corporate Member, means the Participating Employer who invited that Member to join the Division.
Relevant Participation Agreement	in relation to a Corporate Member means the Participation Agreement to which the Relevant Participating Employer is a party.

Term	Meaning
Reserve Account	any account set up to hold certain moneys in respect of the Fund or the Division in accordance with Rule 21.
Retire	in respect of a member who has attained the Preservation Age the permanent ceasing by that Member to be Engaged for any reason other than his death or Total and Permanent Disability.
Revision Date	the thirtieth day of September each year or such other date as is directed by the Trustee.
Rolled-Over	in respect of a Benefit a dealing with the Benefit in such manner that it is for the purposes of Subdivision AA of Division 2 Part III of the Taxation Act treated as Qualifying Eligible Termination Payment.
Roll-Over Period	shall have the meaning ascribed in Subdivision AA of Division 2 of Part III of the Taxation Act.
Rule	a rule of this Division.
SIS Act	the <i>Superannuation Industry (Supervision) Act 1993</i> (Cth) and any regulations made or issued under it.
Spouse	has the same meaning as in the SIS Act.
Superannuation Fund	has the same meaning as complying superannuation fund in the SIS Act.
Superannuation Fund Conditions	the conditions which are prerequisite to the Fund obtaining income tax concessions.
Taxation Act	the <i>Income Tax Assessment Act, 1936</i> (Cth) and the <i>Income Tax Assessment Act 1997</i> (Cth).
Termination Date	the date at which the Trustee determines the Division is to be terminated in accordance with Rule 20.
Total and Permanent	in respect of a Member disablement of such a degree that, in the

Term	Meaning
Disability and Permanently and Totally Disabled	opinion of the Trustee the Member is unlikely ever again to be Engaged provided that in respect of a Member who is insured against the contingency of Total and Permanent Disability under any insurance policy taken out by the Trustee such expression shall have the same meaning as is defined in that insurance policy, PROVIDED THAT for the purpose of paying a Preserved Benefit the Trustee shall only regard a Member as being permanently and totally disabled if it receives a certificate signed by two registered medical practitioners certifying that, in the opinion of those practitioners, the Member is unlikely ever to be able to work again in a job for which the Member is reasonably qualified by education, training or experience.
Trustee	TOWER Australian Superannuation Ltd, and shall include such other replacement Trustee as is appointed hereunder.
Trust Fund	the cash, investments and other property of this Division for the time being held by or on account of the Trustee upon the trusts of this Division.

1.2 Supremacy of the Rules of this Division

- (a) If there is any inconsistency between the Rules of this Division and the Governing Provisions, the Rules of this Division prevail.
- (b) If there is any inconsistency between the Rules of the sub-division and the Governing Provisions, the Rules of the sub-division prevail.

2 Power to comply with Family Law Act

The following provisions apply notwithstanding any other provision of this Division:

- (a) a new interest must not be created in this Division for a Non-Member Spouse;
- (b) the Trustee may in accordance with the Family Law Act and the Relevant Law:
 - (1) provide a Non-Member Spouse or any other person with information (including, without limitation, information in relation to a Member's interest in the Division);
 - (2) give effect to a superannuation agreement, payment flag, flag lifting agreement (within the meaning of those expressions in Part VIII B of the Family Law Act) or any other agreement or court order made pursuant to Part VIII B of the Family Law Act in relation to a Member's interest in the Division;
 - (3) give effect to a payment split under Part VIII B of the Family Law Act in relation to a Member's interest in the Fund including, without limitation:

- (A) rolling over or transferring to another Superannuation Fund or paying to the Non-Member Spouse, the Non Member Spouse's entitlement under the payment split in the circumstances permitted by the Family Law Act and the Relevant Law;
 - (B) reducing the entitlement of the Member, or any other person to whom the Member's interest would have been paid, by the amount of the Non-Member Spouse's entitlement under the payment split in accordance with the Family Law Act and the Relevant Law;
 - (C) commuting a pension or annuity payable from the Division; and
 - (D) apportioning the "minimum benefits", "preserved benefits", "restricted non preserved benefits" and "unrestricted non preserved benefits" (within the meaning of those expressions in the Relevant Law) as between the Member's interest in the Division and the Non-Member Spouse's entitlements under the payment split in accordance with the Family Law Act and the Relevant Law; and
- (4) charge, and deduct amounts payable from the Division, fees in respect of any matter or thing done under this Rule, an application for information about a Member's interest in the Division or any other thing done pursuant to Part VIII B of the Family Law Act.
- (c) The Trustee must treat the Non-Member Spouse as a Member where required by the Family Law Act and the Relevant Law.

3 Establishment

- (a) There are hereby established two sub-divisions to be maintained by the Trustee solely for the purpose of providing Benefits for each Member (or his or her dependant in the event of death) upon the occurrence of the Prescribed Events.
- (b) The Trust Fund is hereby vested in the Trustee who shall hold the Trust Fund on the trusts set out in this Division subject to the powers and discretions conferred by this Division and the Governing Rules.
- (c) Each sub-division shall be wound up on whichever of the following dates is first to occur; namely
 - (1) the date the Fund is terminated;
 - (2) the Termination Date as that term is defined in Rule 20(a);
 - (3) when there are no Members of the Division or the sub-division; or
 - (4) when no Member or beneficiaries has any entitlement under this Division.
- (d) This Division shall be construed, regulated and administered in all respects and for all purposes according to the laws for the time being in New South Wales.

- (e) The two sub-divisions shall on and after the Revision Date be known collectively by the name 'The BMA Division' or such other name as the Trustee may from time to time determine.

4 Administration of the Division

- (a) The Trustee shall administer each sub-division in accordance with the Rules of the sub-division and shall have the complete management and control of each sub-division and of all matters, proceedings and things connected with either sub-division.
- (b) The Trustee shall administer each sub-division to ensure that:
 - (1) they qualify for the most favourable taxation treatment possible, and
 - (2) they satisfy the Superannuation Fund Conditions.
- (c) The Trustee shall allocate Members and their respective Benefits to one of two sub-divisions which are to be known respectively as the Corporate Plan and the Personal Plan on the following basis:
 - (1) those persons allocated to the Corporate Plan who have accepted an invitation made by a Participating Employer in accordance with a Relevant Participation Agreement;
 - (2) those persons to whom Rule 4(c)(1) does not apply shall be allocated to the Personal Plan.
- (d) The Trustee may transfer a Member from this Division to another division of the Fund in accordance with Clause 11.3.

5 Personal Plan

- (a) The Trustee may subject to Rule 5(b) admit any person who is Engaged and who has not attained age 70 years to participation in the Personal Plan as a Member.
- (b) The Trustee shall not admit to participation in the Personal Plan as a Member any person unless that Member has:-
 - (1) completed an application for admission to the Personal Plan as a Member in a format which is approved by the Trustee for the purposes of this paragraph;
 - (2) agreed to be bound by the Deed in a manner acceptable to the Trustee; and
 - (3) provided such information to the Trustee as required by this Deed and in particular details of membership of any other Benefits Fund.
- (c) A Member of the Personal Plan shall not be insured against death or Total and Permanent Disability or Total and Temporary Disability under any policy arranged by the Trustee for the Personal Plan until:
 - (1) the Member has notified the Trustee that insurance is required;

- (2) the Member has provided such information as the insurer requires;
 - (3) the Member submits to such medical examinations as the insurer requires; and
 - (4) the insurer has notified the Trustee in writing that the Member has been accepted for cover.
- (d) A person may be admitted as a Member of the Personal Plan notwithstanding that the person has previously been admitted as a Member of the Corporate Plan or is currently applying for membership of the Corporate Plan.
- (e) The Trustee may decline to admit any person as a Member (whether or not that person has been or is a Member, or is currently applying for membership, of the Corporate Plan) of the Personal Plan and is under no obligation to provide any reasons for declining to accept that person.

6 Eligibility and admission to the Corporate Plan

- (a) The Trustee may subject to Sub-Rule 6(b) admit any person, partnership or corporation to participate in the Corporate Plan as a Participating Employer.
- (b) The Trustee shall not admit to participation in the Corporate Plan as a Participating Employer any person, partnership or corporation unless that person, partnership or corporation has:-
- (1) completed a Participation Agreement in a format which is approved by the Trustee;
 - (2) agreed to be bound by this Deed in a manner acceptable to the Trustee; and
 - (3) provided such information to the Trustee as requires under this Deed.
- (c) The date on which a person, partnership or corporation is admitted to participation in the Corporate Plan as Participating Employer shall be determined by the Trustee.
- (d) The Trustee shall subject to Rule 6(e) admit to the Corporate Plan as a Member any person who has accepted an invitation made by a Participating Employer made in accordance with the terms of the Relevant Participation Agreement and which was accepted not more than two months after it was first made to the person.
- (e) The Trustee shall not admit a person as a Member of the Corporate Plan unless:
- (1) the person has completed an application for membership of the fund in a format approved by the Trustee; and
 - (2) the person has agreed to be bound by this Deed in manner acceptable to the Trustee.
- (f) A Member of the Corporate Plan shall not be insured against death or Total and Permanent Disability or Total and Temporary Disability under any policy arranged by the Trustee for the purpose of the Corporate Plan until;
- (1) the Relevant Participating Employer has notified the Trustee that insurance is required;

- (2) the Member or the Relevant Participating Employer has provided such information as the insurer requires;
 - (3) the Member submits to such medical examinations as the insurer requires; and
 - (4) the insurer has notified the Trustee in writing that the Member has been accepted for the insurance.
- (g) A person may be admitted as a Member of the Corporate Plan notwithstanding that the person has previously been a Member of the Personal Plan or is currently applying for membership of the Personal Plan or has previously been declined membership of the Personal Plan.
- (h) The Trustee may determine that a person shall be admitted as a Member of the Corporate Plan on such terms as the Trustee notifies in writing before admission of that person.
- (i) The admission of any person to the Corporate Plan shall be effective from such date as the Trustee determines.

7 Termination of participation

- (a) A person shall cease to be a Member of the Personal Plan on and from whichever of the following dates is first to occur:
- (1) the date on which the Member dies;
 - (2) the date on which the Member is Totally and Permanently Disabled;
 - (3) the date on which the Member Retires;
 - (4) the date on which the Member attains the age of 70 years; or
 - (5) their benefit is transferred from the Division or the Fund in accordance with Clause 11 or Rule 4(d).
- (b) A Participating Employer shall cease to participate in this Division on and from whichever of the following dates is first to occur;
- (1) 60 days after written notice given to the Trustee of its intention to withdraw from the Corporate Plan;
 - (2) the date on which that corporation is wound-up other than for the purpose of amalgamation or reconstruction;
 - (3) the date on which that person or partnership becomes bankrupt or takes advantage of any law providing relief for insolvent debtors;
 - (4) the date on which the partnership is dissolved other than by reason of the admission or retirement of partner;
 - (5) the date on which the Participating Employer (together with any associated employers) Engages 200 or more Members.
- (c) A Member of the Corporate Plan shall cease to participate in this Division as a Member on and from whichever of the following dates is first to occur; namely
- (1) the date on which that person dies or becomes Totally and Permanently Disabled;

- (2) the date on which the person ceases to be an Employee within the terms of the Relevant Participation Agreement; or
- (3) the date on which the Relevant Participating Employer ceases to be a Participating Employer.

8 Records and accounts

The Trustee shall keep proper records, books and accounts in respect of all its functions including moneys received or disbursed by it and as required by the Relevant Law and in accordance with Clause 7.

9 Trustee - appointment and removal

The Trustee shall be appointed or removed in accordance with the provisions of Clause 5.

10 Powers of Trustee

The Trustee's powers are as set out in the Deed and in particular, Clause 5.3.

11 Investment powers

The Trustee's investment powers are as set out in the Deed and in particular Clause 6.

12 Borrowing powers

The Trustee's borrowing powers are as set out in the Deed and in particular Clause 5.3(a)(4).

13 Insurance contracts

- (a) The Trustee shall effect with the insurer an individual policy with each person who has been admitted to the Personal Plan as the life insured on such terms and conditions as are agreed between the Trustee and the insurer in order to provide the Benefits set out in the application form of that Member.
- (b) The Trustee shall effect with the insurer a group policy in respect of each Participating Employer, on such terms and conditions as are agreed between the Trustee and the insurer in order to provide in respect of that Participating Employer the Benefits set out in the Relevant Participation Agreement.

14 Limitation of Trustee's liability and indemnity

The Trustee is entitled to be indemnified from the Fund and this Division in respect of any liability incurred on the terms and conditions set out in the Deed and in particular Clause 5.5.

15 Amendments

The provisions of this Division may be Amended by a deed executed by the Trustee provided that the amendment is in accordance with Clause 3.

16 Expenses

All expenses incurred by the Trustee in administering this Division shall be dealt with by the Trustee in the following way:

- (a) any expenses or premiums that arise from insurance for death or Total and Permanent Disability or Total and Temporary Disability under a policy arranged by the Trustee shall be deducted from the contributions made by or in respect of that Member; and
- (b) any expenses that the Trustee decides in its absolute discretion are attributable to, or are incurred in respect of, a particular Member shall be deducted from the contributions made by or in respect of that Member; or
- (c) in accordance with Clause 7.5(b)(2).

17 Member to supply information

- (a) Each Member shall provide the Trustee with such information as the Trustee reasonably requires.
- (b) Each Member of the Corporate Plan shall be deemed to have authorised the Relevant Participating Employer to supply information relating to that Member which is in the opinion of the Trustee, relevant to the administration of the Corporate Plan.

18 Participating Employer to provide information

- (a) Each Participating Employer shall supply such information as the Trustee reasonably requests.
- (b) Each Participating Employer shall keep the Trustee informed of any changes known that are relevant to the administration of the Fund.
- (c) The Trustee may take any response by a Participating Employer to a request to supply information as being true and complete.

19 Payment of Benefits

- (a) All Benefit payments made to Members shall be made in accordance with the Plan Rules and the Deed.
- (b) The payment of any Benefit is subject to the person claiming the same and producing such evidence and doing such acts and executing such documents as the Trustee may reasonably require and the Trustee may postpone the payment of a Benefit until the requirements of this Rule have been met.
- (c) Notwithstanding anything expressed or implied to the contrary the Trustee shall limit, adjust, pay or delay the payment of a Benefit (including, but not limited to) refunding co-contributions and/or any other amounts as required by the *Superannuation (Government Co-Contributions for Low Income Earners) Act* or take such other appropriate action as is, in the opinion of the Trustee, necessary to ensure the Fund complies with the Relevant Law.

20 Termination of the Division

- (a) Both sub-divisions will terminate on a date determined by the Trustee (the **Termination Date**) and the following Sub-Rules will operate.
- (b) The Trustee shall, on and from the Termination Date:
 - (1) refuse to accept any further contributions to either sub-division other than contributions due in respect of any period prior to the Termination Date but unpaid as at the Termination Date;
 - (2) bring in the assets of both sub-divisions;
 - (3) discharge all the liabilities of each sub-division from their respective assets; and
 - (4) terminate any insurance contracts.
- (c) The Trustee shall, after completing the requirements of Rule 20(b) hereof, apply the balance of the assets of each sub-division in the following order of priority and for the following purposes to the extent to which the assets of each sub-division will allow:
 - (1) first, in paying the costs and expenses of terminating the respective sub-division; and
 - (2) secondly, in allocating the balance of the assets of each sub-division remaining amongst the Members of each respective sub-division in proportion to the actuarial reserve of each Member in that Member's respective sub-division,and the Trustee shall transfer such amount in trust for the benefit of the respective Member until that Member dies, retires from the work-force after attaining the age of 55 years or in the case of a Corporate Member terminates employment.
- (d) The rights of a Member, the Dependents of the Member and the Personal Representative of the Member shall, on the Termination Date merge into the right to have the Division terminated and allocated.

21 Reserve Account

- (a) The Trustee shall maintain in the books of the Corporate Plan a Reserve Account in respect of each Participating Employer to which shall be credited any Benefit which had been forfeited by a Member who is an employee of that Participating Employer.
- (b) The balance of the Reserve Account of each Participating Employer may be applied in any manner determined by the Participating Employer that does not hinder the Fund's ability to obtain the most attractive taxation treatment possible.
- (c) The Trustee shall maintain in the books of the Personal Plan a Reserve Account to which shall be credited any benefit which has been forfeited by a Member of that Fund.
- (d) The balance of the Reserve Account of the Personal Plan shall be applied by the Trustee in such manner as is authorised by the Relevant Law and shall be applied within 2 months of the end of the Financial Year in which the forfeited Benefit arose or such later date as the Relevant Law may allow.

22 Income Tax Reserve Account

- (a) The Trustee shall maintain in the books of the Corporate Plan an Income Tax Reserve Account to which shall be credited amounts set aside by the Trustee to pay income tax payable in respect of contributions to the Corporate Plan and earnings of the Corporate Plan, including realised and unrealised capital gains, and to which shall be debited income tax paid by the Corporate Plan.
- (b) If the Trustee determines that the amount in the Income Tax Reserve Account of the Corporate Plan, exceeds the income tax liability of the Corporate Plan then the Trustee shall apply the excessive amount to the credit of the Members on such basis as the Trustee regards as equitable between the Members.
- (c) The balance in the Income Tax Reserve Account of the Corporate Plan shall be transferred to the credit of the Members on such basis as the Trustee regards as equitable between the Members prior to the winding up or crystallisation of the Division or Fund.
- (d) The Trustee shall maintain in the books of the Personal Plan an Income Tax Reserve Account to which shall be credited amounts set aside by the Trustee to pay income tax payable in respect of contributions to the Personal Plan and earnings of the Personal Plan, including realised and unrealised capital gains, and to which shall be debited income tax paid by the Personal Plan.
- (e) If the Trustee determines that the amount in the Income Tax Reserve Account of the Personal Plan, exceeds the income tax liability of the Personal Plan then the Trustee shall apply the excessive amount to the credit of the Members on such basis as the Trustee regards as equitable between the Members.
- (f) The balance in the Income Tax Reserve Account of the Personal Plan shall be transferred to the credit of the Members on such basis as the Trustee regards as equitable between the Members prior to the winding up or crystallisation of the Division or Fund.

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Rules of the BMA Plan

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Rules of the BMA Plan

1 Contributions - generally

- (a) The Trustee shall only accept as a contribution to the Personal Plan or the Corporate Plan contributions made in accordance with Plan Rule 2 and any other contribution shall not form part of the Fund and shall be returned without interest by the Trustee to the contributor as soon as practicable.
- (b) Except as provided in Plan Rule 1(a), after a contributor (other than a Member) has paid an amount to the Trustee that contributor shall thereupon cease to have any legal or equitable interest in that contribution and the Fund shall be used and applied in accordance with the Deed and the Plan Rules.
- (c) No contribution shall be made by a Member or any other person in respect of that Member to the Personal Plan or the Corporate Plan where the Trustee determines that it is likely to cause a Benefit to be excessive.
- (d) In the case of a Member who has been admitted to the Corporate Plan such a Member shall be obligated to make such contributions to that Plan as are specified in the Relevant Participation Agreement under which the Member has been admitted to the Corporate Plan.

2 Member and employer contributions

- (a) Each Member who has been admitted to the Personal Plan shall contribute such amounts to that Plan in respect of that Member's Benefits as is agreed from time to time between the Member and the Trustee.
- (b) Each Member who has been admitted to the Corporate Plan shall contribute such amounts to that Plan in respect of that Member's Benefits as is set out in the terms of the Relevant Participation Agreement under which that Member was admitted to that Plan.
- (c) Each Participating Employer shall subject to Plan Rule 2(d) contribute to the Plan in respect of each Member who is an associated Member of that Participating Employer such amounts as are specified in the participation agreement of that Participating Employer.
- (d) With the consent of the Trustee any person who is an Eligible Contributor of a Member who has been admitted to the Corporate Plan may in part or in whole make contributions to that Plan in substitution for the contributions required to be made by the Participating Employer in relation to whom that Member is an associated Member.
- (e) Where a Personal Member nominates to make a contribution regularly from his remuneration he shall advise the Trustee in writing of the amount from time to time and where he is an employee he shall authorise his employer in writing to deduct such contributions and shall pay such contributions to the Trustee at such time as the Trustee shall determine.

- (f) The Relevant Participating Employer and any Eligible Contributor of a Corporate Member shall make such arrangements with the Trustee as to the payment of contributions.

3 Cessation of contributions

- (a) The Relevant Participating Employer of a Corporate Member may at any time give the Trustee written notice that such contributions in respect of that Member shall cease on and from a date being not less than 30 days after the date that he gives such written notice to the Trustee.
- (b) A Personal Member shall not make any contributions in respect of any period during which he is not Engaged.
- (c) No contribution in respect of a Member shall be made after the date of the first occurrence of the following events:
- (1) a Personal Member notifies the Trustee in writing that he wishes to cease making contributions for whatever reason;
 - (2) the Member dies;
 - (3) the Member becomes Totally and Permanently Disabled;
 - (4) the Member Retires;
 - (5) the Member attains 70 years of age;
 - (6) a Corporate Member terminates employment within the terms of the Relevant Participation Agreement; or
 - (7) the Relevant Participating Employer of a Corporate Member ceasing participation in the Corporate Plan as a Participating Employer.

4 Benefit entitlement

- (a) A Benefit shall become due to be paid to or in respect of a Member from the Plan to which that Member has been admitted on the date of occurrence of any of the following events that occur whilst that Member remains a Member:
- (1) the death of a Member;
 - (2) the Total and Permanent Disablement of the Member;
 - (3) the Retirement of the Member;
 - (4) in the case of a Personal Member - the Member attains 70 years of age;
 - (5) in the case of a Corporate Member - the Member terminates employment within the terms of the Relevant Participation Agreement.
- (b) For the purpose of this Plan Rule the date on which a Member is Totally and Permanently Disabled shall be the last date of cessation of active work or such subsequent date being not later than the date he ceases to be Engaged as his or her employer shall advise the Trustee in writing.
- (c) The Benefit to which a Member is entitled on withdrawing from either Plan for any reason shall notwithstanding Plan Rule 4(d) or Plan Rule 4(e) not be less than the aggregate of:

- (1) in the case of a Member who was last admitted to the Plan on or before 30 June 1986 - an amount equal to the aggregate of:
 - (i) the sum of contributions (net of the cost of insurance cover) made by the Member up to 30 June, 1986;
 - (ii) interest at the Declared Rate on the amount represented by sub-paragraph (i);
 - (iii) the value of the "member-financed benefit" (as that term is defined in Relevant Law) attributable to contributions made by that Member since 1 July, 1986;
 - (2) in the case of a Member who was last admitted to the Fund on or after 1 July, 1986 - an amount equal to the 'member-financed benefit' (as that term is defined in Relevant Law) of that Member; and
 - (3) in either case where contributions are made to the Plan by the employer of the Member pursuant to a 'prescribed agreement or award' (as that term is defined in Relevant Law) - the whole of the Benefit (other than the insured component of a Benefit) of the Member attributable to such contributions.
- (d) In the event that the member dies, becomes Totally and Permanently Disabled or Retires or (in the case where the Member is a Personal Member) the Member attains the age of 70 years the amount of the Benefit that falls due pursuant to Plan Rule 4(a) shall be equal to the balance of the proceeds of the insurances effected by the Trustee pursuant to this Division on the life of the member.
- (e) In the case where the Member is a Corporate Member and the member terminates employment within the terms of the Relevant Participation Agreement the amount of the Benefit that falls due pursuant to Plan Rule 4(d) shall be equal to the portion of the proceeds of the insurance effected by the Trustee pursuant of this Division on the life of the Member which is determined in accordance with the terms of that participation agreement.

5 Preservation of Benefits

- (a) For the purposes of Plan Rule 6 any Benefit or part of a Benefit which is:
- (1) attributable (whether directly or indirectly) to superannuation contributions made by the employer of the Member pursuant to a prescribed agreement or award; or
 - (2) attributable (whether directly or indirectly) to any new employer-financed benefits or of any improvement in employer-financed benefits (including benefits arising from improvements in vesting) of the Member being benefits or improvements in benefits which are vested in the Member and which arise from superannuation contributions made pursuant to a relevant employer arrangement or agreement,
- shall be taken to be a benefit or a part of a benefit which is required to be preserved in accordance with the Relevant Law.
- (b) For the purposes of the Plan Rules any Benefit or part of a Benefit which is:
- (1) attributable (whether directly or indirectly) to contributions made to the Personal Plan; or
 - (2) attributable (whether directly or indirectly) to contributions made to a fund in relation to which either former sections 23FB or 23 (ja) of the

Taxation Act, 1936 did apply or would have applied had they not been repealed,

shall be taken to be a benefit or a part of a benefit which is required to be preserved in accordance with the terms of the Deed.

- (c) For the purposes of the Plan Rules a Benefit or a part of a Benefit arising from the Personal Plan or the Corporate Plan shall be indirectly attributable to a contribution where that contribution was made to one Benefit Fund and the benefit from that fund directly attributable to that contribution was successively transferred to one or more interposed Benefits Funds until that transferred benefit was transferred to the Personal Plan or the Corporate Plan as the case made be.

6 Benefit payment

6.1 Death

Where the Member has died then the Trustee shall pay or apply the Benefit as a lump sum to or for the benefit of such one or more of the Dependants and the Personal Representative of the deceased Member to the exclusion of the other or others of them in such shares and proportions as the Trustee in its absolute discretion shall decide **PROVIDED THAT** if after reasonable enquiry the Trustee determines that the deceased Member left no Dependants and if after reasonable further enquiry the Trustee is unable to locate any Personal Representative of the deceased Member then at the expiration of such period of time as the Trustee shall determine, the Trustee in its absolute discretion may decide that the said Benefit shall be forfeited to the Plan of which the Member was admitted as a Member and credited to the relevant Reserve Account.

6.2 Total and Permanent Disability

Subject to the Relevant Law, where the Member becomes Totally and Permanently Disabled then the Trustee subject to Plan Rule 6.5 shall in respect of any payment to the Trustee by the insurer of the amount in respect of that Member payable pursuant to the insurance effected by the Trustee in accordance with this Division (whether such payment is by a lump sum or by two or more instalments), pay to that Member the amount of each such payment as soon as practicable after the insurer makes such payment to the Trustee provided that the payment is permitted by the Relevant Law.

6.3 Retirement

Where the Member Retires the Trustee subject to Plan Rule 6.6 shall pay the Benefit to the Member as a Lump Sum.

6.4 Other cessation of employment

Where a Member is entitled to a Benefit in circumstances other than set out above then the Trustee shall pay such part of any of that Benefit which is neither required to be preserved in accordance with the Relevant Law or in accordance with the terms of the Deed as a lump sum to the Member and the balance shall subject to Plan Rule 6.5 at the option of the Member be:

- (a) retained in the Plan and applied in the payment of a single premium investment only capital guaranteed life policy which shall be surrendered by the Trustee on the occurrence in relation to that Member of any Prescribed Event and the Trustee shall pay the surrender value of that policy as a lump sum to that

Member (or if the Prescribed Event is the death of the member - then in accordance with Plan Rule 6.1); or

- (b) transferred to a Benefits Fund nominated by the Member which will hold that amount on such terms that it will only be payable to the Member on the occurrence of a Prescribed Event in relation to that Member,

PROVIDED THAT where the amount which has to be preserved in accordance with the Relevant Law is less than \$500 (or such greater amount as is specified by the Relevant Law) then notwithstanding the above the Trustee shall pay such amount as a lump sum to the Member.

PROVIDED FURTHER THAT in relation to the amount which has to be preserved in accordance with the terms of the Deed the Trustee may in the circumstances approved by the Commissioner pay that amount as a lump sum to the Member.

6.5 Benefit paid as an annuity

A Member who is entitled to be paid a Benefit hereunder may, in a form acceptable to and within the time allowed by the Trustee and provided the Trustee approves, elect to have part or all of the Benefit applied by the Trustee to purchase an annuity in the name of the member (with the balance (if any) being paid as a lump sum) on such terms as the Trustee and the Member may specify or may elect to Roll-Over that Benefit or have that Benefit transferred to another Benefits Fund in accordance with the Deed.

6.6 Death after Retirement or Total and Permanent Disablement

Where a Member dies subsequent to the date that Member Retires or becomes Totally and Permanently Disabled then the Trustee shall apply any Benefit remaining in the Fund in respect of that Member in accordance with Plan Rule 6.1.

Partner Superannuation Division

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Partner Superannuation Division

Date ▶ 30 June 2010

Recitals

- 1 The name of this division is the Partner Superannuation Division.
 - 2 The Partner Superannuation Division commences on the date of execution of this Deed of Amendment.
 - 3 The following rules and appendices ("**Rules**"), as amended from time to time, are the Rules of the Partner Superannuation Division.
 - 4 The Partner Superannuation Division must be managed and administered in all respects according to the Rules.
 - 5 The provisions of the Partner Superannuation Division may be amended in the manner set out in Clause 3.
 - 6 In the event of any inconsistencies between the Governing Provisions and the Rules of the Partner Superannuation Division, the Rules in the Partner Superannuation Division shall prevail.
-

Rules of the Partner Superannuation Division

1 Definitions and interpretation

1.1 Definitions

The definitions in the Partner Superannuation Division Rules are as set out below, unless the context or subject matter otherwise requires:

Term	Meaning
Binding Nomination of a Member	a written notice given to the Trustee which directs the Trustee to pay the Member's Death Benefit to one or more of the Member's Dependants or legal personal representative and which on its face complies with the requirements of Superannuation Law.
Child	includes a step-child, ex-nuptial child, a legally adopted child, posthumous natural child, a child of the Member's Spouse or a child recognised under the Relevant Law.
Clause	a clause of the Governing Provisions.
Death Benefit	a benefit payable under Rule 4.3.
Deed	the Governing Provisions and the Rules of this Division as are in force from time to time governing the Fund and this Division, as amended from time to time
Deed of Amendment	the Deed of Amendment for the TOWER Master Fund which establishes this Division.
Dependant	of a Member means: <ol style="list-style-type: none"> 1 a Spouse; 2 a Child; 3 any other person whom the Trustee believes is, or was at the date of death, dependent on the Member; and 4 any other person who satisfies the definition of 'dependant' under Superannuation Law.
Division	this Partner Superannuation Division.
Fund	the TOWER Master Fund.

Term	Meaning
Governing Provisions	the provisions of Clauses 1-13 of the TOWER Master Fund.
Ineligible Beneficiary of a Member	a Nominated Beneficiary who, at the date of the Member's death, is not a Dependant or legal personal representative of the Member.
Insurer	PrefSure Life Limited ABN 20 000 017 194 or such other insurer as the Trustee shall from time to time determine.
Insurable Member	a person on whose life the Insurer and the Trustee agree to issue a Policy.
Member	a person who has been admitted to membership under Rule 2.3 and has not ceased to be a Member under Rule 2.11.
Nominated Beneficiary of a Member	a Dependant or legal personal representative of the Member who is nominated by the Member to receive all or part of the Member's Death Benefit.
Non-Binding Nomination of a Member	a written notice given to the Trustee in the manner and form prescribed by the Trustee which indicates how the Member would prefer their Death Benefit to be distributed among the Member's Dependents and legal personal representative.
Permanent Disablement	<ol style="list-style-type: none"> 1 has the meaning given to it (or any corresponding term) in any Policy providing benefits on disablement under which the Trustee has insured the Member; or 2 if there is no policy, or to the extent that the benefit payable in the event of disablement is not covered by the policy, means 'permanent incapacity' as defined in Part 6 of the Superannuation Industry (Supervision) Regulations.
Policy in relation to a Member	each policy or part of a policy held by the Trustee in respect of the Member and which is issued by the Insurer.
Policy Proceeds	the proceeds (if any) of the Member's Policy or Policies paid to the Trustee.
Required Payment Date	any date at which a Member's benefit must be paid or commence to be paid to satisfy Superannuation Law.
Retiring Age in respect	65 or some other age specified from time to time by notice in

Term	Meaning
of a Member	writing to the Trustee. However, a Member must not specify an age earlier than the minimum age prescribed by Superannuation Law.
Spouse	includes: <ul style="list-style-type: none"> (a) another person with whom the Member is in a relationship that is registered under a law of a State or Territory; and (b) another person who, although not legally married to the Member, lives with the Member on a genuine domestic basis in a relationship as a couple.
Superannuation Authority	the Australian Prudential Regulation Authority or any other government authority responsible for administering the laws or any other rules governing superannuation funds or the availability of income tax concessions to superannuation funds.
Superannuation Law	the Relevant Law as that term is defined in the Governing Provisions.
Trustee	the trustee of the Fund.

1.2 Beneficial interest

Each Member is entitled to a beneficial interest in the Fund. However, unless expressly provided in the Deed or required by law, the beneficial interest does not entitle the Member to:

- (a) interfere with the rights or powers of the Trustee in its dealings with the assets of the Fund; or
- (b) exercise any rights powers or privileges in respect of any assets of the Fund; or
- (c) require the transfer to the Member of any of the assets of the Fund; or
- (d) claim any right to or interest in any Policy; or
- (e) otherwise claim any interest in any particular part or asset of the Fund.

1.3 Supremacy of the Rules of this Division

If there is any inconsistency between the Rules of this Division and the Governing Provisions, the Rules of this Division prevail.

2 Eligibility and membership

2.1 Eligibility

Any person wishing to participate in the Division must:

- (a) be capable of becoming an Insurable Member; and
- (b) apply for admission in a form approved by the Trustee.

2.2 Membership

Before admitting a person as a Member, the Trustee may require the person:

- (a) to have a medical examination; and
- (b) to provide information which the Trustee considers relevant to the administration of the Fund.

2.3 Date of membership

A person becomes a Member on the earlier of the date the Trustee determines and the first date when the Trustee has:

- (a) approved the person's application for membership; and
- (b) received a contribution in respect of that person.

2.4 Conditional membership

The Trustee may:

- (a) reject an application for membership; or
- (b) impose special conditions when accepting an application for membership.

The Trustee must reject an application for membership if Superannuation Law does not permit the Trustee to accept contributions for that person.

2.5 Bound by Deed

Each Member agrees to be bound by the Deed.

2.6 Transfer to Fund

The Trustee may make arrangements it considers appropriate with:

- (a) a Member; or
- (b) the trustees of any superannuation fund of which the Member has been a member,

to transfer assets or a policy on the life of the Member to the Division and to provide benefits in respect of the Member, which may be calculated in a different manner than set out in the Deed. The arrangement must comply with Superannuation Law.

2.7 Transfer to another division of the Fund

The Trustee may transfer the Members of this Division to another division of the Fund in accordance with the provisions of Clause 11.3.

2.8 Transfer treated as contribution

The Trustee may treat any transfer as a contribution to the Division for the purposes of providing for any income tax liability.

2.9 Transfer from Fund

If a Member is or is eligible to be a member of another superannuation fund the Trustee may transfer assets to the other fund. However, the Trustee must not transfer more than the current value of the Member's Policy or more than is requested by the Member. The transfer must comply with Superannuation Law.

2.10 Satisfaction of entitlement

The transfer satisfies the Member's entitlement to any benefit in respect of the amount transferred and the Trustee may declare that it satisfies the Member's entitlement in full. The Trustee is not responsible for the manner in which the trustee of the other fund deals with the amount transferred.

2.11 Cessation of membership

A person ceases to be a Member when:

- (a) all benefits which are or may be payable in respect of the Member have been paid; or
- (b) a transfer is made under Rule 2.9 in satisfaction of all the Member's entitlement to benefits; or
- (c) all the Member's entitlement to benefits is terminated.

2.12 14 day free look

If a Member requests the Trustee to cancel the Policy within 14 days of receiving the Policy, the Trustee must as soon as practicable:

- (a) cancel the Member's Policy with effect from the Policy's commencement date; and
- (b) following cancellation, refund any Division contributions made by the Member.

A request by the Member must be in writing and the cancellation and Division refund must comply with Superannuation Law.

3 Contributions

3.1 Member contributions

Each Member must contribute the amount agreed from time to time between the Member and the Trustee.

3.2 Contributions - general

- (a) The Trustee may refuse to accept all or part of a contribution from a person without giving any reason.
- (b) The Trustee must not accept contributions contrary to Superannuation Law.
- (c) If the Trustee finds that any contributions have been accepted contrary to Superannuation Law, the Trustee must within two months of that finding repay them to the contributor.
- (d) A Member may cease, reduce or suspend contributions by written notice to the Trustee.

3.3 Non-payment of contributions

- (a) If the contributions paid in respect of the Member are not sufficient to meet the premium due under the Member's Policy then:
- (1) if the Policy has a paid-up value, the Member requests in writing, and the Insurer consents, the Trustee must convert the Policy to a paid-up Policy (and if appropriate, cancel, reduce or adjust any insurance cover). However, the Trustee and Member may agree to a different course of action; and
 - (2) in any other case, the Trustee must maintain the Policy until it lapses, at which time the Member ceases to be a Member.
- (b) If a Policy is converted to a paid-up Policy in accordance with Rule 3.3(a) and the Member later becomes eligible to and wishes to resume making contributions to the Fund, the Trustee may consider asking to revive the Policy for the original sum insured or for some lesser amount. The revival will be subject to the Trustee receiving evidence of the Member's health satisfactory to the Insurer and to the sum required by the Trustee for the revival being not more than may be accepted by the Trustee under Superannuation Law.

3.4 Application of contributions

The Trustee must apply contributions made by each Member to the payment of the premiums on the Member's Policy.

3.5 Direct payment to the Insurer

Members may pay their contributions directly to the Insurer if the Trustee approves. A payment to the Insurer will be taken to be a payment to the Trustee and a payment by the Trustee to the Insurer.

4 Benefit entitlement

4.1 Retiring Age

A Member who attains the Retiring Age is entitled to a benefit equal in amount to the Member's Policy Proceeds.

4.2 Permanent Disablement

A Member who retires from the Member's occupation on the grounds of Permanent Disablement is entitled to receive a benefit equal in amount to the Member's Policy Proceeds. However, if the proceeds under the Member's Policy are payable by instalments the Member's benefit will be paid by corresponding instalments.

4.3 Death

On the death of a Member, the Trustee must pay a benefit equal in amount to the Member's Policy Proceeds as at the date of death.

4.4 Other circumstances

The Trustee may pay a benefit equal in amount to the Member's Policy Proceeds to the Member in such other circumstances permitted by Superannuation Law.

4.5 Compulsory preservation

If the Trustee considers it necessary under Superannuation Law to preserve any part of a benefit, then the Trustee must:

- (a) pay that part of the benefit under Rules 4.1, 4.2 or 4.3 to a fund or organisation which also preserves it under Superannuation Law; or
- (b) retain it in this Division or the Fund until it may be paid under Superannuation Law.

4.6 Consequences of retention

Any part of a benefit retained under Rule 4.5 must remain invested in the Member's Policy or in another life insurance policy effected with the Insurer on the Member's life which the Trustee considers appropriate. If the Member dies before the benefit is paid in full then the Trustee must pay the remainder of the benefit as a Death Benefit.

4.7 Required Payment Date

If a Member reaches the Required Payment Date, the Trustee must pay a benefit equal in amount to the Member's Policy Proceeds or apply it to provide an annuity or pension under Rules 6.1, 6.2 or 6.4.

4.8 Determination of entitlement

- (a) A benefit is only payable if the Deed permits it.
- (b) The Trustee may act on any proofs or presumptions which it considers satisfactory whether or not they are strictly legal proofs or presumptions.

5 Restrictions on benefit entitlement

5.1 Forfeiture

- (a) If Superannuation Law permits, the Trustee may forfeit any benefit which is the subject of an order in favour of creditors of the person otherwise entitled.
- (b) This rule has no effect on the Member's bankruptcy to the extent that its operation would be contrary to the Bankruptcy Act 1996 (Cth).
- (c) The Trustee must apply a forfeited benefit for one or more of the Member and the Member's Dependants as the Trustee considers appropriate and Superannuation Law permits. However, if the Member dies before the entire forfeited benefit has been applied, the Trustee must, after the expiry of 12 months from the Member's death, apply any forfeited benefit not applied to the Member's legal personal representative.

6 Payment of benefits

6.1 Annuity or pension

If the Member requests in writing, the Trustee must apply all or part of the Member's benefit to purchase an annuity (or annuities but no more than 5) in the name of the Member, or of the Member and one or more Dependants.

6.2 Agreed terms

The Trustee may pay a pension on terms agreed between the Trustee and the Member and, if the Trustee considers it appropriate, in accordance with Superannuation Law.

6.3 Payment to other fund

If a person entitled to a benefit asks the Trustee in writing to pay all or part of it to another fund, and the payment complies with Superannuation Law, the Trustee must comply with the request.

6.4 No request

If a Member has not made a request under Rule 6.1 or 6.3 within 60 days of the Member's benefit becoming payable, the Trustee may:

- (a) arrange with the Insurer to have the Member's Policy made paid-up; or
- (b) pay the Member's benefit as a lump sum; or
- (c) pay all or part of the Member's benefit to another division of the Fund without the consent of the person entitled to it.

However, the Trustee may only do so if Superannuation Law permits.

6.5 Unclaimed benefits

The Trustee must comply with Superannuation Law in relation to benefits which Superannuation Law:

- (a) treats as unclaimed money; or
- (b) requires to be transferred to another fund.

6.6 Death Benefits

If the Trustee holds a valid Binding Nomination for a Member, the Trustee must pay the Member's Death Benefit in accordance with the Binding Nomination. A Binding Nomination is not valid if it does not comply with Rule 6.12.

6.7 Ineligible Beneficiary

If the Trustee holds a Binding Nomination for a Member which nominates an Ineligible Beneficiary to receive part or all of the Death Benefit and which is otherwise valid, the Trustee:

- (a) must pay that portion of the Death Benefit which relates to the Nominated Beneficiary or Beneficiaries in accordance with the Binding Nomination; and
- (b) must pay that portion of the Death Benefit which relates to the Ineligible Beneficiary or Beneficiaries in accordance with Rule 6.8 or 6.9.

6.8 No Binding Nomination

If the Trustee does not hold a Binding Nomination for a Member, the Trustee must pay the Member's Death Benefit to one or more of the Member's:

- (a) Dependants; and
- (b) legal personal representative,

in proportions which the Trustee decides. The Trustee may take into account any Non-Binding Nomination which it holds in respect of the Member.

6.9 No beneficiary

If there is no person to whom a Death Benefit can be paid under Rules 6.6, 6.7 or 6.8 then the Death Benefit may be paid to any other person if Superannuation Law permits.

6.10 Form of payment

The Trustee may pay each Death Benefit as a lump sum, pension or annuity, or in any other form, as the Trustee considers appropriate.

6.11 Non-Binding Nominations

A Member may give the Trustee a Non-Binding Nomination at any time.

6.12 Binding Nominations

- (a) A Member may give the Trustee a Binding Nomination at any time.
- (b) A Binding Nomination is not valid if:
 - (1) it does not comply with the requirements of the Trustee as to the manner and form of giving a Binding Nomination; or
 - (2) it is amended or revoked by the Member in accordance with Superannuation Law; or
 - (3) it ceases to have effect under Superannuation Law.
- (c) The Trustee must treat a Binding Nomination which is not valid under Rule 6.12(b) or which is otherwise not valid as a Non-Binding Nomination.

6.13 General

The Trustee must pay all benefits in a form consistent with Superannuation Law.

6.14 Transfer of Policy

At the request of a person entitled to a benefit the Trustee may pay the benefit by transferring the Member's Policy to the person or the person's nominee.

6.15 Trustee's discharge

The Trustee is discharged from all obligations in respect of a benefit if the Trustee pays it in good faith to or on behalf of a person the Trustee believes to be entitled to it.

6.16 Financial incapacity

If the Trustee believes that a person who is entitled to a benefit is unable to manage his or her financial affairs, and Superannuation Law permits, the Trustee may:

- (a) pay the benefit to another person to be used for the advantage of the person entitled to it; and
- (b) accept the other person's receipt as a good discharge.

The Trustee is not responsible for the application of the benefit by the person to whom it is paid.

6.17 Tax

The Trustee may deduct from a payment from the Division any amount which it is required to deduct for tax.

7 Records and accounts

The Trustee must keep records and prepare financial statements for the Fund;

- (a) of the matters; and
- (b) for the period; and
- (c) in the manner,
prescribed by Superannuation Law.

8 Assets, investments, borrowings

8.1 Assets and investments

- (a) The assets of the Division consist of:
 - (1) money or other assets received or receivable by the Trustee for the purposes of the Division; and
 - (2) investments made by the Trustee and all income on those investments.
- (b) The Trustee holds the assets of the Division on trust to apply them in the manner set out in the Deed.
- (c) The Trustee must apply all money or other assets received for a Member to one or more Policies on the life of the Member. Each Policy may be selected by the Member from the range of policies offered by the Insurer to the Trustee.
- (d) The Trustee may vary, replace, encumber and deal with the investments as if it were dealing with its own property.
- (e) The Trustee must invest in a manner which complies with Superannuation Law.
- (f) The Trustee may make a loan or give financial assistance to a person if that complies with Superannuation Law.
- (g) The Trustee may appoint nominees to hold investments. The appointment must comply with Superannuation Law.

8.2 Borrowing

If the Insurer consents, the Trustee may borrow money solely for the purpose of securing temporary finance by way of overdraft with any financial institution and may secure payment or repayment in any manner which it thinks fit. However, the Trustee may only do so if Superannuation Law permits.

9 Trustee

9.1 Removal

When the Trustee ceases to be the Trustee of this Division it must serve written notice to that effect on the Insurer.

9.2 Trustee's powers

The Trustees powers are set out in the Governing Provisions and these Rules and in particular in Clause 5.3.

9.3 Policy conversion

If the Insurer consents, the Trustee may arrange for benefits secured by individual Member Policies to be secured by one or more group policies issued by the Insurer.

9.4 Trustee's liability and indemnity

The Trustee is entitled to be indemnified as set out in Clause 5.5.

10 Administration

10.1 Expenses of the Fund

All expenses in connection with the Division which are not paid by Members or paid under the Policy or by the Insurer are payable from the Fund. The Trustee must determine the proportions in which it considers the expenses to be fairly attributable to individual Members. The Trustee may recoup expenses from subsequent contributions for the Members concerned, or from the proceeds of Policies, as it considers appropriate.

10.2 Power of attorney

Each Member irrevocably appoints the Trustee as the Member's attorney to do all things which the Trustee considers appropriate to administer the Fund.

11 Amalgamation

The Trustee may accept a transfer of members, employers and assets to the Division from another superannuation fund by way of amalgamation and for this purpose:

- (a) declare persons to be admitted as Members; and
- (b) make arrangements it considers appropriate in relation to the benefits provided, the indemnification of the trustee of the other fund, and any other matter.

12 Termination of the Fund or the Division

12.1 Termination

- (a) The Division is to terminate if the Division's liabilities (excluding any liability in respect of future benefits payable to Members) exceed its assets.
- (b) The Trustee may terminate the Division by giving 12 months' written notice to the Members.
- (c) The notice must specify a termination date.

12.2 Contributions

- (a) Any contributions in arrears at the termination date must be paid immediately.
- (b) The Trustee must not accept any other contributions after the termination date.

12.3 Application of assets of Division

On termination of this Division, the Trustee must:

- (a) provide for all expenses and liabilities (other than benefits) for which the Trustee is or may become liable;
- (b) provide out of the balance of the Division benefits in respect of each Member determined according to the provisions of this Deed.

12.4 Payment of benefits

A Member may not receive a benefit under Rule 12.3 before Superannuation Law permits.

12.5 Transfer to another division of the Fund

Nothing in this Rule shall restrict the Trustee from transferring the Members of this Division to another Division of the Fund in accordance with the provisions of Clause 11.3.

13 Amendment of Deed

13.1 Power to amend

The Trustee may amend any of the provisions of the Division including this Rule 13.1 if the Trustee is of the opinion that the amendment would be beneficial to the present or future Members or their Dependants.

13.2 Limitation of power

No amendment may:

- (a) reduce any benefits that have accrued to any Member or affect the basis for calculating the amount of retirement benefits of any Member in a way that reduces that amount with respect to the period of membership before the date of amendment; or
- (b) retrospectively reduce benefits accrued or payable to any Member,

unless the Member or the Superannuation Authority consents in writing, or the reduction is permitted under Superannuation Law.

14 Transfer to another superannuation fund

14.1 Transfer by amalgamation

The Trustee may transfer the whole of the Division by way of amalgamation to another superannuation fund having a similar purpose and nature to this Fund if:

- (a) the rights, benefits or entitlement of any Member in relation to the amalgamated fund are equivalent to those in relation to the Fund; and
- (b) there is no cost charged to the Members in connection with the amalgamation.

14.2 Details of amalgamated fund

The Trustee must, after the amalgamation, provide each Member with the main details of the amalgamated fund.

PrefSure Personal Division

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PrefSure Personal Division

Date ▶ 30 June 2010

Recitals

- 1 The name of this division is the PrefSure Personal Division.
 - 2 The PrefSure Personal Division commences on the date of execution of this Deed of Amendment.
 - 3 The following rules and appendices ("**Rules**"), as amended from time to time, are the Rules of the PrefSure Personal Division.
 - 4 The PrefSure Personal Division must be managed and administered in all respects according to the Rules.
 - 5 The provisions of the PrefSure Personal Division may be amended in the manner set out in Clause 3.
 - 6 In the event of any inconsistencies between the Governing Provisions and the Rules of the PrefSure Personal Division, the Rules in the PrefSure Personal Division shall prevail.
-

Rules of the PrefSure Personal Division

1 Definitions and interpretation

1.1 Definitions

The definitions in the PrefSure Personal Division Rules are as set out below, unless the context or subject matter otherwise requires:

Term	Meaning
Beneficiary	a person beneficially entitled to receive an Insured Benefit, who may also be a Member.
Child	in relation to a Member, includes a step-child, ex-nuptial child, a legally adopted child, posthumous natural child, a child of the Member's Spouse and any child recognised under SIS.
Clause	a clause contained in the Governing Provisions.
Deed	the Governing Provisions and the Rules of this Division as are in force from time to time governing the Fund and this Division, as amended from time to time.
Deed of Amendment	the Deed of Amendment for the TOWER Master Fund which establishes this Division.
Dependant	in relation to a Member or former Member includes a Spouse and Child of the Member or former Member, and any other person who in the opinion of the Trustee is or was at the relevant time wholly or partially dependent on the Member or former Member.
Fund	the TOWER Master Fund.
Governing Provisions	the provisions of Clauses 1-13 of the TOWER Master Fund.
Insurer	TOWER Australia Limited or any other life insurance company as determined by the Trustee from time to time.
Insured Benefit	an amount paid to the Fund in relation to a Member, on the happening of an event insured under a policy of insurance effected by the Trustee according to the Rules subject to any deduction permitted under the Rules.

Term	Meaning
Member	any person who has been admitted as a Member of the Fund, and who has not ceased to be a Member, pursuant to Rule 2.
Personal Representative	in relation to a Member or Beneficiary, the "legal personal representative" of that Member or Beneficiary as defined under the Relevant Law.
Relevant Authority	the Australian Prudential Regulation Authority, the Australian Securities and Investments Commission or the Commissioner of Taxation, or such other person or body empowered to administer the Relevant Law.
Relevant Law	As defined in Clause 1.1.
Rules	the rules of the PrefSure Personal Division as set out in this Division.
SIS	the Superannuation Industry (Supervision) Act 1993 (Cth) and any regulations made or issued under it.
Spouse	includes: <ul style="list-style-type: none"> (a) another person with whom the Member is in a relationship that is registered under a law of a State or Territory; and (b) another person who, although not legally married to the Member, lives with the Member on a genuine domestic basis in a relationship as a couple.
Tax	includes any Commonwealth, State or Territory tax surcharge, levy, duty or other impost and any interest, fine, penalty, charge or other impost thereon.
Tax Act	the Income Tax Assessment Act 1936 (Cth) and the Income Tax Assessment Act 1997 (Cth).
Total and Permanent Disablement	in respect of a Member, has the same meaning as that expression, or the equivalent expression, in any policy of insurance which the Trustee has effected to provide a benefit on the total and permanent disablement of the Member, and which is in force at the relevant time.
Total and Temporary Disablement	in respect of a Member, has the same meaning as that expression, or the equivalent expression in any policy of insurance which the Trustee has effected to provide a benefit on the total and temporary disablement of the Member and which is in force at the relevant

Term	Meaning
	time.
Trustee	the trustee for the time being of the Fund, whether original or appointed pursuant to the Rules.

2 Members

2.1 Membership

- (a) A person who is eligible under the Relevant Law may make application to the Trustee to become a Member of this Division.
- (b) The terms and conditions of membership and participation are as set out in Clause 8.

2.2 Rules binding

Subject to Rule 2.3, all Members, Beneficiaries and persons claiming a benefit from this Division shall be bound by the Deed.

2.3 Special arrangements

Subject to the Relevant Law, the Trustee may in writing agree with a current or future Member (in respect of his or her membership):

- (a) that special terms and conditions as to contributions, Insured Benefits or otherwise apply; and
- (b) that the terms and conditions of a Member's membership of this Division be varied.

2.4 Supremacy of the Rules of this Division

If there is any inconsistency between the Rules of this Division and the Governing Provisions, the Rules of this Division prevail.

2.5 Transfer to another Division

The Trustee may transfer a Member from this Division to another division of the Fund in accordance with Clause 11.3.

3 Trustee

3.1 Appointment and removal of the Trustee

The Trustee may be appointed and removed as set out in Clause 5.

3.2 Remuneration of Trustee

- (a) The Trustee shall be entitled to receive remuneration on terms (including the amounts) and at times agreed with the Insurer. The Trustee's remuneration shall be paid by the Insurer from its own resources or, if the Insurer determines

not to pay the Trustee's remuneration, the Trustee's remuneration shall be paid from the Fund.

- (b) The Trustee shall be entitled to recover costs and disbursements from the Fund as permitted by the Deed.

3.3 Trustee's powers

The Trustee's powers are set out in Clause 5.3.

4 Contributions

4.1 General

The terms and conditions regarding contributions are as set out in Clause 9 and this Rule 4.

4.2 Member contributions

Subject to Clause 9, a Member shall contribute to the Fund in the amounts and on the terms agreed with the Trustee. Subject to the Relevant Law, contributions may be made on behalf of a Member by any other person.

4.3 Payment of contributions

- (a) Contributions shall be paid to the Trustee on a monthly basis, or at such other intervals acceptable to the Trustee from time to time.
- (b) The Trustee may accept contributions by cash, cheque, direct debit or such other method it determines.
- (c) Without limiting paragraph 4.3(b), where contributions would be paid by the Trustee to an Insurer, the Trustee may agree to permit contributions to be paid directly by the contributor to the Insurer, which contributions shall be deemed to have been received by the Trustee and paid to the relevant Insurer.

5 Insured benefits

5.1 General provisions

- (a) Except as set out in this Rule 5, the provision of Insured Benefits to Members of this Division are as set out in Clause 6.3 and Clause 10.

5.2 Death benefit nomination

- (a) For the purposes of Rule 5.3, the Trustee may, but is not required to, offer a Member the opportunity to make a binding death benefit nomination ("**Nomination**").
- (b) To be valid, a Nomination must comply with the requirements set by the Trustee in accordance with SIS ("**Valid Nomination**").

5.3 Death benefits

On the death of a Member, the Trustee shall pay the Insured Benefit in accordance with the following provisions:

- (a) where the Trustee did not offer the Member the opportunity of making a Nomination, or where at the time of the Member's death the Trustee does not hold a Valid Nomination by the Member, the Trustee must pay the Member's benefit to the Member's Dependants and/or Personal Representative, in such manner and proportions (if paying to more than one) as the Trustee thinks fit;

- (b) where the Trustee holds a Valid Nomination of the Member, the following provisions apply:
- (1) subject to SIS and any other applicable law the Trustee must, in accordance with the Nomination, pay the Member's benefit to each nominee referred to in the Nomination, any balance (whether arising from the Nomination not being effective for a nominee or from a nominee not being paid because of SIS or any other applicable law) to be paid to the Member's Personal Representative;
 - (2) if a person entitled to receive the Member's benefit or a share of it in accordance with a Nomination dies after the Member but before being paid his or her benefit, the Trustee must pay the person's benefit to his or her Personal Representative;
 - (3) if a person entitled to receive the Member's benefit or a share of it in accordance with a Nomination dies before the Member the Trustee must pay that share of the Member's benefit to the Member's Dependants and/or Personal Representative, in such manner and proportions (if paying to more than one) as the Trustee thinks fit;
- (c) Benefits may be paid to a person who is neither the Member's Personal Representative nor a Dependant of the Member, if the Relevant Law permits.

5.4 Total and Permanent Disablement

On the Total and Permanent Disablement (proved to the satisfaction of the Trustee) of a Member, subject to Clause 6.3, the Insured Benefit shall otherwise be payable to the Member in accordance with the Deed and on the terms specified by the Trustee.

5.5 Total and Temporary Disablement

On the Total and Temporary Disablement (proved to the satisfaction of the Trustee) of a Member, subject to Clause 6.3, the Insured Benefit shall be payable to the Member in accordance with the Deed and on the terms specified by the Trustee.

5.6 Beneficiary under disability

If it appears to the Trustee that a Member or former Member (in this Rule referred to as "the person") is under any legal disability, or is unable for any reason to satisfactorily deal with an amount otherwise payable to the person from the Fund, the Trustee may pay or apply the whole or part of any Insured Benefit payable to the person as set out in Clause 10.1(g). The Trustee is not under any duty to have recourse to this Rule or to consider whether recourse should be had to it, notwithstanding that the Trustee may have actual notice of any infirmity, lack of fitness or other relevant matter as provided in this Rule.

5.7 Discharge to Trustee

The receipt of any person to whom the Trustee is authorised to make payment in accordance with this Deed shall be a full and true discharge to the Trustee, and the Trustee shall not be bound or concerned to see to the application of such payment.

5.8 Payment

Benefits under this Division are subject to the terms and conditions set out in Clause 10.

6 Trustee's power of investment and sale

The Trustee's investment and ancillary powers are set out in the Deed and in particular in Clause 6.

7 Insurance

The Trustee may effect and maintain policies of professional indemnity insurance to cover its own liability and/or the liability of its directors directly or indirectly related to their responsibilities in respect of the Fund, as it considers appropriate as set out in Clause 5. Premiums in respect of such cover shall be payable from the Fund.

8 Records, financial accounts and reports

The Trustee shall keep accounts and records in accordance with Clause 7.

9 Administration

9.1 Appointment of administrator and advisers

The Trustee may appoint a person or organisation as administrator for this Division in accordance with Clause 5.3(a)(1).

9.2 Administration costs

Unless specified otherwise in these Rules, all costs, charges, insurance premiums, Trustee fees and expenses incurred in connection with the establishment, maintenance, administration and operation of the Fund shall be borne by the Fund on the basis determined by the Trustee.

9.3 Reserves

The Trustee may establish one or more reserve accounts as it considers necessary or convenient for the purposes of this Division, to which the Trustee shall credit and debit amounts for such purposes (including to meet costs and expenses), and on such terms, as the Trustee determines.

10 Taxation

10.1 Trustee's power to make provision and deductions for Tax

The Trustee may establish one or more taxation reserve accounts as it considers necessary or convenient in accordance with Clause 7.4.

10.2 Trustee's power to pay Tax

The Trustee shall pay the Tax, duties or other governmental imposts it is lawfully required to pay, whether in respect of contributions, other income of the Division or on Benefits or other payments out of the Division in accordance with the Deed.

10.3 Trustee's power to transfer Tax liability

The Trustee may, to the extent permissible under income tax legislation, transfer the Tax liability of the Division to an institution or organisation which consents to such transfer.

11 Limits on contributions

11.1 Contributions

The Trustee shall only accept contributions which can be made to the Fund in accordance with the Relevant Law and the provisions of Clause 9.

12 Variation of the Rules of this Division

12.1 Method of variation

Subject to Relevant Law, all or any of the provisions of the Rules of this Division (including this Rule) may be varied (whether by way of addition, deletion or amendment) from time to time by the Trustee in accordance with Clause 3.

13 Winding up of the Fund

- (a) Where the Trustee determines to terminate the Fund in accordance with Clause 12.1, the Trustee may determine upon 3 months notice to Members that this Division shall be dissolved (in this Rule, the day on which the 3 months expires is referred to as "the **Closure Date**" which may be the same as the date specified to other Members of the Fund under Clause 12.1(a) provided that it is not less than three months after the notice is provided to Members of this Division).
- (b) All contributions to the Division shall cease on the day immediately prior to the Closure Date. The Trustee shall:
 - (1) continue to administer the Division in accordance with the provisions of the Rules; and
 - (2) after paying from the Division all expenses of winding up the Division, allocate benefits of the Division to the Members and Beneficiaries.
- (c) When no entitlements of Members and Beneficiaries remain, the Division shall be deemed to be dissolved.
- (d) Nothing in this Rule shall restrict the Trustee from transferring the Members of this Division to another Division of the Fund in accordance with the provisions of Clause 11.3.

Solar Personal Division

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Solar Personal Division

Date ▶ 30 June 2010

Recitals

- 1 The name of this division is the Solar Personal Division (**Division**).
 - 2 The Division commences on the date of execution of this Deed of Amendment.
 - 3 The following rules and appendices (**Rules**), as amended from time to time, are the Rules of the Division.
 - 4 The Division must be managed and administered in all respects according to the Rules.
 - 5 The provisions of the Division may be amended in the manner set out in Clause 3.
 - 6 In the event of any inconsistencies between the Governing Provisions and the Rules of this Division, the Rules of the Division shall prevail.
-

1 Definitions and interpretation

1.1 Definitions

The meanings of the terms used in this Deed are set out below.

Term	Meaning
Actuary	the actuary for the Division appointed by the Trustee.
Administrator	a person or persons appointed to administer the Division by the Trustee.
Allocated Pension	has the meaning given in Rule 15.1.
Application Money	money received by the Trustee from a person in respect of an application for a beneficial interest in the Division.
APRA	Australian Prudential Regulatory Authority set up under the <i>Australian Prudential Regulatory Authority Act 1998</i> .
Approved Trustee	has the meaning given in the SIS Act.
ASIC	the Australian Securities and Investments Commission.
Beneficiary	any person who has a beneficial interest in this Division and their legal personal representative or any other person claiming through them including a Member, any person who is entitled to or who claims to be entitled to an interest in any death benefit and a person who is receiving a Pension from this Division.
Benefit	an amount or amounts which a Member or a person claiming through a Member is entitled to receive from this Division.
Clause	a clause within the Governing Provisions.
Complying Legislative Requirements	(a) the <i>Superannuation Industry (Supervision) Act 1993</i> (Cth); (b) the <i>Superannuation Industry (Supervision) Regulations 1994</i>

Term	Meaning
	<p>(Cth);</p> <p>(c) the <i>Corporations Act 2001</i> (Cth);</p> <p>(d) the <i>Income Tax Assessment Act 1936</i> (Cth);</p> <p>(e) the <i>Income Tax Assessment Act 1997</i> (Cth);</p> <p>(f) the <i>Family Law Act 1975</i> (Cth);</p> <p>(g) the <i>Superannuation (Government Co-contribution for Low Income Earners) Act 2003</i> (Cth); and</p> <p>(h) any replacement or additional Commonwealth or State law or administrative rulings, circulars, guidelines or instruments which relate to superannuation arrangements and which apply to the Fund or any other present, future or proposed legal requirements which the Trustee is legally obliged to comply with, or which the Trustee must comply with to obtain the maximum Tax concessions available to the Fund including any proposed requirements which the Trustee believes will have retrospective effect.</p>
Complying Superannuation Fund	has the meaning given in the SIS Act.
Contribution	the amount, or where a contribution is received other than in money, the equivalent amount contributed to this Division for a Beneficiary. If a Contribution is received for more than one Beneficiary or is to be applied to more than one Life Policy, a separate Contribution will be treated as having been made for each Beneficiary and for each Life Policy of the amount to be applied for the relevant Beneficiary or towards the relevant Life Policy.
Contributions Tax	the tax or surcharge payable under the <i>Superannuation Contributions Tax (Assessment and Collection) Act 1997</i> .
Deed, the Deed or this Deed	the Governing Provisions and the Rules of this Division as are in force from time to time governing the Fund and this Division, as amended from time to time.
Deed of Amendment	the Deed of Amendment for the TOWER Master Fund which establishes this Division.
Dependants	the Spouse and children of a Member and all persons who are in the opinion of the Trustee (in its absolute discretion) at the relevant time actually maintained by the Member or dependant in whole or in part upon the Member for their maintenance or support.
Disclosure Document	any document offering participation in or membership of the Division

Term	Meaning
	issued by the Trustee in accordance with the Relevant Law.
Disqualified Person	has the meaning given to that expression in the SIS Act.
Division	the Solar Personal Division.
Eligible Person	a person who is gainfully employed on a full time or part time basis by an Employer-Sponsor or who otherwise is a person in respect of whom the Trustee may accept contributions without contravening the Relevant Law.
Employer-Sponsor	has the meaning given in the SIS Act.
Exempt Dealer	has the meaning given to that expression in the <i>Corporations Act 2001</i> or substitute or replacement therefore.
Financial Year	Financial Year as defined in Clause 1.1 of the Governing Provisions.
The Fund or the Fund	the TOWER Master Fund.
Governing Provisions	the provisions of Clauses 1 – 13 of the TOWER Master Fund.
GST	has the meaning given in the <i>A New Tax System (Goods and Services Tax) Act 1999</i> .
Income Tax Act	the <i>Income Tax Assessment Act 1936</i> (as amended) ('the 1936 Act'), unless the relevant provisions of the 1936 Act have been rewritten and are included in the <i>Income Tax Assessment Act 1997</i> (as amended) ('the 1997 Act') when it means the 1997 Act.
Insurer	a company carrying life insurance business (as defined in the <i>Life Insurance Act 1995</i>) which has issued a Life Policy to the Trustee covering the happening of an event with respect to a Member or group of Members.
Investment Manager	a person appointed in accordance with the Rules of this Division as investment manager for the whole of or any part of the assets of this Division.

Term	Meaning
Liabilities of this Division	<ol style="list-style-type: none"> 1 unpaid administrative costs and expenses of the Division including the fees of the Trustee; 2 accrued charges owing in respect of or in relation to any of the investments of the Division; 3 any provisions for Tax which in the opinion of the Trustee should be taken into account; and 4 any 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 Expectancy Pension	has the meaning given in Rule 15.1.
Life Policy	a policy which constitutes a life policy for the purposes of the <i>Life Insurance Act 1995</i> .
Lifetime Pension	has the meaning given in Rule 15.1.
Member	anyone who has been admitted as a Member of the Division by the Trustee and continues to be a Member and includes former Members who are entitled to receive or are receiving Pensions from this Division or who continue to have rights or to contingently be entitled to receive Benefits from the Division.
Member's Pension Account	the account set up for a Member to receive the amount for payment of an Allocated Pension.
Net Value of the Assets of the Division	the Value of the Assets of the Division less the Liabilities of this Division.
Nominated Beneficiary	the beneficiary nominated by the Member from time to time under Rule 19 to receive a Benefit which is payable if the Member dies before Retirement.
Ordinary Resolution	a resolution passed at a meeting of Members of the Division duly convened and held in accordance with the Rules of this Division by, unless the Division specifically provides for a poll, a majority of the persons voting on the resolution on a show of hands and if a poll is demanded, then by a majority of votes given on the poll.
Pension	a Lifetime Pension, a Life Expectancy Pension, an Allocated Pension or a Pension payable on other terms which allow the benefit to be

Term	Meaning
	taken to be a pension for the purposes of the SIS Act.
Pension Standards	the standards for annuities and pensions in Part 1A of the SIS Regulations as in force from time to time and any substitute standards which must be met if a benefit is to be taken to be a pension or annuity for the purposes of the SIS Act.
Policy Committee	has the meaning given in the SIS Act.
Primary Beneficiary	a Member who is entitled to be paid a Pension or who is receiving a Pension.
Proper Authority	has the meaning given to that expression in the <i>Corporations Act 2001</i> or substitute or replacement therefore.
Regulated Superannuation Fund	has the meaning given in the SIS Act.
Relevant Law	the Complying Legislative Requirements.
Relevant Licence	any licence required to be held by a person who carries on a securities business or an investment adviser's business or a financial services business.
Regulator	APRA in relation to a provision of the SIS Act that is administered by APRA and ASIC in relation to a provision of the SIS Act that is administered by ASIC in relation to the Fund.
Retired and Retirement	the time when a Member is taken to have retired under Rule 14.3.
Reversionary Beneficiary	the beneficiary nominated by the Member ('Primary Beneficiary') at the commencement of payment of a Pension to the Member who is to receive a pension as a reversionary beneficiary if the Primary Beneficiary dies or the beneficiaries who are to receive a Pension as reversionary beneficiaries in succession.
Rule	a rule of this Division.
SIS Act	the <i>Superannuation Industry (Supervision) Act 1993</i> as in force from time to time and any substitute or further legislation in force from time

Term	Meaning
	to time which provides for prudent management of superannuation funds and the supervision of entities engaged in the superannuation industry.
SIS Regulations	the regulations or any of the regulations from time to time made under the SIS Act.
Special Resolution	a resolution passed at a meeting of Members convened and held in accordance with the provisions of this Division by a majority consisting of not less than three-fourths of the persons voting on the resolution 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 the poll.
Spouse	includes: <ul style="list-style-type: none"> <li data-bbox="600 882 1334 938">(a) another person with whom the Member is in a relationship that is registered under a law of a State or Territory; and <li data-bbox="600 954 1334 1037">(b) another person who, although not legally married to the Member, lives with the Member on a genuine domestic basis in a relationship as a couple.
Tax or Taxes	any tax payable by the Trustee with respect to the Division under the Income Tax Act or under the <i>Superannuation Contributions Tax (Assessment and Collection) Act 1997</i> or any other tax, charge, levy, impost or duty (including any stamp duty or GST) which may be payable by the Trustee with respect to the Division or any part of it or with respect to any transaction which the Trustee may enter into with respect to the Division, under any other law of the Commonwealth or under any law of any State or Territory of the Commonwealth.
Total Account	the balance standing to the credit of the person's Member's account.
Total and Permanent Disablement	has the same meaning with respect to the entitlement of a Member to receive a Benefit under this Division as is contained in any Life Policy taken out by the Trustee as Trustee of the Division under which a benefit is payable if the Member suffers total and permanent disablement. Any determination by the relevant insurer as to whether or not a Member is so disabled under the terms of that policy that a benefit is payable under the policy in respect of the total and permanent disablement of that Member will be final and binding on all interested persons for the purposes of this Division. However, if it is necessary to ensure compliance with the Relevant Law that the Trustee consent to the determination or exercise the Trustee's own discretion in relation to the matter, then a Member will be treated as suffering total and permanent disablement if the Member has in the opinion of the Trustee become incapacitated through illness, accident or injury to such an extent as to render it unlikely that the Member will be able to resume his usual occupation or any other occupation which it would be reasonable for the Member to undertake (the Trustee may agree with a Member that the Member

Term	Meaning
	will be treated as suffering total and permanent disablement if they are unable to resume their usual occupation). Before forming that opinion, the Trustee must have regard to medical certificates, medical opinions, other medical evidence regarding the medical condition of the Member concerned and may have regard to any other reports or information which the Trustee considers appropriate in all the circumstances.
Trustee	the Trustee for the time being of the Fund.
Value of the Assets of the Division	in respect of this Division the total value on a particular day of the assets of the Division.

1.2 Supremacy of the Rules of this Division

If there is any inconsistency between the Rules of this Division and the Governing Provisions, the Rules of this Division prevail.

2 Nature of the Division

2.1 Division of the Fund

This Division is established as a Division of the Fund.

2.2 Commencement date of Division

The Division commences on the date of execution of this Deed of Amendment. It will continue until it is terminated under Rule 13.

2.3 Bound by Deed

The rights of Employer-Sponsors with respect to this Division and the entitlements of Members to benefits from the Division are to be governed by the provisions of the Deed and the Rules of this Division.

3 Membership and information

3.1 Membership

- (a) An Eligible Person can only become a Member of the Division and an employer can only become an Employer-Sponsor of the Division after making an application in writing to the Trustee.
- (b) The provisions of Clause 8 apply to any application by a Member or an Employer-Sponsor.

- (c) The Trustee may accept an application for a Spouse of a Member or the Spouse of an Eligible Person to become a Member of this Division. An application for a Spouse to become a Member must be in writing in the form from time to time specified or approved by the Trustee. The provisions elsewhere in this Division relating to applications for membership and to issuing of Disclosure Documents will apply to applications by the Spouse of a Member to become a Member of this Division.
- (d) If after an application by an Eligible Person to become a Member has been accepted any statement made or evidence submitted to the Trustee in support of or in connection with that application is found to contain any mis-statement, error or mistake, the Trustee may make any adjustments to the benefits to be provided by the Division for that Member and/or the contributions (if any) to be paid to the Division by that Member as it, in its absolute discretion, considers appropriate.
- (e) As long as the arrangement does not contravene any of the Relevant Law, the Trustee with the agreement of a Member and of the Employer-Sponsor of that Member may make any arrangements which the Trustee thinks appropriate to vary the benefits and/or the contributions which would otherwise be payable for the Member under this Division and the Trustee may make arrangements about any other matters relating to the Member's interest in the Division as the Trustee thinks fit. The Trustee must confirm any arrangements made under this Rule in writing to the Member and the Rules of this Division will, after the arrangement has been made, be read and construed in relation to that Member as if they were varied in accordance with the arrangement confirmed in writing under this Rule.
- (f) Every Eligible Person on becoming a Member and each employer on becoming an Employer-Sponsor will be deemed to have approved of and to have agreed to be bound by this Division.
- (g) An applicant will become a Employer-Sponsor or a Member, as the case may be, upon the date of acceptance by the Trustee of the applicant's application or as otherwise specified by the Trustee in the notice of acceptance given to the applicant.

4 Registers

4.1 Register of Members

The Trustee must keep a register of Members. The Trustee must record in the register:

- (a) the name, current residential and business address and date of birth for the Member, and where an Employer-Sponsor is or intends to make contributions for the Member details of that Employer-Sponsor;
- (b) the date on which the name of the Member was first entered on the register;
- (c) the date when a Member ceased to be a Member;
- (d) any other information about a Member which the Trustee thinks appropriate.

4.2 Register of Employer-Sponsors

(a) The Trustee must keep a register of Employer-Sponsors. The Trustee must record in the register:

- (1) the name, current business address, and the participation number issued by the Trustee to the Employer-Sponsor;

- (2) the date on which the Employer-Sponsor was admitted to participate in the Division;
 - (3) the date when a Member ceased to be an Employer-Sponsor of the Division; and
 - (4) any other information which the Trustee thinks appropriate.
- (b) A Member or an Employer-Sponsor who is participating in the Division must promptly notify the Trustee of any change of name or address. The Trustee must on receiving satisfactory proof of the change enter the change in the relevant register.
- (c) The Trustee must ensure that the register of Members is audited at intervals of not more than 12 months.
- (d) The Trustee is not obliged to record any trust on any register unless required by law to do so.

5 Resolution of disputes

5.1 Trustee's decision is binding

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

5.2 Resolution of disputes

The Trustee must ensure that there are arrangements in force:

- (a) under which:
 - (1) a Member or any other person with a beneficial interest in the Division which is a regulated superannuation fund may inquire into, or complain about, the operation or management of the Division in relation to that Member or that other person;
 - (2) inquiries or complaints will be considered and properly dealt with within 90 days after they were made; or
- (b) which otherwise comply with the Relevant Law in relation to the conciliation, arbitration and review of enquiries made by Members.

6 Administration of the Division

6.1 Powers of the Trustee

The Trustee has complete management and control of this Division and its powers are set out in the Deed and in particular in Clause 5.3.

6.2 Appointment of Administrator and delegation by Trustees

The Trustee may appoint an Administrator to administer the Division in accordance with Clause 5.3(a)(1).

6.3 Liability and indemnity

The Trustee (and any Director or officer of a Trustee which is a corporation) is entitled to be indemnified from the Fund and this Division in respect of any Liability of this Division incurred on the terms and conditions as set out in the Deed and in particular Clause 5.5.

6.4 Fees

- (a) As soon as the Trustee receives a Contribution it must deduct from the Contribution the policy fee and apply it as set out in the relevant Disclosure Document.
- (b) Each fee set out in this Rule 6.4 is inclusive of any GST.
- (c) Each Disclosure Document must disclose those details of the fees and other amounts payable with respect to the administration of the Division, placement of any Life Policy and the issuing of any interests in the Division as is required to be disclosed under any of the Relevant Law or under the terms of any Relevant Licence or is required to be disclosed under any direction.

6.5 Trustee may keep separate account of commission or brokerage

The Trustee may keep a separate account showing all amounts that are paid or applied directly or indirectly to commission or brokerage to a person in return for procuring or agreeing to procure applications to participate in the Division.

6.6 Expenses

- (a) The Trustee must pay out of the Division or the Fund all expenses of and incidental to the management and administration of the Division.
- (b) The Trustee is entitled to be reimbursed from the Division or the Fund for all reasonable expenses incurred by the Trustee in good faith.

6.7 Statutory powers

The powers, authorities and discretions conferred on the Trustee under this Division are in addition to any powers, authorities and discretions conferred on the Trustee by any statute.

6.8 Information to be provided by the Trustee

The Trustee must provide information to the Members in accordance with the Relevant Law.

6.9 Transfer to another division

The Trustee may transfer a Member from this Division to another division of the Fund in accordance with Clause 11.3.

7 Investment strategy and choice of investment strategy

7.1 Investment strategy

The Trustee must formulate and give effect to an investment strategy for the Division that has regard to the whole of the circumstances of the Division and set up by the Division, including but not limited to the matters set out in the Relevant Law.

7.2 Member investment choice

- (a) The Trustee, in its absolute discretion, may give to Members (or to the Members in a class of Members) a choice of 2 or more investment strategies for their interest in the Division (**'Investment Options'**). If it decides to do this, the Trustee must create sub-funds within the Division and must formulate and give effect to a separate and distinct investment strategy for each of those sub-funds. Each of these sub-funds must have separately identifiable assets which meet the descriptions of the assets to be held within that sub-fund in accordance with the separate investment strategy adopted for it.
- (b) The following provisions apply if the Trustee in its discretion decides to offer a choice of investment strategies:
 - (1) When it creates sub-funds with separate investment strategies the Trustee must also establish and publish the procedure under which Members can choose one or more investment strategies of Investment Options for the contributions paid to the Division for them and for their interest in the Division. Under these procedures each Member (or each Member of a class of Members) must be offered a choice of two or more investment strategies from which they may choose a strategy or, at the Trustee's discretion, a combination of strategies for the investment of their interest in the Division. The procedures must set out the method by which and the times when a Member may choose or change its choice of an investment strategy for their interest in the Division and the circumstances under which a Member may choose more than one investment strategy for the Member's interest in the Division.
 - (2) The Trustee must also decide which of the investment strategies adopted by it will be the default investment strategy which the Trustee will adopt for investment of a Member's interest in the Division if the Member does not choose an investment strategy for their interest in the Division within the time provided under the procedures published by the Trustee.
 - (3) The Trustee must observe all of the Relevant Law when it is formulating the different investment strategies for the sub-funds and when it is deciding the procedures under which the Members (or to the Members in a class of Members) may choose one or more investment strategies for their interest in the Division and may vary their choice of investment strategy.
 - (4) The Trustee must, in any Disclosure Document when offering a choice of investment strategy to each Member, give the Member details of the investment objectives of each of the strategies adopted for the sub-funds and all other information which the Trustee reasonably believes that a person would reasonably need for the purpose of understanding the effect of and any risk involved in each of the investment strategies. The Trustee must also give to each Member all of the other information which is required under the Relevant Law to

be given to them when they are choosing an investment strategy for their interest in the Division.

- (5) If the Trustee decides to offer a choice of investment strategies to Members of the Division each Disclosure Document issued to a person applying to become a Member of the Division must set out the choice of investment strategies which may be chosen.
- (6) The Trustee must keep separate accounts and records relating to each sub-fund for which it has adopted a separate investment strategy and must maintain all other records in relation to that sub-fund as will enable the Trustee to administer that sub-fund in accordance with the requirements of this Deed and will enable it to satisfy all of its obligations relating to administration of the Division set out in the Relevant Law.
- (7) In this Rule 'class of Members' means any group of Members of the Division whom the Trustee separately identifies as having a common attribute which is not shared by all of the Members of the Division.
- (8) The Trustee must from time to time review the investment strategies or options available to Members of the Division and consider whether they are appropriate or should be changed. If the Trustee makes a material change to an Investment Option under this Rule it will, as soon as practicable, change the Disclosure Document for the Division to reflect this change and will notify all of the Members of the Division who have chosen the Investment Option which has been changed of the change and the reasons for the change and give those Members the chance to change their choice of investment option. The Trustee must advise any Investment Manager of the change.

7.3 Investment restrictions

The Trustee or any Investment Manager appointed by the Trustee must not invest any money forming part of the Division unless the Trustee or the Investment Manager and the other party to any relevant investment transaction are dealing with each other at arms length in respect of the transaction or if they are not dealing with each other at arms length the terms and conditions of the transaction must be no more favourable to the other party than those which it would be reasonable to expect would apply if the parties were dealing at arms length in the same circumstances.

7.4 Appointment of Investment Manager

- (a) The Trustee at its discretion may from time to time appoint an Investment Manager to provide ongoing advice regarding the investment of the assets of the Division or to invest the money of the Division or to manage the investments of the Division or any of them.
- (b) An Investment Manager may be appointed only if the following conditions are satisfied:
 - (1) the appointment is in writing and the Investment Manager is eligible under the Relevant Law to be appointed to act and the agreement appointing the Investment Manager contains adequate provisions to enable the Trustee to require the Investment Manager from time to time to provide information which the Trustee needs to comply with the Relevant Law and which will allow the Trustee to assess the capability of the Investment Manager to manage the investments under management; and

- (2) no provision of the agreement appointing the Investment Manager exempts the Investment Manager from liability for negligence or limits that liability.
- (c) The Trustee may delegate to an Investment Manager the whole or any part of the Trustee's powers, discretions and authorities relating to the investment of the money of the Division and to the custody of assets of the Division and the sale and conversion of any of those assets into money and the variation of the investments of the Division.
- (d) Any powers, discretions and authorities delegated under this Rule may be delegated for exercise by the Investment Manager alone or jointly with the Trustee, but in any case must be exercised by the Investment Manager on behalf of and at all times under the control of the Trustee.

7.5 Authorised investments

The Trustee's investment and ancillary powers are set out in the Deed and in particular in Clause 6.

7.6 Significant adverse change

If the Trustee becomes aware of the occurrence of an event having a significant adverse effect on the financial position of the Division, the Trustee must give written notice to the Regulator setting out details of that event no later than 3 business days after becoming aware of the event.

8 Insurance

8.1 General provisions

The Trustee may effect policies of insurance and provide insured benefits to Members of this Division as set out in Clause 6.3 and Clause 10.1.

9 Meetings of Members

9.1 Trustee may convene meetings

The Trustee may convene a meeting of the Members of the Division, or if it thinks fit a meeting of the Beneficiaries of the Division. Where the Trustee calls a meeting of Beneficiaries references in this Rule and in the schedule to a Member are to be treated as references to a Beneficiary.

9.2 Members may requisition meetings

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

The requisition must state the objects of the meeting and the terms of any resolution proposed to be submitted to the meeting. The requisition 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. If the Trustee does not within 21 days from the date of the requisition being so deposited duly proceed to convene a meeting of the Members, the requisitionists or a majority of them in number

may themselves convene the meeting but any meeting so convened shall not be held after three months from the date the requisition is given to the Trustee. Any meeting convened 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 must give notice of the meeting to the Trustee. The omission to give such notice to or the non-receipt of notice by the Trustee invalidates the meeting but the Trustee may waive any omission or non-receipt.

9.3 Procedure for calling and holding meetings

The procedure for calling and holding a meeting of Members is set out in Schedule 1. The provisions in that Schedule are to be treated in the same way as if they were set out in the body of this Division. Where this Division provides for a meeting of Beneficiaries the provisions relating to meetings of Members are to apply as if references to a 'Member' is a reference to a 'Beneficiary'.

9.4 Minutes

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

10 The Division

- (a) The assets of the Division are vested in the Trustee and are to be controlled and administered by the Trustee in accordance with the Deed and this Division and must be administered in accordance with the Relevant Law.
- (b) Until a Member becomes eligible to receive a Benefit from the Division, the Trustee must treat the Member's right to receive a Benefit from the Division as contingent upon the Member satisfying the conditions which must be satisfied before a Benefit can be paid to the Member set out in the Relevant Law or in this Deed.
- (c) The assets of the Division will comprise:
 - (1) contributions made by Employer-Sponsors, Members and other persons in accordance with this Division;
 - (2) Life Policies and the proceeds of claims made under Life Policies;
 - (3) any other monies or assets paid or transferred to the Trustee to be held on the trusts set out in this Division;
 - (4) the income arising from the investment of the Division;
 - (5) any accretions to or profits on realisation of investments;
 - (6) any other monies, assets, or other investments held as part of the assets of the Division in accordance with the Rules of this Division.

11 Transfer to other funds

- (a) Subject to any conditions and indemnities which the Trustee may require, the Trustee after receiving a request from a Member to transfer all or part of the Member's benefit may pay or transfer or cause to be paid or transferred to the trustee of another Complying Superannuation Fund for the benefit of the Member making the request the amount of the benefit determined by the Trustee in accordance with this Division at the time the payment is made and the receipt of the trustee of that fund will be sufficient discharge to the Trustee from the trusts in this Division in respect of the amount transferred and the Trustee will not in any way be responsible for the payment or disposal by the trustee of that fund of the amounts so paid or transferred. The Trustee of the Fund must obtain the advice of an Actuary if the Relevant Law requires that it do so.
- (b) If the Trustee determines for any reason that it is appropriate, it may transfer the whole or part of any benefit of a Member to a fund that the Trustee is satisfied is a successor fund, as that term is defined in the SIS Act and the SIS Regulations.
- (c) Subject to Rule 11(e) upon a Member's benefit being transferred and/or any policy on his life or other asset being assigned (as the case may be) pursuant to Rule 11(d) that Member will have no further claim against the Division for the Benefit which has been transferred.
- (d) The Trustee may transfer a Benefit to another Division by transferring any Life Policy held by the Trustee with respect to the relevant Member or any other assets of the Division. Any expenses associated with the transfer, including (but not limited to) stamp duty, brokerage fees and commission, and the cost of obtaining any consents to the transfer, must be paid by the Member or the Employer-Sponsor for the Member or deducted from the amount transferred.
- (e) The Trustee must not transfer a Benefit to another superannuation fund unless the relevant Member has given the Trustee his written consent to the transfer and the trustees of the receiving fund are required to preserve the amount of the preserved benefits for that Member which are transferred from this Division or unless the transfer is to a successor fund as that term is defined in the SIS Act and the SIS Regulations.
- (f) If an Employer-Sponsor is required by law to comply with choice of fund requirements and as a result of the offer of a choice of funds a Member chooses a fund other than this Fund as the fund to receive mandated Employer-Sponsor contributions which are made for them, the Member may request the Trustee to transfer their accrued benefits to their chosen fund or the Trustee may ask the Member to consent to such a transfer. The Trustee must have regard to all of the circumstances of the Division including expected cash flow requirements, the liquidity of the Division's investments and its existing and prospective liabilities when deciding whether to agree to the request to transfer a Member's accrued benefits to their chosen fund and when deciding the terms (including the date or dates on which the benefit will be transferred) on which it will agree to such a request.

12 Amendment of Division

- (a) Subject to any limitations or restrictions upon the power of the Trustee to change this Division which are contained in the Relevant Law the Trustee, at any time, may change this Division (including this sub-Rule) in any way. Without limiting the above, the Trustee may alter, add to, revoke or delete all or any of

the trusts or other provisions of this Division. A change may be made by a Deed ('Amending Deed') executed by the Trustee. Each change takes effect from the date of commencement which is set out in the Amending Deed or if no date of commencement is set out from the date of the Amending Deed.

- (b) Despite Rule 12(a) no change may be made to this Division which may reduce or prejudice any benefits which have accrued to a Member (a 'benefit reduction') unless the Relevant Law allow the benefit reduction to be made.

13 Termination of the Division

- (a) The trusts declared by this Division must terminate and the Division must be wound up if:
- (1) the Trustee decides that having regard to all of the circumstances it is in the interests of the Members to terminate the Division;
 - (2) there are no Members of the Division and the Trustee decides to terminate the Division; or
 - (3) under the Relevant Law the Trustee must initiate winding up proceedings.
- (b) If there are Members of the Division at the date of termination or commencement of winding up the Trustee must transfer the assets and Members of the Division to a successor fund (as defined in the SIS Act and SIS Regulations) or give notice to each Member that the Division is to be wound up on a specified date (the 'Closing Date') and as from the Closing Date no further contributions (other than arrears) may be made to the Division and that all arrears of contributions must be paid immediately. The Trustee at its discretion must deal with the benefits and entitlements which have accrued to Members under this Division at the Closing Date in one or more of the following ways:
- (1) by paying a benefit to the Member or the Dependants of the Member;
 - (2) by rolling over the benefit within the superannuation system;
 - (3) by transferring the benefit to another regulated superannuation fund (as long as the trustees of that fund are required under the relevant trust deed to preserve the preserved benefits included in the amount transferred and the relevant Member gives his consent in writing).
- (c) Where assets of the Division are to be transferred to a successor fund (as defined in the SIS Act and SIS Regulations), the Trustee must be satisfied that the receiving fund has all of the requirements of a successor fund set out in the SIS Act and SIS Regulations. If the Trustee has appointed an Actuary for the Division the Trustee must obtain the advice of the Actuary before it deals with the benefits under this Rule.
- (d) The Trustee may pay the Benefits in any form and under any arrangements which the Trustee considers appropriate in the circumstances and every Member must accept the benefits allotted to him by the Trustee in full discharge of all claims in respect of the Division and will have no further claims at all in respect of any rights or benefits under this Division or otherwise in connection with or arising out of their interest in the Division and all decisions of the Trustee with respect to any benefit will be final and conclusive.
- (e) If the Trustee decides to wind up the Division because there are no Members left in the Division the assets of the Division are to be distributed in any way allowed by the Relevant Law and subject to those Requirements the Trustee in its discretion may distribute the assets remaining in the Division to any former Members of the Division or to any of the dependants or to the legal personal

representative of any Member who has died or to any Employer-Sponsor as a refund of contributions.

- (f) If after the operation of the provisions set out earlier in this Rule any assets remain in the Division ('surplus assets') the surplus assets are to be distributed to the Members or former Members of the Division or their Dependants or to the legal personal representatives of any deceased Member or refunded to any relevant Employer-Sponsor or otherwise distributed in a manner allowed by the Relevant Law as the Trustee in its discretion may decide.
- (g) Despite anything in this Rule the Trustee on a winding up of the Division must not deal with the assets remaining in the Division in a manner which would contravene any of the Relevant Law.

14 Benefits and cashing of benefits

14.1 General

- (a) Benefits may only be paid in accordance with the Relevant Law
Despite anything elsewhere in this Division:
 - (1) benefits may only be paid to a Member by being cashed in accordance with the Relevant Law or by being rolled over within the superannuation system or transferred in accordance with the Relevant Law;
 - (2) a Benefit must not be paid to a Member except at a time and to the extent that the Trustee is permitted to pay the Benefit under the Relevant Law;
 - (3) a Benefit must be paid when and to the extent that the Trustee is obliged to pay the Benefit under the Relevant Law;
 - (4) a Member's unrestricted non-preserved benefit may be cashed at any time and a Member's preserved and restricted non-preserved benefit may be cashed by the Member as long as a relevant condition of release set out in the Relevant Law has been satisfied;
 - (5) a Member's benefit may not be cashed in favour of a person other than the Member unless the Relevant Law allows payment to that person; and
 - (6) a Member's minimum benefits must be maintained in the Division until they are cashed as benefits of the Member or are rolled over or transferred as benefits of the Member.
- (b) Payment to a Beneficiary who is not able to manage their affairs
Where the Trustee determines a Beneficiary is not able to manage their affairs, the Trustee may pay their benefit in accordance with Clause 10.1(g).
- (c) Postponement of payment
As long as the postponement does not contravene any of the Relevant Law, the Trustee, at its discretion, to facilitate the orderly and efficient administration of the Division:
 - (1) may postpone the payment of any Benefit for any period after an event which entitles a person to receive a Benefit has occurred; and
 - (2) may make or arrange for payments to be made at convenient times.

If any payment is postponed for more than 3 months interest must be added at a rate determined by the Trustee.

(d) Transfer of assets

The Trustee, with the agreement of the Member or Beneficiary who is entitled to receive a Benefit, may pay all or any part of the Benefit by transferring to that person any of the investments held by the Trustee on behalf of the Division. If the Trustee exercises this power the value to be placed on any investments which are transferred is to be the value determined at the date of transfer by the Trustee or by an independent valuer appointed by the Trustee.

(e) Relief of hardship

Where the Trustee is satisfied that a Benefit is payable from the Division in respect of a Member and where it considers it necessary for the relief of hardship of the Member or the Member's Dependants that a payment be made from the Division, the Trustee may pay part of the Benefit before any or all of the proofs required by the Trustee for payment of the whole of the Benefit have been produced to the Trustee.

(f) Trustee may require proofs

The Trustee may require that a Member or his or her Dependants or legal personal representative produce any evidence or proofs which the Trustee may reasonably need to establish their entitlement to be paid Benefits including without limiting the above, evidence of age, identity, death, health, or disability.

14.2 When Retirement Benefits are Payable

A Member is to be paid his or her Retirement Benefit when:

- (a) they are to be taken to have retired under Rule 14.3;
- (b) they reach 65 years of age and request payment of their benefit; or
- (c) under the Relevant Law their benefit must be cashed as soon as practicable.

14.3 When a Member is taken to have Retired

A Member is to be taken to have Retired:

- (a) where the Member has reached the age of 55, if the arrangement under which the Member was gainfully employed has come to an end and the Trustee is reasonably satisfied that the Member does not intend again to become gainfully employed either on a full time or part time basis;
- (b) where the Member has reached the age of 60 if the arrangement under which the Member was gainfully employed has come to an end on or after the Member reaches the age of 60; or
- (c) where any other event occurs with respect to the Member which has the effect under the Relevant Law that the Retirement of the Member is taken to have occurred for the purpose of determining whether that Member's benefit may be cashed.

References in this Division to a person retiring or to retirement have the same meaning.

14.4 Retirement Benefit

The Retirement Benefit for a Member is the balance in the Member's account for the Member after any amount paid to the Trustee under any Life Policy taken out with respect to the Member has been credited to the Member's account. The benefit is to be paid to

the Member as a lump sum unless the Member asks for payment of the Benefit as a Pension (see Rule 15).

14.5 Death benefit

The Benefit for a Member who dies before they are entitled to be paid their Retirement Benefit is the balance in the Member's account for the Member who has died after any amount paid to the Trustee under any Life Policy taken out in respect of the Member has been credited to the Member's account. The benefit is to be paid as a lump sum unless the person entitled to the Benefit asks that the Benefit be paid as a Pension (see Rule 15) or the Member has signed a binding nomination (see Rule 19.3) which remains in effect and requires the Trustee to pay the Benefit as a Pension.

14.6 Total and Permanent Disablement Benefit

A Member's Total and Permanent Disablement benefit is an amount equal to the balance in the Member's account for the disabled Member after any amount actually paid to the Trustee under any Life Policy taken out by the Trustee in respect of the Total and Permanent Disablement of the Member has been paid to the Member's account.

14.7 Person entitled to be paid the death benefit

Where the Member who has died has given a binding nomination the Trustee must pay the death benefit to the Nominated Beneficiary set out in the binding nomination.

In any other case the Trustee in its absolute discretion may pay the death benefit to:

- (a) a Nominated Beneficiary; or
- (b) any Dependants of the Member; or
- (c) the legal personal representative of the Member.

Where the benefit is paid to the legal personal representative the Trustee is to pay the benefit as a lump sum.

If the Trustee is not able to find either a Dependant of the Member or a legal personal representative of the Member after making reasonable enquiries, the Trustee as long as it does not contravene the Relevant Law may pay the death benefit or an equivalent lump sum to an individual who is a relative (within the meaning of the Income Tax Act) of the Member who has died or may in its absolute discretion forfeit to the Division the benefit which otherwise would have been payable on the death of the Member.

14.8 Additional contributions after a Benefit is payable

If after a Benefit has become payable to a Member further contributions are received by the Trustee for that Member the Trustee may transfer those additional contributions to an account for that Member as the Trustee thinks appropriate.

14.9 Payment may be delayed until insurance proceeds received

Subject to the provisions in this Rule relating to postponement, the Trustee may delay payment of a Benefit or part of a Benefit or finalisation of the amount or terms of payment of a Pension until it receives payment of any amount payable under a Life Policy or Life Policies taken out by the Trustee for the purpose of providing all (or some) of the benefits payable or provided under this Division or the Deed covering the happening of an event affecting the retiring or deceased Member or until a claim under such a policy is finalised.

14.10 Purchase of an annuity

A Member entitled to be paid his or her Retirement Benefit may request the Trustee to use the whole or part of the Member's Benefit to purchase an annuity from a life insurance company or a registered organisation for the benefit of the Member.

14.11 Adjustment of Benefits

The Trustee must adjust any benefit payable on the death of a Member to take account of any benefit which has already been paid from the Division to the Member, and may adjust the benefit for costs incurred or would otherwise be incurred by the Trustee in determining the person who is entitled to receive the benefit.

14.12 Payment of Benefits to bank account

The Trustee may require a Member or any other person who is entitled to receive a Benefit to give the Trustee details of a bank account into which payment of the Benefit may be made and payment of the Benefit to that account will discharge the Trustee.

14.13 Automatic roll-overs and unclaimed moneys

Where a Benefit is payable to or in respect of a Member and the period provided in the Relevant Law has elapsed since the benefit became payable and the benefit has not been paid, the Trustee may pay the benefit to an eligible roll-over fund. If any amount is taken to be unclaimed money under the Relevant Law the Trustee must deal with the unclaimed money in accordance provisions of the Relevant Law dealing with unclaimed money.

14.14 Creation of sub-funds

Where the Division is liable to pay a Pension to a Beneficiary the Trustee may create a Pension Benefit sub-fund which is a segment of the Division:

- (a) which has at least one Member who is being paid a Pension from the Division; and
- (b) which has separately identifiable assets and separately identifiable beneficiaries; and
- (c) where each beneficial interest in the segment is an interest only in the assets of the segment and not in any other assets of the Division; and
- (d) where there is no transfer of assets, benefits or money between the segment and any other part of the Division without a transfer of a corresponding beneficial interest; and
- (e) where the insurance and administration costs of the segment are attributable only to that segment.

14.15 Forfeited benefits

To the extent that it is allowed to do so under the Relevant Law, the Trustee may forfeit a benefit which is payable or contingently payable from the Division to a Member where the Member or the person otherwise entitled to the benefit assigns, charges or otherwise disposes of or attempts to assign, charge or otherwise dispose of that benefit or the Trustee forms the opinion that the Member or other person entitled to the benefit is incapable of managing their affairs whether because of mental incapacity or physical infirmity. Any benefits forfeited under this Rule must be dealt with by the Trustee within the time and in the manner required by the Relevant Law.

15 Pensions

15.1 Definitions

A *Life Expectancy Pension* means a Pension paid from the Division under terms which meet the requirements set out in regulation 1.06(7) of the SIS Regulations.

A *Lifetime Pension* means a Pension paid from the Division under terms which meet the requirements set out in regulation 1.06(2) of the SIS Regulations.

An *Allocated Pension* means a Pension paid from a Member's Pension account where the terms for the pension meet the requirements set out in Regulation 1.06(4) of the SIS Regulations.

The following provisions of this Rule apply to the payment of a Benefit as a Pension.

15.2 Pension must meet Pension Standards

Any Pension paid under this Division must meet the Pension Standards relevant to the particular Pension. The Pension Standards as in force from time to time are to be treated as part of this Division and this Division is to be treated as requiring each Pension which is paid from the Division to be upon terms fixed by the Trustee in accordance with this Division which satisfy the requirements or the relevant requirements set out in the Pension Standards.

15.3 Terms of Pension must be set out in writing

At the time when the first Pension payment is made and at the time that any variation is made to a Pension, the terms applying to the Pension (or the amended terms) must be set out in writing and given to the recipient of the Pension. Those terms must refer to and cover each of the matters set out in the relevant Pension Standards which apply to that Pension.

15.4 Member may ask Trustee to pay a Pension on particular terms or to pay a lump sum

Despite anything elsewhere in this Deed, a Member or other person who is entitled to be paid a lump sum may require that the Trustee pay their Benefit wholly or partly as a Pension and a person entitled to be paid a Pension may ask the Trustee to pay their Benefit wholly or partly as an Allocated Pension, or as a Life Expectancy Pension, a Lifetime Pension or a Pension payable on other terms which allow the benefit to be taken to be a pension for the purposes of the SIS Act.

15.5 Trustee must determine payment terms for Pension

Before a Pension starts to be paid, the Trustee must determine the terms for payment of the Pension including whether the Pension is to be a Lifetime Pension, a Life Expectancy Pension, an Allocated Pension or a Pension payable on other terms which allow the benefit to be taken to be a pension for the purposes of the SIS Act, the annual amount of the Pension, the frequency of payment of the Pension and all of the other terms applying to the Pension. A Pension must be paid in the amounts and within the periods which are set out in the Pension Standards which are relevant to the type of Pension and as long as the requirements of those standards are met the Trustee may pay the Pension at the times and in the amounts agreed with the Primary Beneficiary or the Reversionary Beneficiary as the case may be. Before paying or determining the amount of any Pension to be paid to a Member, the Trustee must satisfy itself that after payment of the proposed amount of Pension there will be sufficient assets remaining in the Division to provide the minimum requisite benefits of all of the other Members of the Division.

15.6 Variation or adjustment of Pension amount

A Benefit payable to a Member may be increased or decreased by the Trustee in its absolute discretion by an amount which in the opinion of the Trustee ensures the benefit being paid to the Member is fair and equitable having regard to the minimum requisite benefits of all of the other Members of the Division and the capacity of the assets of the Division to support the Member's Pension.

If a Pension Benefit becomes payable and the Trustee after receiving the advice of a Actuary decides that insufficient assets will remain in the Division if the Member receives a Pension of an amount equivalent to the Retirement Benefit described in the Member Benefit Statement and the Relevant Law does not prohibit an adjustment to the benefit, the Retirement Benefit for the Member will be a Pension based on a lesser sum which is determined by the Trustee having regard to the Member's equitable share.

15.7 Variations to payment of a Pension

A Beneficiary who is receiving a Pension from the Division with the agreement of the Trustee may vary the amount of the Pension or the terms applying to the Pension as long as the variation does not contravene any of the Relevant Law, the Pension continues to meet the relevant Pension Standards, and the Trustee has obtained the advice of a Actuary before agreeing to the variation.

15.8 Commutation of Pension to a lump sum

Within the period allowed under the Pension Standards a Primary Beneficiary may request the Trustee to commute the whole or any part of any Pension which that person is entitled to receive under this Division to a lump sum for immediate payment as a cash lump sum. The request must be in writing.

The Trustee must obtain the advice of an Actuary before determining the amount of the lump sum to which a Pension is to be commuted and must comply with any of the requirements of the Relevant Law in calculating that lump sum.

Where part of a Pension is commuted all subsequent Pension payments must be reduced in the manner determined by the Trustee on the advice of an Actuary.

15.9 Death of a person who is being paid a Pension

- (a) If a Primary Beneficiary who is being paid a Pension from the Division dies a Pension equal to the proportion of the Pension payable to the Primary Beneficiary agreed upon with the Primary Beneficiary at the commencement of payment of the Retirement Benefit will continue to be paid by the Trustee to the Reversionary Beneficiary and if there are several Reversionary Beneficiaries who are entitled to the Pension Benefit in succession a Pension equal to the proportion of the Pension payable to the Primary Beneficiary agreed upon with the Primary Beneficiary at the commencement of payment of the Retirement Benefit will continue to be paid by the Trustee to those Reversionary Beneficiaries in succession to each other as set out in the instrument of nomination for the period(s) allowed or set out in the relevant Pension Standards. A Pension benefit must not be paid to a Reversionary Beneficiary or must not continue to be paid to a Reversionary Beneficiary if the Trustee would contravene any of the Pension Standards which apply to the Pension if the Trustee continued to pay the Pension to the Reversionary Beneficiary.
- (b) If on the death of the Primary Beneficiary there is no Reversionary Beneficiary or there is no surviving Reversionary Beneficiary no further benefit will be payable from the Division except:

- (1) where the Pension is a Life Expectancy Pension the amount allowed under regulation 1.06(7) of the SIS Regulations is to be paid to the legal personal representative of the Primary Beneficiary as part of the estate of the Primary Beneficiary;
 - (2) where the Pension is a Lifetime Pension and the Primary Beneficiary dies within 10 years after the commencement day of the Pension, an amount, not exceeding the difference between the sum of the amounts paid to the Primary Beneficiary and the sum of the amounts that would have been so payable in the period of 10 years after the commencement day for the Pension, is payable to the legal personal representative of the Primary Beneficiary as part of the estate of the Primary Beneficiary;
 - (3) where the Pension is an Allocated Pension which is being paid from a Member's Pension Account an amount equal to the balance in the Member's Pension account is to be paid to the legal personal representative of the Primary Beneficiary.
- (c) If on the death of a Reversionary Beneficiary who is receiving a Pension there is no other Reversionary Beneficiary entitled to a benefit in succession to the deceased Reversionary Beneficiary or there is no surviving Reversionary Beneficiary no further benefit will be payable from the Division except:
- (1) where the Pension is a Life Expectancy Pension the amount allowed under regulation 1.06(7) of the SIS Regulations is to be paid to the legal personal representative of the deceased Reversionary Beneficiary as part of the estate of the Reversionary Beneficiary; and
 - (2) where the benefit is a Lifetime Pension and both the Primary Beneficiary and the Reversionary Beneficiary who survives the Primary Beneficiary die within 10 years of the commencement of the Pension, the Trustee may pay to the legal personal representative of the deceased Reversionary Beneficiary as part of the estate of the Reversionary Beneficiary an amount determined under Rule 15.9(b)(2) above as if the Reversionary Beneficiary was the Primary Beneficiary; and
 - (3) where the Pension is an Allocated Pension which is being paid from a Member's Pension account an amount equal to the balance in the Member's Pension account is to be paid to the legal personal representative of the Reversionary Beneficiary who has died.

15.10 Allocated Pensions

A Beneficiary who is entitled to be paid a Pension may ask the Trustee to pay the whole or part of their Benefit into a Member's Pension account set up for the Beneficiary and to pay an Allocated Pension from that account. A person who is entitled to receive payment of an Allocated Pension must from time to time notify the Trustee of the amount and timing of the Allocated Pension which is to be paid. The amount and timing must meet the relevant Pension Standards.

A Primary Beneficiary, Reversionary Beneficiary or Nominated Beneficiary who is receiving payment of an Allocated Pension under this Rule may request the Trustee to convert the whole or part of their Allocated Pension to a lump sum. The request must be in writing. As long as payment of a lump sum in accordance with a request made under this Rule would not contravene any of the Relevant Law, the Trustee may convert the amount referred to in the request and pay it as a lump sum BUT the amount paid as a lump sum must not be more than the balance standing to the credit of the Member's Pension Account from which the Allocated Pension is paid.

15.11 Conversion of Allocated Pension to another Pension

- (a) A Beneficiary who is entitled to receive or is receiving payment of an Allocated Pension ('the Applicant') may apply to the Trustee to convert the whole or a part of their Allocated Pension to a Lifetime Pension or a Life Expectancy Pension ('Alternative Pension') as long as:
- (1) conversion of the whole or part of the Applicant's Allocated Pension to the Alternative Pension would not contravene any of the Relevant Law;
 - (2) the Trustee has obtained written advice from the Actuary regarding the payment conditions and other terms, including the size of the benefit payment to be made each year, any automatic variation to that payment and the amount of any reversion, which the Actuary considers should apply to the Alternative Pension having regard to the amount of the Applicant's Allocated Pension which is to be converted to an Alternative Pension; and
 - (3) the Applicant has in a written notice to the Trustee accepted the payment conditions and other terms for the complying Pension recommended by the Actuary.
- (b) The Trustee may convert the amount of Allocated Pension set out in the application to an Alternative Pension payable on the terms recommended by the Actuary and accepted by the Applicant.
- (c) If the Trustee approves an application it must, in order to give effect to the conversion to an Alternative Pension, transfer from the Member's Pension account for the Applicant to the unallocated assets of the Division the amount which it, after receiving the advice of an Actuary, determines to be appropriate in all the circumstances.

15.12 Payment of an Allocated Pension after death of a Pension recipient

Where a person who is receiving an Allocated Pension dies and they have in respect of the Allocated Pension nominated a Reversionary Beneficiary the Trustee must continue payment of the Allocated Pension to the Reversionary Beneficiary unless the terms applying to the Pension do not allow the Pension to continue to be paid when the Trustee must pay the balance in the Member's Pension Account to the legal personal representative of the person who has died. If there is not a Reversionary Beneficiary the balance of the Member's Pension account must be paid to the legal personal representative of the person who has died.

16 Splitting orders or agreements under the Family Law Act

If the *Family Law Legislation Amendment (Superannuation) Bill 2000* or similar legislation is passed allowing the interest which a Member has in the Division to be allocated between the Member and his or her non-member spouse by financial agreement under the *Family Law Act* or by a court order ('Payment split legislation') then despite anything elsewhere in this Division the Trustee:

- (a) may not while a payment flag or similar restriction applies in relation to a Benefit payable to a Member pay any part of the Benefit payable from the Division affected by the payment flag or other restriction to the Member and must establish procedures to record whether a payment flag or similar restriction operates with respect to a Benefit payable from the Division;

- (b) may establish procedures to record any financial agreement under the Family Law Act or court order binding on the Trustee under which a spouse or former spouse of a Member is entitled to be paid any part of the Benefit otherwise payable from the Division to the Member payment splitting agreement;
- (c) with respect to any Benefit covered by an financial agreement under the Family Law Act or court order binding on the Trustee requiring that the whole or part of the Benefit be paid to the spouse or former spouse of the Member, pay to that spouse the amount to which they are entitled under the agreement or order;
- (d) may provide to the Member, the spouse of the Member or anyone who intends entering into a financial agreement under the Family Law Act with a Member who makes application to the Trustee in the manner required by the payment split legislation or the regulations made under that legislation the information about the interest of the relevant Member in the Division;
- (e) may treat the spouse or former spouse of a Member as if they were Member of the Division and may establish whatever accounts within the Division relating to the interest of a spouse or former spouse of a Member in the Benefit otherwise payable to the Member that the Trustee thinks fit; and
- (f) may do any other things which the Trustee thinks appropriate to give effect to a payment flag or to an agreement or court order binding on the Trustee to split a Benefit between the Member and the spouse or former spouse of the Member.

17 Actuary

- (a) The Trustee must appoint an Actuary to the Division if required to do so by the Relevant Law. If it is not required to appoint an Actuary by the Relevant Law the Trustee may appoint an Actuary to the Division.
- (b) Where an Actuary has been appointed to the Division the Trustee may obtain the advice of the Actuary before determining the amount of any contribution to be made to the Division or the amount of any Pension or other benefit to be paid or the amount of any lump sum into which a Pension or part of a Pension is to be commuted.
- (c) Where an Actuary has been appointed to the Division the Trustee may at any time and must when required by the Relevant Law arrange for the Actuary to conduct an actuarial investigation of the Division and report in writing to the Trustee regarding the position of the Division. The Actuary's report must cover the matters required to be covered by the Relevant Law and may cover any other matters which the Trustee or the Actuary think appropriate.
- (d) The Trustee may deal with any surplus or deficiency disclosed by an actuarial report by decreasing or increasing rates of contribution or by changing the entitlement to benefits or by making any other arrangements including repayment to any Employer-Sponsor who may have contributed to the Division in respect of Members but the Trustee may only deal with any surplus in a manner which is allowed by, and after obtaining any consents which are required to be obtained under the Relevant Law.
- (e) The Trustee must request an Actuary to provide all certificates and reports which must be provided by an Actuary in relation to the Division or the interests of Members in the Division under the Relevant Law and under any of the Relevant Law at the time and in the manner required under the relevant requirements.

18 Contributions

Contributions to this Division will be dealt with in accordance with the provisions of Clause 9.

19 Nomination of Beneficiaries

19.1 Nomination of Dependant to receive a death Benefit

A Member at any time before payment or final payment of a benefit may nominate any Dependant to succeed to his or her benefits if he or she dies while he or she is a Member of the Division. The person so nominated is referred to in this Division as the Nominated Beneficiary.

19.2 Reversionary Beneficiaries

A Member may nominate a Dependant of the Member who is to be the Reversionary Beneficiary in respect of any Pension benefit to which the Member is entitled or may nominate two or more Dependants as Reversionary Beneficiaries of a Pension Benefit in succession.

19.3 Nature of nominations

- (a) Each nomination must be in writing in a form approved by the Trustee. If the Relevant Law allows a Member to make a nomination which requires the Trustee to provide any benefits in respect of the Member on or after the Member's death to a person or persons mentioned in the nomination (a 'binding nomination') a Member making a nomination of a Beneficiary for any of the purposes set out above may make a binding nomination as long as they satisfy the requirements for a valid binding nomination set out in the SIS Act and the SIS Regulations. Where the SIS Act or the SIS Regulations allow a Member to make a nomination which is binding on the Trustee and the nomination signed by the Member is stated to be a binding nomination and it meets all of the requirements for a binding nomination set out in the SIS Act or the SIS Regulations a nomination is to be treated by the Trustee as a binding nomination. A binding nomination ceases to have effect 3 years after the date it was first signed or last confirmed or amended.
- (b) A non-binding nomination will not in any way bind the Trustee in exercise of any of its discretions under this Division.
- (c) A Member may revoke any nomination made under this Rule and substitute a new nomination.

20 Accounts

- (a) The Trustee must keep accounting records for the Division which:
 - (1) correctly record and explain the transactions and the financial position of the Division;
 - (2) will enable the Trustee to prepare all accounts and statements for the Division which must be prepared by it under the Relevant Law; and

- (3) will enable the auditor and where necessary an Actuary to prepare reports regarding the position of the Division;

and the Trustee must keep and maintain all other records which will enable the Trustee to administer the Division in accordance with the requirements of this Division and to satisfy all of the obligations placed upon the Trustee under this Division and all of the obligations relating to administration of the Division, the provision of accounts and reports and the provision of information to Members that are set out in the Relevant Law.

- (b) Unless the only interest of the Member in the Division is an interest in an unallocated pool of investments within the Division, the Trustee must keep a Member's account in respect of each Member and shall record the following credits to that account:
 - (1) any amounts received for the Member from any other superannuation fund or superannuation entity;
 - (2) any contributions paid by or in respect of the Member;
 - (3) the proceeds from any claim under a Life Policy arranged in respect of any Member;
 - (4) any reimbursement received from the Member or Employer-Sponsor in respect of any expense paid by the Trustee in respect of the Member's interest in the Division;
 - (5) any income entitlement;
 - (6) any other moneys received by the Trustee in respect of the Member,and subject to the provisos in respect of payment of benefits in the Rules and the member-protection standards will record the following debits against that account:
 - (7) any benefits paid or payable in respect of the Member;
 - (8) any Pension payments paid or payable in respect of the Member;
 - (9) any charges or levies imposed in respect of the Member;
 - (10) the cost of any insured benefit arranged in respect of the Member;
 - (11) any disbursements in connection with the acquisition, sale, collection, distribution of or dealing with an investment;
 - (12) any commission or brokerage payable in respect of participation in the Division in accordance with the rates disclosed in the current Disclosure Document;
 - (13) 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 Division to the extent to which the Trustee determines such Tax is attributable to the Member;
 - (14) levies paid under the Relevant Law for whatever reason to the extent to which they are in the opinion of the Trustee attributable to the Member;
 - (15) the costs of the kind incurred in respect of any Policy Committee established in respect of a Employer-Sponsor;
 - (16) any other payment made in respect of the Member pursuant to the provisions of this Division.
- (c) Where the Trustee decides that it is appropriate having regard to the entitlements of Members to Lifetime Pensions or Life Expectancy Pensions that some of the investments in the Division should be held as an unallocated pool, the Trustee may set up such accounts as it thinks fit in relation to the pool and

the interests of the Members in the pool and the pool is to be treated as regards distributions of income and distributions from reserves in the same way as if the pool was a Member account.

- (d) The Trustee may establish additional accounts for each Member of the Division as it thinks fit and make any other adjustments to the accounts which it considers to be appropriate.

21 Valuation and income entitlement

- (a) The Trustee must value the investments of the Division or cause them to be valued on the last day of each period for which a valuation is required. The Trustee may value the investments of the Division at any other time that it thinks it appropriate or desirable to do so.
- (b) Each valuation is to be made or determined by the Trustee in a way which the Trustee considers is appropriate and properly reflects the realisable value of the assets or investments of the Division at the date that the determination is being made having regard to the nature and characteristics of the various assets which make up the Division at that time.
- (c) Despite the above the Trustee may postpone the valuation of any asset or investment where it considers it is not practicable to value the asset at the time or that any valuation would not properly reflect the realisable value of the asset.
- (d) If any asset is denominated in a currency other than Australian Dollars the value is to be converted into Australian Dollars at the rate agreed with the auditor.
- (e) The Trustee on each distribution date must fix the Income Entitlement which is to be added or deducted from each Member's account or to or from each unallocated investment pool for the Entitlement Period.

- (f) The 'Income Entitlement' is:

$Y - E$

Where:

Y (gross income) = the total of all interest received or accrued from any source, all dividends and rent and all other earnings and other gains received or receivable during the Income Entitlement period with respect to the investments and realised and unrealised gains and losses on those investments calculated having regard to the valuations made of those investments; and

E = the amount of the expenses of the Division which in the opinion of the Trustee should be deducted from the gross income and any other charges or costs which have not been charged against any Expense Reserve Account relating to the Division including without limiting the above:

- (1) at the discretion of the Trustee depreciation or amortisation of any investments at the rate or rates fixed by the Trustee;
- (2) all costs, charges, expenses, taxes and duties and other outgoings and disbursements properly incurred or borne in connection with the investments or the administration of the investments and chargeable against the income; and
- (3) the amount of any provisions or contingencies which the Trustee considers should be created or brought to account so that the income for the period fairly represents the financial performance of the investments in the period.

- (g) Any question whether anything received or receivable by the Trustee is income or not and whether any expense should be charged against income is to be decided by the auditor having regard to the terms of this Division and prepared in accordance with generally accepted accounting principles and relevant accounting standards and must give a true and fair view of the financial position and performance of the Division.
- (h) In preparing the accounts the Trustee may include any accruals and may raise or transfer amounts to or from any provisions and make any adjustments as the Trustee thinks appropriate.

22 Reserves

22.1 General Reserve

- (a) The Trustee may keep a General Reserve.
- (b) The Trustee will credit to a General Reserve the Income Entitlement distributed to the General Reserve under the preceding Rule, other amounts received by the Trustee arising from the Division's investment or administration as the Trustee thinks fit and any other amount which may under this Division be credited to the General Reserve.
- (c) The Trustee may divide the General Reserve into sub-accounts.

22.2 Allocation of General Reserve

The Trustee may apply any balance in the General Reserve from time to time in any of the following ways:

- (a) the Trustee may consider a balance in the General Reserve in determining the Income Entitlement to be distributed for any period, and may allocate any part of the balance in the General Reserve to Members' accounts and other accounts in accordance with the rights to the Income Entitlement fixed for the period;
- (b) the Trustee may debit any expenses, including insurance premiums, to the General Reserve;
- (c) the Trustee may allocate amounts from the General Reserve to Members' accounts to increase a Member's benefit entitlement; or
- (d) the Trustee may pay or allocate any part of the balance in the General Reserve in any other manner permitted under the Relevant Law as a proper purpose for distribution of a reserve.

22.3 Foregone Benefits Reserve

- (a) The Trustee may keep a Foregone Benefits Reserve.
- (b) The Trustee will credit to the Foregone Benefits Reserve any balance of a Member's employer's sub-account remaining after payment of the Member's benefit.

22.4 Allocation of Foregone Benefits Reserve

The Trustee may apply any balance in the Foregone Benefits Reserve from time to time in any of the following ways:

- (a) the Trustee may consider a balance in the Foregone Benefits Reserve in determining the Income Entitlement for any period and may allocate any part of the balance in the Foregone Benefits Reserve in the same ways as it can allocate or distribute amounts in the General Reserve; or
- (b) the Trustee may credit amounts to Members' accounts in payment of contributions that an Employer-Sponsor or the Members are required or elect to make pursuant to the Rules.

The Trustee may pay or allocate any part of the balance in the Foregone Benefits Reserve in any other manner permitted under the Relevant Law as a proper purpose for distribution of a reserve.

22.5 Expense Reserve Account

The Trustee may keep a Expense Reserve Account for the Division.

The Trustee must record the following credits and debits to any Expense Reserve Account established in respect of the Division ('the relevant Expense Reserve Account'):

- (a) fees and charges levied in respect of the Division or any part of it including amounts debited from Members' accounts in payment of expenses incurred in the administration of the Division and the cost of insurance premiums for Members;
- (b) any commissions or other amounts 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 Division or otherwise;
- (c) refund of the amount of any Tax or charges;
- (d) all interest, dividends and other income earned from the investment of the amount standing to the credit of the relevant Expense Reserve Account from time to time;
- (e) such part of the costs of establishing the Division including the costs of acquiring the text and format of this Division, the licence to use the same and of the preparation, approval and stamping of this Deed in accordance with the Relevant Law as the Trustee considers appropriate;
- (f) the costs of preparing, printing and issuing offers to participate in the Division 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 Division;
- (g) such part of the costs of maintaining and auditing the books of account, accounts and the registers in accordance with this Deed and the law generally as the Trustee considers appropriate;
- (h) the costs of establishing and maintaining the register of Members, register of Employer-Sponsors and any investment register;
- (i) disbursements in connection with any Life Policy and the acquisition, sale, collection, distribution of or other dealing with any investment of the Division including legal fees, stamp duties, brokerage and commission, survey and valuation fees, registration fees and consultants fees;
- (j) the auditor's reasonable fees and expenses in connection with the auditing of the accounts of the Division, the preparation of taxation returns in relation to the Division and all other functions of the auditor performed in respect of the Division pursuant to this Deed;

- (k) fees paid to actuaries, approved valuers, solicitors, barristers, accountants, surveyors, contractors and other qualified person as provided in this Division including valuation fees paid in respect of investments proposed to be purchased whether purchased or not;
- (l) stamp duties, financial institution duties and similar imposts;
- (m) 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 Division (including capital gains realised or unrealised in respect of the Division);
- (n) costs of preparing, printing and issuing of the information required to be given to any person under the Relevant Law, confirmations, accounts, other statements cheques and payment orders required to be circulated amongst the Employer-Sponsors and Members;
- (o) costs of postage of all cheques, payment orders, accounts, notices and other documents posted to all or any Members or other persons in accordance with the provisions of this Division;
- (p) disbursements incurred in convening or holding Policy Committee meetings to the extent to which such disbursements are not dealt with pursuant to Rule 20(b)(15), and for any meetings of Members and Employer-Sponsors 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;
- (q) disbursements and costs incurred by or on behalf of the Trustee or in connection with the retirement of the Trustee under this Division 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 Members or Employer-Sponsors convened to remove or approve the appointment of a new Trustee of the Division;
- (r) 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 however from any breach or default by the other under this Division; and
- (s) all costs and expenses incurred in modifying or altering the provisions of this Division 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 Members or Employer-Sponsors to obtain their approval for the amendments modifications or additions.

Where the Trustee does not pay for any of the costs, charges and expenses out of its own moneys the Trustee can record those costs, charges and expenses as and when incurred in respect of the Division as debits against the relevant Expense Reserve Account except 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.

23 Audit

23.1 General

- (a) The Trustee must appoint an auditor to audit the financial records of the Division.
- (b) The Trustee must ask the auditor to audit the accounts and statements of the Division as at the end of each Financial Year and to execute an audit certificate in the form prescribed in the Relevant Law within the period set out in those requirements. The Trustee must ask the auditor to provide any other reports which are required under the Relevant Law.
- (c) The Trustee and the Employer-Sponsors must give the auditor access to all accounts and documents of the Division under their control for the purpose of carrying out the audit.
- (d) The Trustee may remove an auditor at any time by notice in writing to the auditor and must then appoint another auditor.

23.2 Provision of information to an Administrator

- (a) If an Administrator is appointed to administer the Division, an Employer-Sponsor must provide to the Administrator such information as is required by the Administrator for it to properly administer the Division.
- (b) The Trustee may require the Administrator to provide to it details of any benefit paid or benefit to which a Member is entitled including the details upon which a benefit calculation was based.
- (c) The Administrator may act on any information provided to it by an Employer-Sponsor and is not liable for any error in that information.
- (d) The Trustee may rely on:
 - (1) a certificate of the Administrator that the Division records have been maintained in accordance with the information supplied to it by Employer-Sponsors and that benefits have been calculated in accordance with those records;
 - (2) a certificate of an Employer-Sponsor that the Employer-Sponsor has contributed the amounts it is required to contribute under the Rules, and is not liable for any error in any such certificate.

24 Taxation

- (a) Notwithstanding any other provision of this Division the Trustee in its absolute discretion unless it would contravene any of the Relevant Law by doing so:
 - (1) may deduct from any contribution to the Division, any income earned by the Division, any capital gain realised in the Division or from any payment out of the Division any amount required to pay any Tax assessed or payable or anticipated to be payable in respect of that receipt or payment;
 - (2) may pay from the assets of the Division the amount of any Taxes assessed against or required to be paid by the Trustee in relation to the Division or in relation to any Member's interest in the Division (including any Tax levied on any of the assets of the Division or on

- any transaction entered into by the Trustee in relation to the Division) and if necessary for that purpose the Trustee may realise any asset of the Division and convert it to cash;
- (3) in preparing the accounts (including the individual accounts for Members of the Division):
 - (A) may make provision for and set aside amounts for payment of taxes including provision for any Contributions Tax which is anticipated to be payable in relation to a Member's interest in the Division or for Taxes which are anticipated to be payable on unrealised gains in the capital value of the assets of the Division;
 - (B) may apply or deal with any taxation refunds, prepayments of Tax or advance payments of Tax and any Tax credits or rebates and make any adjustments to any provisions previously made by it in the accounts of the Division for payment of Taxes as from time to time seem necessary or appropriate;
 - (4) may apply any amount provided in the accounts of the Division for payment of taxes in excess of the amount actually paid or payable for a particular year of income of the Division towards payment of Taxes in a subsequent year or otherwise apply the amount of that excess for the benefit of the Members as the Trustee thinks appropriate;
 - (5) may, in paying any benefit, make any adjustment to the benefit which it considers appropriate to take account of any Tax paid or assessed or expected to be payable or any advance payment of any Tax or any Tax refund or Tax credit which has or which is expected to be received in respect of the Member's interest in the Division.
- (b) If tax becomes payable by the Division in relation to a year of income which has concluded and in respect of which any provision made in the accounts of the Division for payment of Tax for that year of income is inadequate nothing in this Rule or elsewhere in this Division shall be construed to require the Trustee to make retrospective adjustments to any benefits or entitlements of Members or to make any other retrospective adjustment to the accounts for the Division.
 - (c) A Member must provide to the Trustee whatever information is required by the Trustee to satisfy its obligations under the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*.
 - (d) Where a Member is entitled to object against an assessment of any Tax levied against or paid by the Trustee in respect of the Division or of the Member's interest in the Division the Trustee must give to the Member on request all information relating to the Division or the Member's interest in the Division which the Member may reasonably require for the purpose of objecting against the assessment and of pursuing their objection against the assessment including any appeal against disallowance of their objection.
 - (e) Where Contributions Tax or any other Tax is assessed in respect of or in relation to a Member's interest in the Division and the Trustee is entitled to object against that assessment the Member may request the Trustee to object against the assessment. The Trustee may refuse that request or may agree to lodge the objection and to pursue it and any appeal against disallowance of the objection on any terms or conditions including a condition that the Member pay the Trustee's reasonable costs of making and pursuing the objection and any appeal.
 - (f) Where GST is payable by the Trustee or is charged to the Trustee for anything supplied in relation to the Division, the Trustee may allocate that liability in any way it considers appropriate and may charge that liability to any Member

accounts, a reserve account or otherwise as it thinks fit. The Trustee may establish any accounts it may think necessary to record any liability for and payment of GST.

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Members' Meeting

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Members' Meeting

1 Procedure for calling and holding meetings of Members

1.1 Ten business days' notice of meeting required

At least ten business days' notice of a meeting specifying the place, day and hour of the meeting shall be given to Members.

1.2 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 Member on how to vote at the meeting.

1.3 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 Member 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.

1.4 Right of audience

The auditor and the representatives of the Trustee are entitled to attend any meeting of Members with or without their respective solicitors and/or counsel and may speak at the meeting.

1.5 Chairman

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

1.6 Quorum

No business shall be transacted at any such meeting unless a quorum is present when the meeting proceeds to business. The quorum shall be 50 or at least 10 % of the number of Members whichever is the lesser number. If within 15 minutes of 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; and

- (b) if called for the purpose of passing a special resolution stand adjourned for such period as the chairman shall direct,

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

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

1.7 Method of voting

- (a) In the first instance to be by a show of hands

Every question submitted to a meeting of Members is to be decided in the first instance by a show of hands. However a poll shall be taken in any case where it is required by this Division or by law that the question be decided by a majority and is properly demanded as provided in paragraph 1.8 of this Schedule 1.

- (b) One vote for each one dollar standing to credit of account

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

1.8 Poll

At any meeting of Members unless a poll is demanded by the chairman or at least ten Members holding or representing by proxy at least 10% of the total voting rights of all Members, 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.

1.9 Manner of poll

If at any meeting a poll is demanded as provided in paragraph 1.8 of this Schedule 1 it shall be taken in such manner and either at once or after an adjournment as the chairman directs and the result of such poll shall be deemed to be the resolution of the meeting at which the poll was demanded. The demand for a poll may be withdrawn. Any poll demanded at any meeting of Members on the election of the chairman or any question of adjournment is to be taken at the meeting without adjournment. The demand for a poll does not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded.

1.10 Effect of resolution

A resolution (whether ordinary or special) passed at a meeting of Members duly convened and held in accordance with this Schedule 1 shall be binding upon all the Members whether present or not present at the meeting and each of the Members and the Trustee are bound to give effect to the resolution accordingly.

1.11 Objection to qualification of Member

No objection shall be raised to the qualification of any Member to vote except at the meeting or adjourned meeting at which the vote objected to is given or tendered and every vote not disallowed at the 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.

1.12 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 Member;
- (b) the instrument appointing a proxy shall be in writing under the hand of the appointer or of the appointer's attorney duly authorised in writing;
- (c) any person may act as a proxy whether or not the person is a Member;
- (d) the instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a notarially certified copy of that power or authority or a legible facsimile transmission copy of the instrument appointing a proxy where that instrument is signed under the hand of the Member must be deposited at the registered office of the Trustee or at such other place as is specified for that purpose in the notice of meeting not less than 24 hours before the time appointed for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote. In default the instrument shall not be treated as valid. No instrument appointing a proxy shall be valid after the expiration of 12 months from the date named in it as the date of its execution;
- (e) an instrument appointing a proxy may be in the following form or in any form which the Trustee shall approve:

Solar Personal Division

'I, of

being a registered Member of the Solar Personal Superannuation Division 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 Members of the Division to be held on the day of 20 and at any adjournment thereof.

Dated this day of 20 .

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

- (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.

1.13 Adjournment of meeting

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