



Supplemental Deed

State Super Retirement Fund
(to be renamed StatePlus
Retirement Fund)

—

State Super Financial Services Australia Limited
ABN 86 003 742 756 (**Trustee**)

—

Supplemental Deed

State Super Retirement Fund (to be renamed StatePlus Retirement Fund)

| | |
|------------------------------|----------|
| Details | 3 |
| Agreed terms | 4 |
| 1. Amendments | 4 |
| 2. Effective time | 4 |
| 3. Saving Provision | 4 |
| 4. No re-settlement of trust | 4 |
| Signing page | 5 |

Annexure A – Trust Deed for the StatePlus Retirement Fund

Details

Date

Parties

| | |
|-----------------|---|
| Name | State Super Financial Services Australia Limited |
| ABN | 86 003 742 756 |
| Short form name | Trustee |
| Notice details | Level 7, 83 Clarence Street, Sydney NSW 2000 |

Background

- A The State Super Retirement Fund (**Fund**) was established by a deed dated 23 November 1993, as amended from time to time (**Trust Deed**).
- B The Trustee is the current trustee of the Fund.
- C The Trust Deed has been amended from time to time.
- D Clause 32.1 of the Trust Deed gives the Trustee the power to amend the Trust Deed by supplemental deed in certain circumstances.
- E The Trustee has resolved to:
 - (i) change the name of the Fund from 'State Super Retirement Fund' to 'StatePlus Retirement Fund'; and
 - (ii) amend the Trust Deed in the manner contained in this Supplemental Deed.

Agreed terms

1. Amendments

The Trustee amends the Trust Deed by:

- (a) deleting all the provisions of the Trust Deed, including the schedules to the Trust Deed; and
- (b) inserting in their place the provisions and schedules contained in Annexure A to this Supplemental Deed.

2. Effective time

The amendments in clause 1 take effect on the date of execution of this Supplemental Deed.

3. Saving Provision

Notwithstanding any other provision in this Supplemental Deed to the contrary, if any amendment contained in this Supplemental Deed is not consistent with, or breaches the restrictions in, the amendment power contained in clause 32.1 of the Trust Deed, that amendment shall be of no effect and the provisions purported to be amended shall continue to be determined in accordance with the provisions of the Trust Deed as they existed prior to the date of the amendment.

4. No re-settlement of trust

This Supplemental Deed shall be construed only as operating to amend the Trust Deed and not establishing a new or different trust or superannuation fund.

5. Governing law and jurisdiction

This Supplemental Deed is governed by the laws of New South Wales.

Signing page

EXECUTED as a deed.

**Executed by State Super Financial Services
Australia Limited** in accordance with Section 127
of the *Corporations Act 2001*

Signature of director

Name of director (print)

Signature of director/company secretary
(Please delete as applicable)

Name of director/company secretary (print)



Annexure A – Trust Deed for the StatePlus Retirement Fund

Annexure to Supplemental Deed

Table of contents

| | | |
|-------------|---|-----------|
| 1. | Definitions and interpretation | 1 |
| 2. | The Trust, the Divisions and the Funds | 10 |
| 2AA. | DELETED | 11 |
| 2A. | DELETED | 11 |
| 3. | DELETED | 11 |
| 4. | DELETED | 12 |
| 4A. | Non-member spouses | 12 |
| 5. | Establishment of Members Accounts | 12 |
| 6. | Unitisation | 13 |
| 7. | DELETED | 14 |
| 8. | Switching | 14 |
| 8A. | Transfers | 15 |
| 9. | DELETED | 16 |
| 9A. | DELETED | 16 |
| 10. | DELETED | 16 |
| 10A. | Augmentation or increase in benefits | 16 |
| 11. | Death benefits | 16 |
| 12. | DELETED | 19 |
| 13. | Transaction Advices | 19 |
| 14. | Dealings with a Member's interest in the Trust | 20 |
| 15. | Investments of a Fund | 20 |
| 16. | Investment Register | 22 |
| 17. | Valuation of a Fund | 22 |
| 18. | Calculation of value of a Fund | 23 |
| 18A. | Investment Performance Rate | 23 |
| 19. | Management of the Trust | 24 |
| 20. | Trustee's powers and indemnities | 24 |
| 21. | Trustee's covenants | 28 |
| 22. | Retirement of Trustee | 31 |
| 23. | Fees and Remuneration | 32 |
| 24. | Register of Members | 33 |
| 25. | Meetings of members | 35 |

| | |
|---|-----------|
| 26. Collections and payments | 39 |
| 27. Reimbursement of Trustee | 40 |
| 28. Deductions | 42 |
| 29. Auditor | 43 |
| 30. Accounts, audit and reports to Members | 44 |
| 31. Period and termination | 44 |
| 32. Modification of Deed | 46 |
| 33. Limitation of liability of Members | 48 |
| 34. Notices to Members | 48 |
| 35. Payments to members and legal personal representatives | 48 |
| 36. Miscellaneous provisions | 49 |
| Schedule 1 – Personal Retirement Division | 50 |
| Schedule 2 – Tailored Super Division | 63 |
| Schedule 3 – Allocated Pension and Term Allocated Pension Division | 68 |
| Schedule 4 – Flexible Income Division | 86 |

Trust Deed for the StatePlus Retirement Fund

1. Definitions and interpretation

1.1 Definitions

In this Deed and the Schedules hereto, unless the context otherwise requires, the following words or expressions shall have the meanings respectively assigned to them:

Account means an account established in respect of a Member.

Account Balance, in relation to a Member, means the net amount for the time being standing to the credit of the Member's Account.

Accounting Records (in relation to the Trust and each Division) means the accounting records of the Trust and the relevant Division, as the case may be, kept pursuant to **clause 30.1**.

Adviser Services includes the following services:

- (a) advice (including general and personal financial product advice);
- (b) dealing or arranging (including transaction or execution related) services;
- (c) reporting services; and
- (d) administration services,

that may be provided by a person in respect of a Member's interest in the Trust.

Allocated Pension and Term Allocated Pension Division means the Division referred to in **clause 2.4(c)**.

Allocated Pension and Term Allocated Pension Division Member means a Member of the Allocated Pension and Term Allocated Pension Division.

Application means an application in writing by an Eligible Person to become a Member.

Assets in respect of a Fund include:

- (a) Cash on hand or at a bank in any currency in accounts of that Fund;
- (b) investments of that Fund;
- (c) amounts owing to the Trust or a Fund by debtors, having made proper provision for any bad or doubtful debts;
- (d) income accrued to that Fund from investments of the Trust to the extent not included in the preceding paragraphs of this definition; and
- (e) any prepayment of expenditure for that Fund.

Associate of a person means another person who is associated with the first person within the meaning of sections 10 to 17 inclusive of the Corporations Act and a reference to a person associated with another person has the meaning contained in those sections of the Corporations Act.

Auditor means the auditor for the time being appointed in accordance with **clause 29**.

Benefit Arrangement means any fund or arrangement established to receive Contributions or amounts arising from such Contributions. For example, it includes a complying superannuation fund, approved deposit fund, retirement savings account and the Superannuation Holding Accounts Special Account maintained under the *Small Superannuation Accounts Act 1995* (Cth).

Business Day means any day (not being a Saturday or Sunday) on which the Trustee and trading banks in Sydney are open for business.

Cash includes cheque or bank cheque.

Category means a category in a Division.

Child means any child of a Member, including:

- (a) an adopted child;
- (b) a step-child;
- (c) an ex-nuptial child; and
- (d) in relation to a Member who did not die before 6 February 2009:
 - (i) a child of the Spouse of the Member; and
 - (ii) a child of the Member within the meaning of the *Family Law Act 1975* (Cth).

Class, in relation to any Units, means all Units in the same Fund.

complying superannuation fund has the meaning ascribed to that expression in section 995-1 of the Tax Act.

Consumer Price Index means the Consumer Price Index (All Groups - weighted average of the eight capital cities) as published by the Australian Bureau of Statistics and includes any replacement index.

Contribution means a payment (including without limitation a rollover or transfer of benefits in a regulated superannuation fund or approved deposit fund within the meaning of Parts 5 and 6 of the SIS Regulations) made by or for the benefit of an Eligible Person to the Trustee on account of a contribution to the Trust.

corporation has the meaning contained in the Corporations Act and includes, but is not limited to, corporations formed or incorporated outside the Commonwealth of Australia and not recognised in the Commonwealth of Australia.

Corporations Act means the *Corporations Act 2001* (Cth).

Corporations Regulations means the *Corporations Regulations 2001* (Cth).

Custodian means a corporation appointed by the Trustee under **clause 20.17** in relation to the Trust.

Date of Commencement means 23 November 1993.

Deed means this Deed (including any present or future Schedule) as it may from time to time be amended and in force.

dependant, in relation to a Member, means:

- (a) the Spouse of the Member; or
- (b) any Child of the Member;
- (c) any person with whom the Member has an 'interdependency relationship' within the meaning given by the Superannuation Laws;
- (d) any person who in the opinion of the Trustee was substantially financially dependent on the Member at the time of the Member's death; and
- (e) any other person considered to be a dependant of the Member for the purposes of the Superannuation Laws,

provided that paragraphs (d) and (e) do not apply in relation to:

- (f) a Personal Retirement Division Member who died before 3 September 2004; and
- (g) a Pension Member who died before 9 December 2004.

Division means:

- (a) the Personal Retirement Division;
- (b) the Tailored Super Division;
- (c) the Allocated Pension and Term Allocated Pension Division; and
- (d) the Flexible Income Division,

and, in relation to a Member, means the Division to which the Member is admitted or transferred.

Eligible Payment means a Contribution which would not prejudice the ability of the Trust to be a complying superannuation fund.

Eligible Person means a person whose holding of a beneficial interest in the Trust would not prejudice the ability of the Trust to be a complying superannuation fund.

Financial Year means the period of twelve months ending on 30 June in each year and includes the period from the date on which the Trust commenced until the next 30 June and the period ending with the termination of the Trust and commencing on the then previous 1 July.

Flexible Income Division means the Division referred to in **clause 2.4(d)**.

Flexible Income Division Member means a Member of the Flexible Income Division.

Fund means an investment option established by or pursuant to this Deed and, in relation to each Fund, includes all Assets of the relevant Fund.

gross income means in respect of any year of income all amounts which are or would be liable to be included in the total assessable income of the Trust for that year if the Trustee were or is liable to pay income tax thereon under the provisions of the Tax Act, and includes money or property received where that money or the value of that property is or would be included in the total assessable income of the Trust by virtue of the provisions of the Tax Act although those receipts may be of a capital nature.

Gross Asset Value of the Fund, in relation to a Fund, means the sum from time to time calculated by the Trustee which is the aggregate of:

- (a) the Values of all Assets of the relevant Fund;
- (b) all accrued income of the Fund to the extent it is not otherwise included in the aggregate; and
- (c) any other amounts which in the opinion of the Trustee should be included in the aggregate for the purpose of making a fair and reasonable determination of the Gross Asset Value of the Fund having regard to generally accepted accounting principles.

Guardian means a person approved by the Trustee to be the Guardian of a Member or other beneficiary of the Trust who could, but may not necessarily be:

- (a) a parent;
- (b) a guardian; or
- (c) a Legal Personal Representative,

of the Member or beneficiary.

Investment Manager means any corporation which engages in the business of investment management and which is appointed by the Trustee (whether or not that corporation is an Associate of the Trustee, which term includes any other corporation whose relationship with the Trustee is of such a nature that a reasonable person might consider the dealings between them would not be at arms-length) under **clause 19.2(d)**.

Issue Price, in relation to a Unit in a Unitised Fund, means the issue price of the Unit being \$1.00 during the period up to and including the first addition to the relevant Unitised Fund and thereafter, at any time such price is required to be ascertained, the amount calculated in accordance with the following formula:

$$\frac{\text{NAV} + \text{AC}}{\text{U}}$$

Where:

NAV = The Net Asset Value of the relevant Unitised Fund as at:

- (a) if an application for an interest in the Unitised Fund is received by the Trustee before the Prescribed Time on a Business Day or on a day which is not a Business Day, the next Valuation Time following receipt of the application; or
- (b) if an application for an interest in the Unitised Fund is received by the Trustee after the Prescribed Time on a Business Day, the second Valuation Time following receipt of the application,

if the application is accepted by the Trustee;

AC = the amount determined by the Trustee in accordance with generally accepted accounting principles to be the aggregate of all costs, charges, expenses, disbursements, commissions, brokerage and other usual fees and all Taxes which would have been incurred in the acquisition of the Assets of the Unitised Fund at the applicable Valuation Time if all such Assets had been acquired at that time;

U = the number of Units in Issue in the Unitised Fund at the applicable Valuation Time;

and, if the calculation results in a fraction of a cent, the Issue Price shall be adjusted downwards to the nearest second decimal place of a cent in relation to the Units of a Unitised Fund offered in the Personal Retirement Division and the nearest fourth decimal place of a cent in relation to the Units of a Unitised Fund offered in the Allocated Pension and Term Allocated Pension Division.

Legal Personal Representative has the meaning ascribed to that expression in the Superannuation Act.

Liabilities in respect of a Fund include:

- (a) unpaid administrative costs and expenses including fees of the Trustee;
- (b) accrued charges in respect of or owing in relation to any Assets;
- (c) amounts required to meet current liabilities;
- (d) deposits or margin calls required to be paid under any futures contract and any put option or call option;
- (e) any provision for Tax which in the opinion of the Trustee should be taken into account; and
- (f) any other amounts required to meet liabilities or expenditure which in accordance with generally accepted accounting principles should be taken into account and which have not

otherwise been taken into account in determining the amount of the Liabilities in any of the preceding paragraphs of this definition.

Member means the holder of a beneficial interest in the Trust, including:

- (a) a person entitled to be registered as a Member;
- (b) any person claiming an interest in the Trust through or on behalf of a Member; and
- (c) a Reversionary Beneficiary to whom a Pension has become payable.

month means calendar month.

Net Asset Value of the Fund, in relation to a Fund, means the sum from time to time calculated by the Trustee which is the Gross Asset Value of the Fund less the aggregate of:

- (a) all Liabilities of the Fund; and
- (b) any other amount which in the opinion of the Trustee should be included in the aggregate for the purpose of making a fair and reasonable determination of the Net Asset Value of the Fund having regard to generally accepted accounting principles.

Non-Unitised Fund means a Fund which has not been unitised and, in relation to:

- (a) the Personal Retirement Division, is identified in **Appendix A** of **Schedule 1** as a Non-Unitised Fund; and
- (a) the Allocated Pension and Term Allocated Pension Division, is identified in **Appendix A** of **Schedule 3** as a Non-Unitised Fund.

Office means the Trustee's registered office for the time being.

Pension means a pension payable to a Member under this Deed.

Personal Retirement Division means the Division referred to in **clause 2.4(a)**.

Personal Retirement Division Member means a Member of the Personal Retirement Division.

Prescribed Time means, for a Unitised Fund, such time or times as is determined by the Trustee from time to time.

Progressive Investment Facility means a facility pursuant to which the Trustee periodically switches Units from one Unitised Fund to another Unitised Fund in accordance with a Progressive Investment Facility Application (as varied from time to time).

Progressive Investment Facility Application means an application by a Member for the Trustee to periodically switch Units from one Unitised Fund to another Unitised Fund under the Progressive Investment Facility. For the avoidance of doubt, a Progressive Investment Facility Application may, but is not required to be, in a separate form or document.

Proportional Interest, in relation to each Member, means the total of:

- (a) where the Account of the Member is invested wholly or partly in one or more Unitised Funds, for each Unitised Fund the proportion which the number of Units held by that Member at any given time bears to the total number of Units in existence in that Fund at that time; and
- (b) where the Account of the Member is invested wholly or partly in one or more Non-Unitised Funds, for each Non-Unitised Fund the proportion which the principal dollar amount invested by the Member at any given time bears to the total principal dollar amount invested in that Fund at that time.

Redemption Price, in relation to a Unit in a Unitised Fund, means the redemption price of the Unit being, at any time such price as is required to be ascertained, the amount calculated in accordance with the following formula:

$$\frac{\text{NAV} - \text{DC}}{\text{U}}$$

Where:

NAV = The Net Asset Value of the relevant Unitised Fund as at:

- (a) if a request to redeem an interest in the Fund or a Switching Request is received by the Trustee before the Prescribed Time on a Business Day or on a day which is not a Business Day, the next Valuation Time following receipt of the request; or
- (b) if a request to redeem an interest in the Unitised Fund or a Switching Request is received by the Trustee after the Prescribed Time on a Business Day, the second Valuation Time following receipt of the request,

if the request is accepted by the Trustee;

DC = the amount determined by the Trustee in accordance with generally accepted accounting principles to be the aggregate of all costs, charges, expenses, disbursements, commissions, brokerage and other usual fees and all Taxes which would have been incurred in the sale of the Assets of the Fund at the applicable Valuation Time if all those Assets had been sold at that time;

U = the number of Units in Issue in the Unitised Fund at the applicable Valuation Time;

and if the calculation results in a fraction of a cent, the Redemption Price shall be adjusted downwards to the nearest second decimal place of a cent in relation to the Units of a Unitised Fund offered in the Personal Retirement Division and the nearest fourth decimal place of a cent in relation to the Units of a Unitised Fund offered in the Allocated Pension and Term Allocated Pension Division.

Redemption Proceeds means the net proceeds arising from the redemption of all or part of a Member's beneficial interest in the Trust in accordance with:

- (a) in relation to the Allocated Pension and Term Allocated Pension Division, **rule 7 of Schedule 3**; and
- (b) in relation to the Personal Retirement Division, **rule 7 of Schedule 1**.

Register means the register of Members described in **clause 24**.

Related Corporation of a corporation means another corporation which is related to the first mentioned corporation within the meaning of section 50 of the Corporations Act.

Regulator means the Australian Prudential Regulation Authority, the Commissioner of Taxation, the Australian Securities and Investments Commission, as relevant.

Reversionary Beneficiary means the Spouse of a Member entitled to a Pension who is nominated by the Member in accordance with and pursuant to **Schedules 3 or 4** (as applicable) to continue to receive the Pension after the death of the Member.

Schedules means the Schedules to this Deed as they may from time to time be amended and in force.

Settled Sum means the sum of \$10.00.

share includes ordinary, preferred and any other class of shares, stock, options, rights, letters of allotment or bonds.

SIS Regulations means the *Superannuation Industry (Supervision) Regulations 1994* (Cth) and includes any other regulations from time to time made under the Superannuation Act.

Special Resolution means a resolution passed at a meeting of Members duly convened and held in accordance with the provisions of this Deed by a majority of not less than 75% of the votes cast by the Members present in person or by proxy and entitled to vote, and if a poll is demanded then by a majority of not less than 75% of the votes cast on such poll.

Spouse of a person means:

- (a) another person legally married to the person;
- (b) in relation to a person who died before 1 July 2008, another person who, although not legally married to the person, in the opinion of the Trustee lives or lived with the person on a bona fide domestic basis as the husband or wife of the person; or
- (c) in relation to a person who did not die before 1 July 2008:
 - (i) another person (whether of the same sex or a different sex) with whom the person is or was in a relationship that was registered under a law of a State or Territory prescribed for the purposes of section 22B of the *Acts Interpretation Act 1901* (Cth) as a kind of relationship prescribed for the purposes of that section; and
 - (ii) another person who, although not legally married to the person, in the opinion of the Trustee, lives or lived with the person on a genuine domestic basis in a relationship as a couple.

Superannuation Act means the *Superannuation Industry (Supervision) Act 1993* (Cth).

Superannuation Laws means those provisions of the Superannuation Act, the Tax Act, the Corporations Act and any regulations and prudential standards issued under those Acts and any other legislation (including any proposed amendment thereto or any proposed new legislation which, as announced by the relevant Minister, the Regulator or any other person having the authority to do so, is to operate from a date earlier than the date the proposed amendment or the proposed new legislation) with which from time to time the Trust or the Trustee must comply, or, in the opinion of the Trustee, ought to comply, in order that the Trust be a complying superannuation fund in relation to any year of income.

Switching Request means a request to redeem an interest in one Fund in a Division or category and to apply the proceeds of the redemption towards the issue of an interest in one or more other Funds in that Division.

Tailored Super Division means the Division referred to in **clause 2.4(b)**.

Tailored Super Division Member means a Member of the Tailored Super Division.

Tax includes any tax, levy, impost, deduction, charge, rate, duty, compulsory loan or withholding whatsoever (including, in respect of any Tax imposed on receipts or liabilities of financial institutions, any amounts paid in respect of them to another financial institution) which is levied or imposed by any government, or any governmental, semi-governmental or judicial entity or authority, together with any interest, penalty, charge, fee, or other amount imposed or made on or in respect of any of the foregoing.

Tax Act means the *Income Tax Assessment Act 1936* (Cth) or the *Income Tax Assessment Act 1997* (Cth), as whichever applies in the context used.

Transaction Advice means a transaction confirmation issued by the Trustee.

Trust means the trust hereby constituted and includes the Funds.

Trustee (in relation to the Trust) means the Trustee for the time being appointed under the provisions of this Deed.

Unit means (in relation to a Unitised Fund) a unit (including part of a unit in that Unitised Fund) created and issued pursuant to this Deed and not cancelled.

Unitised Fund means a Fund which has been unitised and, in relation to:

- (a) the Personal Retirement Division, is identified in **Appendix A** of **Schedule 1** as a Unitised Fund; and
- (a) the Allocated Pension and Term Allocated Pension Division, is identified in **Appendix A** of **Schedule 3** as a Unitised Fund.

Unit means a part or share of the portfolio of assets and liabilities of a Fund determined in accordance with any rules made pursuant to **clause 6.2**.

Units in Issue means, in respect of a Unitised Fund, all Units for the time being created and issued in respect of that Unitised Fund and not cancelled but on any particular day does not include Units redeemed on that day.

Value, in relation to an Asset of a Fund, on any date the value of the Asset is required to be ascertained, means the value of the Asset ascertained in accordance with **clause 17**.

Valuation Roll (in relation to a Fund) means the valuation roll to be kept by the Trustee in accordance with **clause 17**.

Valuation Time means a time as at which the Trustee calculates the Net Asset Value of the Fund.

1.2 Interpretation

In this Deed, headings are for convenience only and shall not affect interpretation and except to the extent that the context otherwise requires:

- (a) references to any legislation or to any provision of any legislation include any modification or re-enactment of, or any legislative provisions substituted for, and all statutory instruments issued under, such legislation or such provisions;
- (b) words denoting the singular include the plural and vice versa;
- (c) words denoting individuals include corporations and vice versa;
- (d) words denoting any gender include all genders;
- (e) references to any clauses, paragraphs, rules, schedules and appendices are references to clauses, paragraphs, rules, schedules and appendices of this Deed and, in particular, a reference to a clause is a reference to clauses 1 to 36 of this Deed, as applicable, and a reference to a rule is a reference to a rule in **Schedules 1 to 4**, as applicable;
- (f) references to any document or agreement (including this Deed) include references to such document or agreement as amended, novated, supplemented or replaced from time to time;
- (g) references to a party to this Deed or any other document or agreement include its successors or permitted substitutes or assigns;
- (h) **writing** and cognate expressions include all means of reproducing words in a tangible and permanently visible form (including, but not limited to, an electronic form);

- (i) where a document is required to be signed by a person, that document may be signed by hand or by use of an electronic or digital signature (subject to any requirements the Trustee may elect to apply from time to time with respect to the provision of electronic or digital signatures);
- (j) where any word or phrase is given a definite meaning in this Deed any part of speech or other grammatical form of that word or phrase has a corresponding meaning; and
- (k) all references to any period of time prescribed or allowed under any provision of this Deed for the giving of any notice or for the doing of any act shall be deemed not to include the day or date, or the day of the act or event, or the date of giving of any such notice, from or after which such period of time is to be calculated, but to include the last day of the period of notice prescribed or the last day on which such act is to be done (as the case requires).

1.3 Schedules

- (a) Where a present or future Schedule to this Deed refers to particular Funds, the provisions contained in that present or future Schedule apply in relation to the Fund to which the particular Schedule refers and in the event of any conflict between those provisions and any provisions in this Deed the relevant provisions in the Schedule prevail.
- (b) A reference to this Deed includes a reference to all present and future Schedules to this Deed.

1.4 Interaction with the Superannuation Laws

Notwithstanding any other provision contained in this Deed (including any provision which purports to apply notwithstanding the other provisions of this Deed), it is hereby expressly agreed and declared that:

- (a) this Deed shall at all times be subject to the Superannuation Laws;
- (b) all standards, covenants, requirements and provisions of the Superannuation Laws (including without limitation any standard prescribed by the SIS Regulations) that must be included in this Deed from time to time in order for the Trust to be a complying superannuation fund in any year of income are deemed to be included in this Deed, whether or not they are explicitly stated in the Deed and in the case of any inconsistency between any standard, covenant, requirement or provision deemed to be included in this Deed pursuant to this clause (**deemed provision**) and any other provision of this Deed, the deemed provision shall prevail and the other provisions of this Deed shall be deemed to be modified to the extent of the inconsistency. However, if a standard, covenant, requirement or provision is no longer required to be included or the Regulator does not require it to be complied with, then that standard, covenant, requirement or provision ceases to be included by this clause;
- (c) [DELETED]
- (d) if a provision of this Deed would otherwise be invalid in whole or in part because it subjects the Trustee to direction by another person then the provision is taken not to subject the Trustee to direction by that person but to give the Trustee the power to treat such a direction as a request only;
- (e) if a provision of this Deed would otherwise be invalid in whole or in part because it permits a person to exercise a discretion without the consent of the Trustee then that provision is taken to require the Trustee's consent for the exercise of the discretion; and
- (f) notwithstanding any other provision of this Deed, the Trustee is empowered but not required (other than as specified in this Deed) to do or procure to be done or refrain from doing such acts matters and things as in the opinion of the Trustee may be necessary or

desirable to enable the Trust to become and continue to be a 'complying superannuation fund' for the purposes of the Superannuation Laws and in order to comply with or satisfy any provision or requirement of the Superannuation Laws.

1.5 Severance

If:

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

1.6 Inconsistency

If there is any inconsistency between any of **clauses 1 to 36 (inclusive)** and the provisions of any Schedule, the provisions of the Schedule govern to the extent of the inconsistency.

2. The Trust, the Divisions and the Funds

2.1 Upon execution of this Deed, the Settlor has paid to the Trustee the Settled Sum in respect of the Trust as at the date of execution of this Deed (to be held by the Trustee upon the trusts hereby constituted) to constitute the Trust, and upon the lodgement or receipt of such Settled Sum the amount of that Settled Sum in respect of each Fund shall be credited to the capital of each such Fund. Each Fund is offered in a particular Division.

2.2 The Trustee is hereby appointed trustee of the Trust and declares that it will hold the Trust upon trust for the Members upon and subject to the terms and conditions of this Deed. The Trustee must be a constitutional corporation, as that expression is defined in the Superannuation Act.

2.3 The Trust shall be known as 'StatePlus Retirement Fund'.

2.4 The Trust may provide benefits to or in respect of Members in the following Divisions:

- (a) Personal Retirement Division;
- (b) Tailored Super Division;
- (c) Allocated Pension and Term Allocated Pension Division; and
- (d) Flexible Income Division.

For the avoidance of doubt, the Trustee may transfer a Member to a different Division with the consent of the Member. Divisions do not constitute separate superannuation funds.

2.5 The Trust provides benefits to, or in respect of, Members according to the Division or Divisions to which Members belong from time to time. For the avoidance of doubt, a Member may belong to more than one Division. The interests of each beneficiary of a Division are determined by reference only to the provisions governing that Division.

2.6 Each Division is governed by the provisions applicable to the Division. In particular:

- (a) the rules for Personal Retirement Division Members are set out in **clauses 1 to 36** (inclusive) and **Schedule 1**;
 - (b) the rules for Tailored Super Division Members are set out in **clauses 1 to 36** (inclusive) and **Schedule 2**;
 - (c) the rules for Allocated Pension and Term Allocated Pension Division Members are set out in **clauses 1 to 36** (inclusive) and **Schedule 3**; and
 - (d) the rules for Flexible Income Division Members are set out in **clauses 1 to 36** (inclusive) and **Schedule 4**.
- 2.7 Each Fund:
- (a) has separately identifiable assets and separately identifiable beneficiaries;
 - (b) is intended to be a 'sub-fund' as defined in the Superannuation Laws, maintained in relation to the Members to the extent their Account is invested in the Fund; and
 - (c) does not constitute a separate superannuation fund.
- 2.8 The assets identified with a particular Fund may only be applied for the purposes of that Fund or to pay or provide for an appropriate portion (as determined by the Trustee) of the liabilities and expenses of the Trust as a whole.
- 2.9 To the extent that a Member's Account is invested in a Fund, benefits payable to or in respect of those Members may only be provided from the assets of that Fund.
- 2.10 If the Trustee is entitled to the benefit of any taxation credit, rebate or allowable deduction in respect of the calculation of the Trust's taxation liability (**Gain**), in connection with any Asset of a particular Fund or if a capital loss (**Loss**) occurs which is associated with any Asset of a particular Fund (in either case, the particular Fund is referred to in this clause as the **Transferor Fund**) and the Trustee considers that the utilisation of the Gain or the Loss may result in a reduction in the amount of the Liabilities of any other Fund (**Transferee Fund**), the Trustee may make an adjustment (**Adjustment**) between the Funds affected. The amount of the Adjustment will not exceed the Trustee's estimate of the amount of the reduction in the Liabilities of the Transferee Fund which will result from the utilisation of the Gain or Loss. The Trustee shall apportion the Adjustment in such manner and at such time as it, in its discretion, determines.
- 2.10A If the Trustee receives an amount to be invested in a particular Fund (**Transferor Fund**) for a Member, the Trustee may invest that amount in another Fund, whether or not in the same Division (**Transferee Fund**) and make an adjustment (**Adjustment**) between the Funds affected if the Trustee reasonably believes that the Adjustment will not adversely affect the rights of the Member.
- 2.11 The Trustee may establish new Divisions by executing a supplemental deed under which a Schedule governing the new Division must be added to the Deed.
- 2.12 The Trustee may terminate a Division in accordance with the provisions applicable to that Division or, if there are no relevant Rules, on such terms and conditions as the Trustee specifies.

2AA. DELETED

2A. DELETED

3. DELETED

4. DELETED

4A. Non-member spouses

- 4A.1 In this **clause 4A**, **member spouse** and **non-member spouse** have the same meanings as in section 90MD of the *Family Law Act 1975* (Cth).
- 4A.2 Notwithstanding any other provision of this Deed, but subject to **clause 4A.3** and the Superannuation Laws, the Trustee may create a new interest in the Trust in the Allocated Pension and Term Allocated Pension Division or the Personal Retirement Division at the Trustee's discretion for a non-member spouse as contemplated by the Superannuation Laws, in which case:
- (a) when creating a new interest in the Trust for a non-member spouse, the Trustee may determine the terms and conditions that will apply to the new interest;
 - (b) 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;
 - (ba) if the non-member spouse is already a Personal Retirement Division Member, 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 Trust; and
 - (c) the Trustee may make rules from time to time that apply to a Member for whom an interest was created in accordance with this **clause 4A** and who was not previously a Member.
- 4A.3 A non-member spouse is not permitted to become a Member or other kind of member if the value of the new interest that would otherwise be created for the non-member spouse, 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 4A.3**, **minimum investment amount** means the minimum one-off initial Contribution that a person must make in order to become a Member and participate in the Trust, 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 4A.3**.

5. Establishment of Members Accounts

- 5.1 The Trustee shall establish and maintain an account in respect of each Member in relation to each Division and, where the Member is a Member of more than one Category in a Division, in respect of each Category of membership, and shall credit to the Account:
- (a) the total redemption value of the Units held by the Member in Unitised Funds on the date of issue of those Units to the Member and which are allocated to that Category or Division;
 - (b) any increase in the total redemption value of the Units held by the Member in Unitised Fund and which are allocated to that Category or Division;
 - (ba) the total amount invested in Non-Unitised Funds;
 - (bb) the amount of investment performance at the Investment Performance Rate paid from a Non-Unitised Fund from time to time; and
 - (c) such other amounts as the Trustee may think fit,
- and the Trustee shall debit to that Account:
- (d) any payment made in relation to that Category or Division to or in respect of the Member under this Deed;

- (e) any decrease in the total redemption value of the Units held by the Member in Unitised Funds;
- (ea) any decrease in value of an investment in a Non-Unitised Fund due to the early redemption from that Fund;
- (f) any Tax determined by the Trustee to be attributable to the Member or the Account; and
- (g) such other amounts as the Trustee may think fit.

5.2 In addition to the Member's Account(s), the Trustee may establish and maintain such additional accounts in respect of each Member as it considers necessary or desirable whether to satisfy the requirements of the Superannuation Laws or otherwise.

6. Unitisation

6.1 The Trustee may divide the portfolio of assets and liabilities in relation to a Fund into Units (**Unitised Fund**).

6.2 Subject to the other provisions of this Deed and the Superannuation Laws, the Trustee may adopt policies and procedures from time to time in relation to:

- (a) whether parts of Units may be issued in relation to a Fund and, if so, the number of decimal places to which part Units may be issued;
- (b) the means by which actual or anticipated transaction costs in relation to the acquisition or disposal of the underlying assets in a Unitised Fund are recovered;
- (c) switching between the Units of one Unitised Fund and another;
- (d) any other matter which the Trustee determines to be necessary or appropriate for administering the Fund as a Unitised Fund.

6.3 If and to the extent that the Trustee administers a Fund's investments on a unitised basis the following shall apply:

- (a) the Trustee may:
 - (i) credit any amount in respect of a Member by allocating an appropriate number of Units to that Member's Account in the Division in the relevant Fund or Funds in which the amount is to be invested, at the relevant Issue Price of those Units; and
 - (ii) debit any amounts (including Liabilities and Tax) in respect of a Member by redeeming an appropriate number of Units from that Member's Account in the Division in the relevant Fund or Funds in which the amount is invested, at the relevant Redemption Price of those Units.
- (b) Where the Superannuation Laws require it, or the Trustee does not believe that the Issue Price or the Redemption Price is fair and reasonable, or can be calculated, the Trustee may apply such alternative Issue Price or Redemption Price as the Trustee determines.
- (c) Where this Deed refers to an Account Balance, it will be taken as a reference to the amount or balance calculated by reference to the number of Units of each Fund in which the Account is invested and the relevant Redemption Price of each of those Units at that time.
- (d) To the extent that a Member's Account is invested in one or more Unitised Funds, the investment performance attributable to a Member's Account shall be determined by reference to the number of Units of each Fund in which the Member's Account is invested and any rise or fall in the unit price of those Units.

7. DELETED

8. Switching

8.1 Any Member may, subject to the provisions of this **clause 8**:

- (a) request using a Switching Request the Trustee to redeem all or any of his Units in any Unitised Fund or interests in a Non-Unitised Fund and apply the redemption proceeds towards the creation and issue of Units in any other Unitised Fund or interests in any other Non-Unitised Fund (**Nominated Fund**);
- (b) request using a Progressive Investment Facility Application the Trustee to redeem all or any of his Units in any Unitised Fund or interests in a Non-Unitised Fund and apply the redemption proceeds towards the creation and issue of Units in any other Unitised Fund or interests in any other Non-Unitised Fund (also called a **Nominated Fund**).

8.2 The Trustee may determine from time to time:

- (a) the minimum amount in a particular Fund which may be redeemed pursuant to a Switching Request; and
- (b) the minimum amount in a particular Fund which may be issued pursuant to a Switching Request.

The Trustee may impose conditions or restrictions from time to in relation to a switch to a Non-Unitised Fund.

8.3 The Trustee may determine to offer the Progressive Investment Facility to all or a group of Members. Where the Trustee has determined to offer Members the Progressive Investment Facility, a Member may:

- (a) lodge a Progressive Investment Facility Application with the Trustee for the Progressive Investment Facility; and
- (b) request the Trustee to vary or cancel the Progressive Investment Facility.

8.4 The Progressive Investment Facility Application, and any request under **clause 8.3(b)**, must be made in a form and manner approved by the Trustee. The Trustee may accept or reject a Progressive Investment Facility Application without giving a reason.

8.5 Subject to the other provisions of this **clause 8**, where the Progressive Investment Facility applies in respect of a Member, the Trustee may switch Units in accordance with the terms of the Progressive Investment Facility and the Member's Progressive Investment Facility Application (as varied from time to time).

8.6 The Trustee may from time to time specify rules, conditions and restrictions relating to the Progressive Investment Facility. The Trustee may vary, add to or revoke the rules, conditions and restrictions from time to time in its absolute discretion. Each Member who has established a Progressive Investment Facility is bound by the terms of that facility, as amended from time to time.

8.7 The Trustee may terminate the Progressive Investment Facility at any time in its absolute discretion.

8.8 On the switching of any Units in a Unitised Fund under this rule, the Trustee shall redeem Units at a price per Unit equal to the Redemption Price of a Unit in the relevant Unitised Fund. On the switching of any interests in a Non-Unitised Fund under this clause, the Trustee shall redeem the interest in accordance with the formula determined pursuant to rule 7.5(b). The date at which

those Units are redeemed shall be determined by the Trustee. The Trustee shall be entitled to deduct from the redemption proceeds:

- (a) all Taxes, or other costs, charges and expenses properly incurred by the Trustee or paid or payable by the Trustee in respect of the conversion of the subject Units; and
- (b) the switching fee (if any) payable to the Trustee pursuant to **rule 23.3**.

8.9 The net balance of the redemption proceeds after making the deductions mentioned in **clause 8.8** shall be applied by the Trustee in creating and issuing to the Member new Units or interests in the Nominated Fund. If the Nominated Fund is a Unitised Fund, the number of Units in the Nominated Fund so created and issued shall be that number which is derived after dividing the net balance so derived by the Issue Price of a Unit in that Fund. The date at which Units in a Unitised Fund or interests in a Non-Unitised Fund are created and issued shall be determined by the Trustee.

8A. Transfers

8A.1 Subject to the Superannuation Laws, the Trustee may accept into the Trust an amount or asset in respect of a Member or prospective Member that is transferred from another Benefit Arrangement.

8A.2 Notwithstanding **rule 7 of Schedule 1**, if the Trustee is satisfied it complies with the requirements of the Superannuation Laws, the Trustee, without having to obtain the consent of any Member or other person, on such terms as it determines may transfer money or assets representing:

- (a) all or any part of a Member's interest in the Trust to another Benefit Arrangement; and
- (b) any additional amounts (including but not limited to amounts representing any reserve) to that other Benefit Arrangement on the basis that such amounts are unallocated amounts.

8A.3 The Trustee may make such enquiries as it considers appropriate to satisfy itself that the Benefit Arrangement complies with any relevant requirements of the Superannuation Laws.

8A.4 In effecting any transfer in or transfer out pursuant to this **clause 8A**, the Trustee will have power to do such acts, matters and things as it thinks fit and appropriate in all of the circumstances so as to perfect and complete such a transfer. These powers include, but are not limited to the following:

- (a) the power to treat any proposal or document evidencing a transfer in as an Application for the purposes of this Deed;
- (b) the power to treat the amount transferred or proposed to be transferred into the Trust in respect of any prospective or actual Member as a Contribution and that person as an applicant for the issue of an interest in the Trust;
- (c) the power, consequentially, to issue interests in the appropriate Fund or Funds to that actual or prospective Member in the Trust less any deductions as might be required by this Deed;
- (d) the power to generally apply the provisions of this Deed relating to applications for and the issue of Units in Unitised Funds and interests in Non-Unitised Funds to the circumstances of the prospective or actual Member modified as the Trustee thinks fit and as might be appropriate;
- (e) the power to treat any proposal relating to a transfer out or document evidencing the same, as a request to redeem made by a Member in accordance with the Deed;

- (f) the power to apply the proceeds of a redemption in effecting a transfer out referred to in **clause 8A.2**; and
- (g) the power to otherwise apply the provisions of this Deed relating to redemption in relation to Members as a proposed transfer out modified as the Trustee thinks fit and appropriate in all the circumstances.

8A.5 The powers conferred on the Trustee by **clause 8A.2** will be given full force and effect and operate according to their tenor notwithstanding any other provisions of this Deed expressly or impliedly to the contrary. The Trustee however may only exercise such powers if this consistent with the Superannuation Laws.

8A.6 Any payment or transfer effected pursuant to this **clause 8A** will be in complete discharge and satisfaction of the Trustee's obligations to the Member in respect of the amount paid or assets transferred in or out and, in the case of a transfer out, that Member's interest in the Trust as the case may be or as required.

9. DELETED

9A. DELETED

10. DELETED

10A. Augmentation or increase in benefits

10A.1 The Trustee may augment or increase the amount of any benefits or Redemption Proceeds payable from the Trust, subject to such terms and conditions as it thinks fit.

11. Death benefits

11.1 On the death of a Member, the Trustee shall pay a death benefit calculated under **Schedules 1 to 4** (inclusive) as follows:

- (a) if there is a valid and effective Non-Lapsing Nomination, in accordance with **clause 11.4A**;
- (b) if there is a valid and effective Reversionary Beneficiary nomination, in accordance with **Schedules 3 or 4**, as applicable;
- (c) if there is a valid and effective Binding Nomination, in accordance with **clause 11.3**; or
- (d) otherwise, in accordance with **clause 11.1A**.

11.1A If the benefits in respect of a deceased Member are not paid in accordance with **clause 11.3**, **clause 11.4A** or **Schedules 3 or 4** for any reason whatsoever, the Trustee must pay the Account Balance in respect of a deceased Member to either or both of the following:

- (a) the Member's Legal Personal Representative;
- (b) one or more of the Member's dependants,

in such proportions and on such terms as the Trustee, in its absolute discretion, determines. However, if after reasonable enquiries, the Trustee cannot establish that there are any dependants or a Legal Personal Representative in respect of a Member, the Trustee must pay the benefits in respect of the deceased Member to any other natural person or persons in such proportions as determined by the Trustee in accordance with the Superannuation Laws.

- 11.2 A Member may give the Trustee a non-binding nomination in such form and manner as the Trustee determines from time to time requesting the Trustee to pay, on the death of the Member, some or all of the Member's Account Balance to a person or persons listed in the nomination (being the Legal Personal Representative and/or dependants of the deceased Member) (**Non-Binding Nomination**). A death benefit nomination given by a Member in such other circumstances as the Trustee determines from time to time may be treated by the Trustee as a Non-Binding Nomination. The Trustee must have regard to, but is not bound to follow, a Non-Binding Nomination when determining the payment of benefits upon the death of the Member under **clause 11.1A**.
- 11.3 If all the requirements of the Superannuation Laws have been met, where:
- (a) the Trustee has determined that this **clause 11.3** will apply in respect of a Division, Category or group of Members to which the Member belonged at the date of death; and
 - (b) the Trustee is in receipt of a current, valid nomination (**Binding Nomination**) which was given to the Trustee by the Member in such form and manner as the Trustee specifies from time to time requiring the Trustee to pay some or all of the Member's Account Balance to a person or persons listed in the nomination (being the Legal Personal Representative and/or dependants of the deceased Member); and
 - (c) the nomination referred to in **paragraph (b)** complies with any Binding Nomination Guidelines applicable at the date on which the nomination was made,
- then the deceased Member's Account Balance must be paid by the Trustee to the person or persons listed in the Binding Nomination.
- 11.4 A Member's Binding Nomination ceases to be valid and effective:
- (a) on receipt by the Trustee from the Member of a replacement, conflicting or inconsistent Binding Nomination, Non-Binding Nomination, Non-Lapsing Nomination or Reversionary Beneficiary nomination;
 - (b) in such other circumstances as are specified in the Superannuation Laws; and
 - (c) as may be set out in the Binding Nomination Guidelines.
- 11.4A (a) The Trustee may from time to time determine that this **clause 11.4A** applies in respect of a Division, Category or group of Members, and may determine from time to time that this **clause 11.4A** no longer applies in respect of a Division, Category or group of Members.
- (b) Where the Trustee has determined that this **clause 11.4A** applies in respect of a Member (and has not determined that this **clause 11.4A** no longer applies in respect of the Member), where the Superannuation Laws permit, the Member may give the Trustee a nomination in such form and manner as the Trustee determines from time to time (**Non-Lapsing Nomination**) which directs the Trustee to pay some or all of the Member's Account Balance to a person or persons listed in the nomination (being the Legal Personal Representative and/or dependants of the Member) on the death of the Member.
- (c) Where the Trustee receives a Non-Lapsing Nomination, the Trustee may provide its consent to the exercise of a Member's direction in a Non-Lapsing Nomination:
- (i) on an individual nomination basis; or
 - (ii) on a general basis, where the Non-Lapsing Nomination satisfies such terms and conditions as the Trustee determines from time to time, in which case such consent becomes effective from the time that the Non-Lapsing Nomination is processed by or on behalf of the Trustee.

- (d) Subject to **clause 11.4A(e)**, if all the requirements of the Superannuation Laws have been met, where:
- (i) the Trustee is in receipt of a current, valid Non-Lapsing Nomination; and
 - (ii) the Trustee has consented to the Non-Lapsing Nomination in accordance with **clause 11.4A(c)**; and
 - (ii) the Non-Lapsing Nomination complies with any terms and conditions determined by the Trustee pursuant to **clause 11.5**,

the Trustee must pay the deceased Member's Account Balance to the person or persons listed in the Non-Lapsing Nomination.

- (e) A Non-Lapsing Nomination ceases to be valid and effective upon the earlier of the following events:

- (i) on receipt by the Trustee from the Member of a replacement, conflicting or inconsistent Binding Nomination, Non-Lapsing Nomination, Reversionary Beneficiary nomination or Non-Binding Nomination;
- (ii) the Member marries;
- (iii) in the opinion of the Trustee, the Member commences to live with the another person on a genuine domestic basis in a relationship as a couple;
- (iv) the Member separates on a permanent basis from their Spouse;
- (v) the Member has a Child; or
- (vi) any other event determined by the Trustee from time to time.

11.5 The Trustee may from time to time specify conditions and restrictions relating to Binding Nominations (**Binding Nomination Guidelines**) which must be complied with by the Member in order for a Binding Nomination to be valid. The Trustee may vary or revoke the Binding Nomination Guidelines from time to time in its absolute discretion. The Trustee may also impose additional terms, conditions and restrictions and make additional rules and procedures for the payment of a benefit upon the death of a Member, in relation to Non-Lapsing Nominations, which must be complied with by the Member in order for a nomination to be valid and effective.

11.6 For the avoidance of doubt:

- (a) a Non-Binding Nomination, a Binding Nomination and/or a Non-Lapsing Nomination may form part of the Application lodged by the Member with the Trustee at the time of his or her application to become a Member;
- (b) the Trustee may pay the deceased Member's Account Balance and, where the Member is a Member of more than one Category, the Member's Account Balance in respect of each Category of membership as a lump sum or as a pension or a combination of both, as the Trustee in its absolute discretion considers appropriate, notwithstanding any request contained in a Non-Binding Nomination, Non-Lapsing Nomination or a direction contained in a Binding Nomination to pay the deceased Member's Account Balance in a particular form;
- (c) the one instrument may contain two or more of a Non-Binding Nomination, a Binding Nomination and a Non-Lapsing Nomination provided the Binding Nomination Guidelines allow this and there is no conflict or inconsistency between the nominations; and
- (d) where the Member is a Member of more than one Category, one instrument may apply in respect of more than one Category of membership.

(e) [Deleted]

11.7 All Spouse Nomination Notices:

- (a) given to the Trustee under the provisions of this Deed as in force immediately prior to 16 February 2004 (**Effective Date**); and
- (b) received by the Trustee prior to the Effective Date,

are taken to be Non-Binding Nominations for the purposes of **clause 11.2**. In this clause, **Spouse Nomination Notice** means a notice given by a Member to the Trustee pursuant to **clause 11.1** as it applied immediately prior to 16 February 2004 that, following the Member's death, his or her Account Balance shall be applied in paying a Pension to the Member's Spouse specified in the notice.

11A. Redemptions – Incapacity

11A.1 Where, in relation to a person entitled to a benefit or Redemption Proceeds:

- (a) the person is a minor;
- (b) the person is suffering from any form of legal incapacity;
- (c) the person is incapable, in the Trustee's opinion, to manage their financial affairs; or
- (d) the Trustee considers it appropriate for any reason,

the Trustee may, subject to the Superannuation Laws:

- (e) pay the whole or any part of the benefit or Redemption Proceeds to a Guardian in respect of the person to be applied for the benefit of that person;
- (f) apply the whole or any part of the benefit or Redemption Proceeds for or towards the maintenance, education or benefit of that person; or
- (g) pay all or part of the benefit or Redemption Proceeds to another person who agrees to act as trustee, or has custody and control for the time being of the Beneficiary, to be held on trust for the benefit of the Beneficiary. The Trustee may, if it chooses, establish the trust or otherwise determine the terms of the trust (whether or not it acts as the trustee of the trust) on which the benefit is to be held for the Beneficiary. The receipt of the benefit by the trustee of the trust constitutes a complete and effectual discharge to the Trustee in relation to the amounts paid.

11A.2 The Trustee may take into account but will not be obliged to act upon any request or instruction given by a Guardian as if the Guardian was the person entitled to the benefit or Redemption Proceeds.

11A.3 The receipt by a Guardian of any amount pursuant to this **clause 11A** is a complete discharge to the Trustee in respect of that amount and the Trustee is not responsible for the application of any amount paid to the Guardian.

11A.4 The Trustee may impose any terms and conditions that it considers appropriate on its dealings with a Guardian and on any payments to a Guardian pursuant to this **clause 11A**.

11A.5 The Trustee is not bound to see to the application of any benefit or Redemption Proceeds paid pursuant to this **clause 11A**.

12. DELETED

13. Transaction Advices

- 13.1 The Trustee shall not be obliged to issue to any Member any certificate evidencing the Units in a Unitised Fund or interest in a Non-Unitised Fund held by the Member or certifying that the Member is a Member.
- 13.2 A Transaction Advice does not constitute evidence of a Member's title to the Units in a Unitised Fund or interests in a Non-Unitised Fund referred to in the Transaction Advice. A Transaction Advice issued in relation to a Personal Retirement Division Member's interest in a Fund or Funds offered in the Personal Retirement Division shall be deemed to contain a warranty by the Trustee that the Transaction Advice has been prepared in accordance with the information recorded in the Register.
- 13.3 Subject to the Superannuation Laws, a Transaction Advice:
- (a) shall be in written or electronic form and may be signed or unsigned; and
 - (b) may be sent to a person's address (postal, residential or electronic) or made available to the person in any other way determined by the Trustee from time to time.

14. Dealings with a Member's interest in the Trust

- 14.1 Units are not capable of being transferred by a Member. A Member shall not transfer, mortgage, charge, pledge or otherwise encumber his or her interest in the Trust.
- 14.2 The Trustee shall not record any such transfer or recognise the interest of any transferee or any person in favour of whom the relevant interest in the Trust has been mortgaged charged pledged or encumbered.
- 14.3 In the case of the death, bankruptcy, insanity or other legal disability of a Personal Retirement Division Member, the Legal Personal Representative of the Member shall be the only person recognised by the Trustee as having any interest in the Trust offered in the Personal Retirement Division.
- 14.4 DELETED
- 14.5 DELETED
- 14.6 A Legal Personal Representative of a Personal Retirement Division Member becoming entitled to an interest in the Trust offered in the Personal Retirement Division in consequence of the death, bankruptcy, insanity or other legal disability of the Member shall be entitled to receive and may give a discharge for all monies payable in respect of the interest but he shall not be entitled to receive notices or attend or vote at any meetings of Members until he has become a Member in respect of the interest.

15. Investments of a Fund

Investment

- 15.1 For the purposes of this Deed but subject to the Superannuation Laws, the Trustee has within and outside Australia all the powers in relation to the Trust, each Fund and the Assets and Liabilities of each Fund that it is legally possible for a natural person or corporation to have, including (without limitation):
- (a) to invest in real or personal property of any nature; and
 - (b) to borrow and incur liabilities and obligations of any kind,
- as if it were the absolute and beneficial owner of all Assets.
- 15.2 DELETED

15.3 Any investment by a Fund in a pooled superannuation trust or unit trust whose investment strategy for the time being is substantially the same as the investment strategy for the time being of that Fund shall be deemed for the purposes of this Deed to have been made in accordance with the investment strategy for the time being of that Fund.

15.4 DELETED

Trustee's responsibility for investments

15.5 Subject to the terms of this Deed, the Trustee has absolute discretion as to the investment of any Cash included in a Fund and as to the purchase, sale, transfer, exchange or alteration of any Asset or Liability of a Fund from time to time.

Vesting in Trustee

15.6 Subject to the terms of this Deed, and in particular the right of the Trustee under **clause 20.17** to appoint a Custodian to hold Assets, each Fund (and all Assets of the Fund) shall at all times be vested in the Trustee.

Costs of acquisition and disposals

15.7 The Trustee shall pay out of the relevant Fund the costs and expenses, including all legal costs, stamp duties, valuation fees, search and enquiry fees and all commissions, brokerage and other expenses of or in connection with:

- (a) the investigation of or negotiation for the acquisition on behalf of the relevant Fund of any proposed Asset of a Fund, whether or not it is in fact acquired, and the acquisition of such an asset; and
- (b) any sale, transfer, disposal exchange subdivision or other dealing with any Asset in the relevant Fund.

15.8 DELETED

Shares vested in Trustee

15.9 Subject to the terms of this Deed, if the Trustee acquires any shares, debentures or unit trust interests, such shares, debentures or unit trust interests shall be deemed vested in the Trustee when:

- (a) the shares, debentures or unit trust interests have been registered in the name of the Trustee; or
- (b) contract notes by brokers evidencing the purchase of the shares, debentures or unit trust interests have been delivered to the Trustee.

Dealings with Related Corporations

15.10 If an Asset is purchased by a Fund from, or sold by a Fund to, the Trustee, the Trustee must, in connection with any such transaction, act in a fiduciary relationship of utmost good faith to all Members who hold Units in the relevant Fund.

15.11 DELETED

15.12 DELETED

15.13 DELETED

15.14 DELETED

15.15 DELETED

15.16 DELETED

16. Investment Register

Trustee to keep Investment Register

- 16.1 The Trustee must maintain a separate register of all Assets held by each Fund showing in respect of each Asset:
- (a) the nature of the Asset;
 - (b) the cost of the Asset;
 - (c) the date of its acquisition by the Trust;
 - (d) the date of maturity (if applicable);
 - (e) the rate per annum of its redemption yield (if applicable);
 - (f) particulars of any security held in respect of it; and
 - (g) any other details required by the Schedule relating to the Fund and any other details determined by the Trustee.
- 16.2 The register referred to in **clause 16.1** must be available for inspection by the Auditor without charge at any time on any Business Day.

17. Valuation of a Fund

Valuation Roll for Unitised Funds

- 17.1 The Trustee must maintain a Valuation Roll for each Unitised Fund in which the Trustee records the Value of all Assets of the Unitised Fund (without providing for depreciation or the cost of replacement).

Valuations

- 17.2 The Trustee must obtain a valuation of any Asset of a Unitised Fund in respect of which a valuation has not been obtained in the preceding 24 month period. The Trustee may at any time and from time to time obtain a valuation of any Asset of a Unitised Fund. Valuations must be undertaken by a qualified valuer and the cost of any valuation shall be borne by the relevant Unitised Fund. If a valuation discloses a different value than the value of the Asset shown in the Valuation Roll, then the value disclosed in the valuation shall be substituted in the Valuation Roll. The Trustee shall make available a copy of each valuation to the Auditor on request.
- 17.3 The Value of any property in a Unitised Fund will be its market value determined, at the discretion of the Trustee, by one of the following methods:
- (a) by reference to a recognised independent source;
 - (b) by a method determined by a qualified valuer appointed and instructed by the Trustee; or
 - (c) by a qualified valuer appointed and instructed by the Trustee,
- unless the Trustee decides to adopt some other method as appropriate to determine current market value including estimates of market value where actual figures are not available and the Trustee considers there will be no significant detriment to any Member. Property acquired must be valued at cost (including acquisition costs) until revalued.
- 17.4 Nothing in this Deed shall be deemed to imply that the Trustee is or is required to be an expert in relation to any matters concerning the valuation of any Asset of a Fund.
- 17.5 Subject to **clauses 17.1 to 17.3** (inclusive), the Trustee must determine the value of each Fund from time to time (and at least annually) having regard to:

- (a) investment performance (including income and realised and unrealised capital gains) and losses on the assets of the Fund net of losses and expenses;
- (b) the value of the assets and liabilities (including unrealised liabilities) of the Fund;
- (c) any averaging of investment performance or any reserving of returns, losses or expenses;
- (d) any provision that in the opinion of the Trustee should be made; and
- (e) other relevant matters that the Trustee in its absolute discretion determine is appropriate.

17.6 In the exercise of its powers under **clause 17.5**, the Trustee may adopt whatever assumptions, methodology and procedures the Trustee, in its absolute discretion, considers appropriate, including:

- (a) methodology and procedures concerning the method and basis of valuing particular property or the net income of a Fund;
- (b) the intervals at which valuations must be carried out; and
- (c) the reserving of returns, losses or expenses or the averaging of the investment performance of a Fund.

18. Calculation of value of a Fund

Valuation times

18.1 The Trustee may calculate the Gross Asset Value of a Fund and the Net Asset Value of a Fund at any time in its absolute discretion but must do so not less frequently than once in each week in relation to a Unitised Fund and no less frequently than once a month in relation to a Non-Unitised Fund. The Gross Asset Value of a Fund and the Net Asset Value of a Fund as calculated by the Trustee in accordance with this clause shall remain the Gross Asset Value of that Fund and the Net Asset Value of that Fund respectively until next calculated by the Trustee in accordance with this clause.

Trustee's statement

18.2 The Trustee's statement of the Gross Asset Value of a Fund, the Net Asset Value of a Fund, the Issue Price of a Unit in a Fund or the Redemption Price of a Unit in a Fund as at any time shall be final and binding on all parties.

18A. Investment Performance Rate

18A.1 The Trustee must determine an Investment Performance Rate in relation to each investment in a Non-Unitised Fund.

18A.2 In the exercise of its powers under **clause 18A.1**, the Trustee

- (a) must have regard to the rate of investment return earned on, and the value of the assets of, the Non-Unitised Fund (as the case may be) (including income and realised and unrealised capital gains and losses) and liabilities (including unrealised liabilities and any actual or contingent Fund Expenses which are not debited to Members' Accounts) and other relevant matters, as are appropriate in the opinion of the Trustee; and
- (b) may otherwise adopt whatever assumptions, methodology and procedures the Trustee, in its absolute discretion, considers appropriate; and
- (c) may make rules and adopt procedures in relation to the calculation of an Investment Performance Rate.

19. Management of the Trust

- 19.1 The Trustee shall manage and administer the Trust (and each Fund, including the Assets and Liabilities of each Fund) with full power to delegate to its officers and employees all acts, matters and things whether or not requiring or involving the Trustee's judgement or discretion.
- 19.2 The Trustee, may for the purpose of carrying out and performing its duties and obligations under this Deed:
- (a) appoint by power of attorney any person to be its attorney for such purposes and with such powers authorities and discretions (not exceeding those vested in the Trustee) as it thinks fit, with power for the attorney to sub-delegate any such powers authorities or discretions;
 - (b) appoint in writing or otherwise any person to be the agent delegate or nominee of the Trustee as the Trustee may think necessary or proper for such purposes and with such powers authorities and discretions (not exceeding those vested in the Trustee) as it thinks fit;
 - (c) authorise the issue in the name of the Trustee of documents bearing facsimile signatures of the Trustee, either with or without proper manuscript signatures of its officers thereon;
 - (d) appoint in writing any corporation to act as an Investment Manager for the Trust;
 - (e) in its absolute discretion, defer carrying out, or staggering, a Member's selection to withdraw or switch from a Non-Unitised Fund for any reason; and
 - (f) set Investment Performance Rate and unit pricing policies, including policies as to how to deal with market disruption, errors and whether or not compensation should be made where errors occur in the Investment Performance Rate or the unit price.
- 19.3 The Trustee may replace or suspend any person appointed under **clause 19.2** for any cause or reason as the Trustee may in its sole discretion thinks sufficient with or without assigning any cause or reason.
- 19.4 The Trustee at all times remains liable for the acts or omissions of any person appointed under **clause 19.2** and, subject to **clauses 26.6, 26.7, 26.8 and 26.9**, is responsible for the payment of the fees and expenses of each such person.
- 19.5 Nothing contained in this Deed prevents the Trustee from establishing or acting as manager or trustee of other trusts whether of a nature similar to or different from the Trust.

20. Trustee's powers and indemnities

Trustee's powers

- 20.1 Subject to this Deed, the Trustee has all the powers in respect of the Assets and all benefits, interests, rights and property of the Trust and in respect of all obligations, debts and Liabilities of each Fund which it could exercise if it were the absolute beneficial owner of the Assets and Liabilities of each Fund. The Trustee also has the power to do all things which it considers necessary or appropriate to ensure that the Trust operates as a complying superannuation fund in relation to each year of income during the term of the Trust.
- 20.2 Subject to this Deed, the Trustee has with respect to all the trusts, powers, authorities and discretions vested in it an absolute and uncontrolled discretion as to the exercise of the same whether in relation to the manner, mode or the time of exercise.
- 20.3 The Trustee may act upon the opinion, advice or information obtained from any barrister, solicitor or professional advisor instructed by the Trustee. The Trustee may also act upon statements of or information obtained from bankers, accountants, brokers, valuers or other persons believed by the

Trustee in good faith and upon reasonable grounds to be expert in relation to the matters upon which they are consulted.

Limitation of liability of Trustee

- 20.4 If the Trustee relies in good faith on an opinion, advice, information or statement given to it by a person referred to in **clause 20.3**, it is not liable for any misconduct, mistake, oversight, error of judgment, forgetfulness or want of prudence on the part of that person except where the person is not independent from the Trustee. A professional advisor will be regarded as independent notwithstanding the Trustee instructs the advisor in matters not related to the Trust or any Fund.
- 20.5 The Trustee is not liable:
- (a) for any loss, costs, damages or expenses arising out of the exercise or non-exercise of its discretion or for any other act or omission on its part under this Deed except where the exercise or non-exercise of its discretion or the act or omission is fraudulent, negligent or in breach of trust or duty on the part of the Trustee; or
 - (b) to Members who hold Units in a Unitised Fund or interests in a Non-Unitised Fund for anything beyond the amount which the Trustee is entitled to recover through its right of indemnity, whether under this Deed or otherwise, from the Assets of that Fund except in respect of any default, neglect or breach of trust or duty on the part of the Trustee; or
 - (c) to make a payment to a Member except out of funds held by it for that purpose under this Deed except when the payment is due because of the default, neglect or breach of trust or duty on the part of the Trustee.
- 20.6 The Trustee is not liable, subject to it duly observing its covenants under this Deed:
- (a) in connection with anything done by it in good faith in reliance upon any document or instrument except when it has reason to believe that the document or instrument is not genuine;
 - (b) if it fails to do anything because it is prevented or hindered from doing it by law or order of a Court;
 - (c) to anyone for payments (except when made negligently) made by it in good faith to a fiscal authority in connection with Taxes or other charges in respect of the Trust or a Fund even if the payment need not have been made;
 - (d) if a person (other than a corporation under its control) fails to carry out an agreement with the Trustee in connection with the Trust or a Fund except when the failure is due to its own neglect or default;
 - (e) for acting upon a resolution evidenced by a signed minute and purportedly passed by the Members or class of Members even if it is later found that there was a defect in the constitution of the meeting or the passing of the resolution or that the resolution is not valid or binding on the Members or class of Members;
 - (f) to anyone because of any error of law or any matter done or omitted to be done by it in good faith in the event of the liquidation or dissolution of a corporation (other than a corporation under its control).

Trustee's right to indemnity

- 20.7 Without prejudice to any right of indemnity given by law to trustees and subject to this Deed, the Trustee shall be indemnified out of a Fund in respect of all liabilities, losses, costs, damages and expenses incurred by the Trustee in performing any of its duties or exercising any of its powers, authorities or discretions under this Deed in relation to that Fund.

Dealings with the Trust

20.8 Subject to **clause 20.25**, none of the:

- (a) Trustee;
- (b) directors or officers of the Trustee;
- (c) Related Corporations of the Trustee;
- (d) shareholders of the Trustee or any such Related Corporations; or
- (e) directors or officers of any such Related Corporation,

is prohibited from:

(A) at any time:

- (I) contracting with;
- (II) acting in any capacity as representative or agent for;
- (III) entering into any financial, banking, agency or other transaction with,

any other of them, any Member or any corporation any part of whose shares form part of the Trust or a Fund; or

(B) being interested in any contract or transaction referred to in paragraph (A).

None of the persons mentioned above is liable to account to any other or to the Members for any profits or benefits (including, without limitation, bank charges, commission, exchange brokerage and fees) derived or in connection with any contract or transaction referred to in paragraph (A).

20.9 **Clause 20.8** only applies if the relevant person, in connection with the action, contract or transaction, acts in the utmost good faith to all Members.

20.10 Subject to **clause 20.25**, no person who is or was a director or officer of either the Trustee or any Related Corporation of the Trustee is prohibited from becoming a Member.

Signatures

20.11 The Trustee is entitled to rely on the validity of any signature on any instrument or document (including without limitation any Application, any nomination of a Reversionary Beneficiary, any Binding Nomination, Non-Lapsing Nomination or Non-Binding Nomination, any Switching Request, any request to redeem, or any commutation direction) unless the Trustee has reason to believe that the signature is not genuine.

Legal proceedings

20.12 The Trustee may bring legal proceedings to obtain or recover money that is payable to the Trustee or to obtain or recover any Asset. The Trustee may abandon, settle, compromise or release any such action, suit or proceeding as it considers desirable.

20.13 The Trustee may institute, prosecute, defend or otherwise appear in any action, suit or other proceeding in any Court or Tribunal in respect of any matters touching or concerning any Asset, this Deed, a disclosure document for the Trust, a Division or a Fund. All costs and disbursements incurred by the Trustee (including costs for obtaining advisory opinions) in anticipation of or in connection with any such action, suit or proceeding and all costs and disbursements incurred by the Trustee in obtaining any legal advice or opinions concerning or relating to the interpretation and construction of this Deed or in relation to any matter arising in relation to the administration of the Trust or a Fund are to be deducted from and paid out of the relevant Fund except where the action, suit or proceeding arises out of the default, neglect, breach of trust or breach of duty of the

Trustee and there is a determination that there is a default, neglect or breach of trust or breach of duty by the Trustee. The Trustee need not commence or defend any action, suit or proceedings (except where the action, suit or proceedings relates to negligence or breach of trust or duty on the part of the Trustee) unless it is satisfied that it will not incur any personal liability by so doing.

Disclosure of information

20.14 Subject to this Deed, the Trustee is not (unless ordered so to do by a court of competent jurisdiction) required to disclose to any Member any confidential, financial or other information obtained by the Trustee in connection with the Trust or any Fund.

Trustee not bound to make apportionment

20.15 The Trustee is not bound to make any apportionment of the Assets of a Fund and must hold the whole of the Trust for the time being as one trust fund on the trusts of this Deed.

Registration and holding of investments

20.16 The Trustee has the right to have Assets which are capable of being registered vested in officers of the Trustee nominated by it but only such Assets as the Trustee is precluded by the constitution of the issuer from holding in its own name or to have any documents of title in relation to an Asset of which the Trustee is the registered holder or is otherwise the legal owner held in custody by any person who is entitled under the Superannuation Laws to be a custodian of the Asset. If the Trustee exercises any rights referred to in this clause the Trustee remains liable for any act or omission of the relevant officer or custodian as if the act or omission was an act or omission of the Trustee.

Appointment of Custodians

20.17 The Trustee may, subject to its covenants in this Deed and subject to the Superannuation Laws, from time to time appoint in relation to each or any of the Funds any one or more corporations to perform all or any of the following functions in the name of the Trustee or in the name of the Custodian in relation to any of the Assets of a Fund:

- (a) purchase or sell Assets and execute all transfers and assurances necessary for that purpose;
- (b) receive and hold on behalf of the Trustee any Asset and any document of title relating to it in safe custody;
- (c) receive all income on behalf of the Trustee arising from any Asset;
- (d) procure registration of any registrable Asset;
- (e) hold and disburse moneys in the name of the Trustee or the Custodian at the direction of the Trustee; and
- (f) perform all actions incidental to any of the above powers.

20.18 A Custodian may with the approval of the Trustee appoint any corporation to act as a sub-custodian provided that corporation has net tangible assets of not less than the greater of:

- (a) \$5million (or its equivalent); and
- (b) the amount for the time being prescribed for the purposes of sub-paragraph 123(1)(b)(i) of the Superannuation Act (or its equivalent).

20.19 The Trustee may, by the terms of any appointment under **clause 20.17**, insert such provisions for the protection and convenience of those dealing with the Custodian as it thinks fit. If the Trustee appoints a Custodian the Trustee remains liable for any act or omission of the Custodian as if the act or omission was an act or omission of the Trustee. The Trustee shall maintain a system to monitor arrangements with and the activities of the Custodian including the provision for the annual review of those arrangements.

20.20 The Trustee is responsible for payment of the fees and expenses of a Custodian but is entitled to be reimbursed out of the relevant Fund in respect of those fees and expenses subject to a maximum in any Financial Year of 1% of the Value of the Assets of the relevant Fund under the control of the Custodian. If the aggregate of the fees and expenses of a Custodian exceeds the above maximum in any Financial Year the excess is to be paid by the Trustee from its own funds.

20.21 Any Custodian appointed under **clause 20.17** must:

- (a) be a corporation which is permitted under the Superannuation Laws to perform custodial functions in relation to the Asset in respect of which it is appointed;
- (aa) be independent of the Trustee;
- (ab) be a corporation carrying on (or a wholly owned subsidiary of a corporation carrying on) the business of banking or the business of a trustee company, or both;
- (ac) have shareholders' funds of at least \$100 million, or (where the Custodian does not have that amount of shareholders' funds) shall be a wholly owned-sub subsidiary of some other corporation which has that amount of shareholders' funds and which has guaranteed to the Trustee the due performance of the duties and obligations of the Custodian; and
- (b) agree to be bound by the terms of this Deed insofar as the terms are applicable to it and accept the non-exclusive jurisdiction of the courts of the State of New South Wales for the purposes of any action, suit or proceeding in respect of any matter relating to or arising out of its appointment.

Provision of information to authorities

20.22 The Trustee may provide all information in its possession regarding a Member and the interest of a Member in the Trust and any Fund to such statutory or governmental agencies or authorities as shall be entitled to require the provision of such information.

No limitation on Trustee's duty of care and indemnity

20.23 Nothing in this **clause 20** or elsewhere in this Deed limits the Trustee's obligations arising from the covenants mentioned in **clause 20.25** and nothing in this **clause 20** shall affect the operation of the provisions of any statute prescribing the circumstances under which the Trustee may obtain relief from breach of trust.

Indemnity for Trustee's directors

20.24 To the extent permitted by the Superannuation Act, each person who is or was at any time a director of the Trustee shall be indemnified out of a Fund offered in the Allocated Pension and Term Allocated Pension Division in respect of any liability incurred in relation to that Fund while acting as a director of the Trustee.

No limitation for negligence

20.25 Nothing in this **clause 20** shall limit the liability of the Trustee to Personal Retirement Division Members or persons claiming through them for neglect, default, breach of duty or breach of trust in relation to the Personal Retirement Division.

21. Trustee's covenants

21.1 The Trustee covenants, subject to any exemption or modification granted or made under the Superannuation Laws, that:

- (a) it will comply with the covenants which this Deed is taken to contain by the Superannuation Act;

- (b) it will use its best endeavours to ensure that the Trust operates as a complying superannuation fund in relation to each year of income during the term of the Trust;
- (c) it will duly and properly observe and perform all of its obligations under this Deed; and
- (d) subject to this Deed and section 53(4) of the *Trustee Act 1925* (NSW) it will retain each Fund in safe custody and ensure that the relevant Fund is vested in the Trustee and shall hold it as trustee for the holders of the Units in the relevant Fund upon the terms of this Deed;
- (e) it will strive to carry on and conduct its business in a proper and efficient manner and ensure that the undertaking, scheme or enterprise to which this Deed relates is carried on and conducted in a proper and efficient manner;
- (f) it will not create issue or sell any Unit otherwise than at a price calculated or determined in accordance with the provisions of this Deed;
- (g) it will comply with the requirements of the Superannuation Act regarding any Contribution received from an applicant pending the issue of Units to that applicant or the refund of the Contribution to the applicant;
- (h) it will make, and at all times maintain, adequate arrangements to ensure that it can comply with its obligations under **rule 7.1 of Schedule 1**;
- (i) it will perform its functions and exercise its powers under this Deed in the best interests of all Members and not in the interests of the Trustee if those interest are not the same of those of Members generally;
- (j) it will treat Members of the same class equally and will treat Members of different classes fairly;
- (k) it will ensure that any notice convening a meeting of Members contains adequate notice of:
 - (i) any matters to be considered at the meeting of which it is aware; and
 - (ii) any resolutions to be put at the meeting of which it is aware; and
 - (iii) a summary of information relating to those matters and resolutions that is relevant to the decision of a Member on how to vote at the meeting;
- (l) it will exercise all due diligence and vigilance in carrying out its functions and duties and in protecting the rights and interests of the Members;
- (m) it will use its best endeavours to ensure that a Member's benefits:
 - (i) are only paid in a manner permitted by the SIS Regulations;
 - (ii) are not paid except when, and to the extent, that the Trust is required or permitted under the SIS Regulations to pay them; and
 - (iii) are paid when, and to the extent that, the Trust is required under the SIS Regulations to pay them;
- (n) it will ensure that all payments to be made by a Fund or Funds are reasonably and properly incurred by the Trustee and that all remuneration payable under this Deed has been calculated in a fair manner;
- (o) any of the persons authorised by it to perform its powers or functions under this deed will duly observe and perform the covenants and obligations of this Deed in the same manner as is required of the Trustee and that it will indemnify each Fund against all loss or

damage to that Fund or the Members holding Units in that Fund, which may have been incurred or sustained in connection with, or arising out of any breach or default by such persons in the observance and performance of such covenant or obligation;

- (p) it will not accept a payment or other benefit in relation to retirement from office that has not been approved by the votes of Members holding 50% or more of the value of the Units in Issue;
- (q) at any meeting of Members, in relation to a resolution on which a person is not entitled to vote under **clause 25.22**, the Trustee will not take into account the vote of that person;
- (r) the Trustee will within 21 days after an application, being an application by not less than 50 or one-tenth in number (whichever is the less) of the Members, is delivered to the Office, by sending notice by post of the proposed meeting at least 10 Business Days before such proposed meeting to each Member at his last known address, summon a meeting of Members for the purpose of either or both of the following:
 - (i) laying before the meeting the last audited statement of accounts for the Trustee;
 - (ii) giving to the Trustee, directions:
 - (A) the terms of which are set out in the notice of the meeting; and
 - (B) that the meeting thinks appropriate to be given,

whether or not the directions relate to the last audited statement of accounts of the Trustee PROVIDED THAT this provision does not entitle the Members to give, or obliges the Trustee to give effect to, any direction to which the Trustee must not be subject under the Superannuation Laws;

- (s) on not less than two occasions during the currency of any offer document, the Trustee will procure its auditors to conduct normal audit tests and to report to the Trustee whether or not the accounting and other records kept by the Trustee in relation to the Trust comply with in a period of such duration as is reasonable in the opinion of the auditors to render the making of the statement reasonable in the circumstances;
- (t) it will comply with the requirements of the Superannuation Act in relation to the payment of commission or brokerage in respect of any Application;
- (u) it will lay the latest audited statement of accounts of the Trust before a meeting convened in accordance with paragraph (r) above;
- (v) it will issue to a Member, on request by that Member:
 - (i) a written statement setting out:
 - (A) the number and value of Units held by the Member as at the expiration of the day of the request;
 - (B) the number and value of Units held by the Member on the commencement of the first day of the Financial Year during which the request is made;
 - (C) the number and value (calculated as at the time of issue) of Units which have been issued to the Member since the first day of the Financial Year in which the request is made;
 - (D) the number and value of Units held by the Member and redeemed or switched during that period;
 - (E) the total amount of capital growth and income allocated to the Member during that period; and

- (ii) such other information as the Member may be entitled under the Superannuation Laws to obtain on request;
- (w) within two months after the end of the Financial Year the Trustee shall issue to each Member a written statement setting out:
 - (i) the number and value of Units held by the Member as at the expiration of the last day of the Financial Year to which the statement relates;
 - (ii) the number and value of the Units held by the Member on the commencement of the first day of the Financial Year to which the statement relates;
 - (iii) the number and value (calculated at the time of issue) of the Units which have been issued to the Member during the Financial Year to which the statement relates;
 - (iv) the number and value of Units held by the Member held by the Member and redeemed or switched during the Financial Year to which the statement relates;
 - (v) the total amount of capital growth and income allocated to the Member during the Financial Year to which the statement relates,

and shall be signed on behalf of the Trustee, in such a manner as the Trustee may from time to time determine; and
- (x) the Trustee shall not borrow any monies nor charge or mortgage any Asset of a Fund offered in the Personal Retirement Division.

22. Retirement of Trustee

Compulsory retirement

22.1 The Trustee covenants subject to the Superannuation Laws that it will retire from the Trust in any of the following events, namely:

- (a) if it shall go into liquidation (except for the purpose of amalgamation or reconstruction or some similar purpose) or if a receiver or a receiver and manager shall be appointed of the undertaking of the Trustee or any part thereof and is not removed or withdrawn within 30 days of the appointment or if it ceases to carry on business; or
- (b) if the Trustee ceases to hold an RSE Licence (as defined in the Superannuation Act); or
- (c) if Members holding Units having a value of 50% or more of all Units in Issue resolve at a meeting that the Trustee should be removed as the trustee of the Trust.

On its retirement under this sub-clause the Trustee shall appoint in writing some other person who holds an RSE Licence (as defined in the Superannuation Act) to be the trustee of the Trust.

Voluntary retirement

22.2 The Trustee may retire as trustee of the Trust upon the Trustee appointing in its stead a person who holds an RSE Licence (as defined in the Superannuation Act) as a new trustee of the Trust.

Vesting the Trust in new trustee

22.3 The Trustee shall on retirement from the Trust vest the Trust in the new trustee and shall deliver to such new trustee all books, documents, records and other property whatsoever relating to the Trust.

Release of Trustee

22.4 The person so appointed shall execute a deed in such form as the Trustee may require whereby such person shall undertake to the Members jointly and severally all the obligations of the retiring trustee hereunder and thereupon, the retiring trustee shall be absolved and released from all future obligations hereunder in relation to the Trust and from the date thereof the new trustee shall and may thereafter exercise all the powers and enjoy all the rights and shall be subject to all duties and obligations of the Trustee hereunder in relation to the Trust as fully as though such new trustee had been originally named as a party hereto.

Discharge of Trustee

22.5 The new Trustee shall be entitled to settle with the retiring Trustee the amount of any sums payable by or to the retiring Trustee under the provisions hereof and to give or accept from the retiring Trustee a discharge in respect thereof.

Change of name of Trust

22.6 Notwithstanding any other provision of this Deed, in the event of the retirement or removal of State Super Financial Services Australia Limited or a related body corporate (within the meaning of section 50 of the Corporations Act) of State Super Financial Services Australia Limited in relation to the Trust the Trustee and any new trustee shall (if so requested by State Super Financial Services Australia Limited) immediately do and execute or join with State Super Financial Services Australia Limited in doing and executing all acts, matters, things and documents necessary or required to change the name of the Trust to some name not including the words 'State Super' or 'StatePlus' and to immediately transfer or assign to State Super Financial Services Australia Limited or surrender and cancel any name including those words and registered under the *Business Names Act 2002* (NSW) and amendments (or under any law of any State or Territory of the Commonwealth of Australia that corresponds with that Act) in relation to the Trust and those Funds.

23. Fees and Remuneration

23.1 Trustee's Fee – Personal Retirement Division and Allocated Pension and Term Allocated Pension Division

The Trustee shall be entitled to receive and retain for its own use and benefit out of the Personal Retirement Division and the Allocated Pension and Term Allocated Pension Division by way of remuneration for managing and administering the relevant Fund a fee calculated in accordance with the Schedule applicable to that Division or, if not so specified in that Schedule, calculated at a rate not exceeding the rate of:

- (a) in relation to a Fund offered in the Personal Retirement Division, 1.5% per annum of the Net Asset Value of the Fund; and
- (b) in relation to a Fund offered in the Allocated Pension and Term Allocated Pension Division, 2% per annum of the Net Asset Value of the Fund.

Such remuneration shall be calculated for each day of each month and shall be paid in arrears on the first Business Day following the end of each month or at such other times as may be determined by the Trustee.

23.1A Trustee Fees – Tailored Super Division and Flexible Income Division

- (a) The Trustee shall be entitled to charge the following fees in the Tailored Super Division and the Flexible Income Division:
 - (i) an administration fee of up to 2% per annum of the Member's Account Balance; and

- (ii) an investment fee per Fund of up to 2% per annum of the value of the Member's Account invested in the Fund.
- (b) Subject to the Superannuation Laws, the Trustee may, in its absolute discretion, increase up to the limits set out in paragraph (a), waive, suspend or reduce any administration fee or investment fee in relation to a Member.

23.1B Adviser Remuneration – Tailored Super Division and Flexible Income Division

Subject to the Superannuation Laws, if a Member in the Tailored Super Division or the Flexible Income Division consents to the payment of remuneration from their Account in that Division for the provision of Adviser Services to the Member, the Trustee may deduct such adviser remuneration as it determines from time to time from the Member's Account and pay it to the adviser.

23.2 DELETED

23.3 Switching Fee

The Trustee shall be entitled to charge a Member in respect of a Switching Request a switching fee of \$100, which fee shall be increased on 1 July in each year commencing on 1 July 1994 in the same proportion as the increase (if any) during the previous 12 months in the Consumer Price Index.

23.4 Contribution splitting fees

The Trustee may also impose contribution splitting fees in accordance with **rule 3.8 of Schedule 1** or **rule 3.11 of Schedule 2**.

23.5 Trustee may receive less

The Trustee may:

- (a) choose to receive less than the fees under **clause 23.1** in respect of any Member or all or any interests in a Fund (whether determined by reference to a minimum balance or on another basis and whether for the life of a particular offer document or otherwise); and
- (b) pay (from its own resources) a Member any amount which in its discretion it determines by way of offset or rebate of those fees.

24. Register of Members

Trustee to maintain Register

24.1 The Trustee covenants that it will keep and maintain an up-to-date register of Members and, subject to **clause 24.4**, that it will make the Register available for inspection without charge to the Auditor and any Member at all times when the Office is open for business to the public. There shall be entered in the Register in respect of each Member:

- (a) the name and current residential address of the Member as notified to the Trustee by the Member;
- (aaa) the Division to which the Member belongs;
- (aa) if the Member is an Allocated Pension and Term Allocated Pension Division Member, the Category or Categories to which the Member belongs;
- (b) the date of issue and the number and Class of any Units in Unitised Funds issued to the Member in relation to each Category or Division of membership;

- (ba) the date of issue and the amount issued to the Member in Non-Unitised Funds in relation to each Category or Division of membership;
- (c) the date of redemption of any Units held by the Member in Unitised Funds and the number and Class of the Units so redeemed in relation to each Category or Division of membership;
- (ca) the date of redemption of any interests held by the Member in Non-Unitised Funds and the amount so redeemed in relation to each Category or Division of Membership;
- (d) the date on which the name of the Member was registered in the Register as a Member;
- (e) the date at which the Member ceased to be a Member;
- (f) the date of birth of the Member as notified to the Trustee by the Member; and
- (g) any other details as the Trustee shall think fit or may be required under the Superannuation Laws to enter in the Register.

The Trustee may engage any individual or corporation whose ordinary business is or includes the maintenance of share or similar registers to maintain the Register. The engagement of any such individual or corporation does not relieve the Trustee from its obligations under this Deed and the Trustee at all times remains liable for keeping and maintaining the Register.

Location of Register

24.2 The Register shall be established and maintained at the Office.

Change of details of Members

24.3 Any change of name or residential address on the part of any Member shall be promptly notified to the Trustee who shall alter the Register accordingly.

Inspection of Register and obtaining copies of Register

24.4 The Trustee need not allow inspection of the Register or any part thereof by the person making the request except where:

- (a) the person seeking inspection only wishes to inspect that part of the Register that provides particulars of that person in the Register; or
- (b) the Trustee agrees to enter into a contract with each person by whom or on whose behalf the application is made, signed by and setting out the name and address of every such person, to the effect that inspection of the Register or any part thereof will not be used for any purpose other than the purpose of :
 - (i) calling a meeting of Members; or
 - (ii) notifying a Member of a matter relating to the carrying out by the Trustee of its functions and duties under the provisions of this Deed;

and any copy of the Register or part thereof obtained pursuant to that inspection will not be made available to any person other than a party to the contract; and

- (iii) a contract to that effect is entered into; or
- (c) (i) a person seeks inspection of the Register and agrees to enter into a contract to the effect set out in **clause 24.4(b)**; and
- (ii) the Trustee does not agree to enter into a contract to that effect.

- 24.5 A person may obtain a copy of the Register or any part of the Register PROVIDED THAT the Trustee need not furnish a copy of the Register or any part thereof to the person making the request except where:
- (a) the person making the request wishes to obtain only that part of the Register that provides particulars of that person; or
 - (b) the Trustee agrees to enter into a contract with each person by whom or on whose behalf application is made, signed by and setting out the name and address of every such person, to the effect that the copy of the Register or any part thereof will not be made available to any person other than a party to the contract and will not be used by that last mentioned person for any purpose other than a purpose referred to in **clause 24.4(b)**; or
 - (c) a contract to that effect is entered into; or
 - (d)
 - (i) a person makes a request and agrees to enter into a contract to the effect set out in **clause 24.5(b)**; and
 - (ii) the Trustee refuses to enter into a contract to that effect.

Correctness of Register

- 24.6 Subject to the Superannuation Laws, nothing in this Deed affects the status of the Register as the only authentic and correct record of the interest in the Trust held by a Member.

No obligation to enter details of trusts on register

- 24.7 Subject to the provisions of any statute, the Trustee shall not be obliged to enter on the Register notice of any trust express implied or constructive in respect of any Units in Unitised Funds or interests in Non-Unitised Funds, but is not hereby prevented from so doing.

Notice of other claims, interests etc in Units

- 24.8 The Trustee shall be entitled to recognise the Member or his Legal Personal Representative as the absolute owner of the an interest in the Trust recorded in the Member's name on the Register and the Trustee shall not, save as ordered by a court of competent jurisdiction, be bound to take notice of any trust or equity affecting any interest or the rights incidental thereto. The receipt of such Member or Legal Personal Representative for any moneys payable to him under this Deed shall be a good discharge to the Trustee.

25. Meetings of members

Convening of meeting

- 25.1 The Trustee may at any time and the Trustee shall on receipt of a requisition of Members in accordance with **clause 25.2**, convene a meeting of Members.

Requisition for meeting

- 25.2 The Trustee shall, if it receives a written requisition signed by not less than 50 or one-tenth in number (whichever is the less) of the Members, summon a meeting of Members. Such requisition for a meeting 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 delivered to the Trustee at the Office and may consist of several documents in like form each signed by one or more of the requisitionists. If the Trustee does not within 21 days from the date of the requisition being delivered duly proceed to convene a meeting the requisitionists or a majority of them in value may themselves convene the meeting but any meeting so convened shall not be held after three (3) months from the date of such delivery. Any meeting convened under this clause by the requisitionists shall be convened in the same manner as nearly as possible as that in which meetings are to be convened under **sub-clauses 25.1, 25.3 and 25.4** by the Trustee.

Notice of meeting

25.3 Subject to **clause 32.4**, not less than 10 Business Days' notice shall be given of any meeting of Members. The notice convening a meeting of Members shall specify the place day and hour of meeting and the general nature of the business to be transacted and containing adequate notice of the matters to be discussed at the meeting, any resolutions to be put at the meeting and a summary of information material to a Member's decision on how to vote shall be given prior to any meeting of the Members. Such notice shall be given by the party convening the meeting to all Members, the Trustee and the Auditor. The accidental omission to give such notice to or the non-receipt of a notice of meeting by a Member shall not invalidate the meeting. Any director secretary officer solicitor or auditor of the Trustee may attend any meeting of Members and all such persons shall be entitled to speak.

Quorum

25.4 No business shall be transacted at any such meeting unless a quorum is present when the meeting proceeds to business. The quorum necessary for a meeting shall (subject to the Superannuation Laws) be not less than 5 persons holding or representing by proxy at least ten per centum (10%) of Units in Issue in each Unitised Fund and interests in each Non-Unitised Fund. If within fifteen minutes from the time appointed for any meeting, a quorum is not present the meeting shall:

- (a) if the meeting was convened upon a requisition pursuant to **clause 25.2**, the meeting shall be dissolved; and
- (b) in any other case, the meeting should stand adjourned for such period as the chairman shall direct.

At such adjourned meeting the Members present in person or by representative or proxy (whatever their number and whatever the value of their interest in the Trust) shall form a quorum.

Chairman of meeting

25.5 Subject to the Superannuation Laws, the person (if any) nominated in writing by the Trustee shall be entitled to take the chair at every meeting of Members and if no such person is nominated or if at any meeting the person nominated shall not be present within fifteen minutes after the time appointed for holding the meeting, the Members present shall choose one of their number to be chairman.

Voting procedure

25.6 Every question submitted to a meeting of the Members shall be decided by a show of hands unless a poll is properly demanded as hereinafter mentioned or is required by law or by this Deed to be decided by poll and in the case of an equality of votes the chairman shall both on a show of hands and at a poll have a casting vote in addition to the vote or votes (if any) to which he may be entitled as a Member.

Value of Members' votes

25.7 Subject to the Superannuation Laws, a Member is entitled to attend and vote at any meeting of Members in person or by proxy, and 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 who is present in person or by proxy shall have one vote for each of his or her Units (other than any part Unit) in Unitised Funds and one vote for \$1.00 invested in Non-Unitised Funds.

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

Voting on a poll

25.9 On a poll, votes may be given either personally or, subject to the Superannuation Laws, by proxy.

Instrument appointing proxy

25.10 The instrument appointing a proxy shall be in writing under the hand of the appointer or of his attorney duly authorised in writing.

Who may act as proxy

25.11 Any person, including the Trustee, may act as a proxy whether or not he is a Member.

Time for deposit of proxy

25.12 The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed shall be deposited with the Trustee not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote and in default the instrument of proxy shall not be treated as valid.

Form of proxy

25.13 An instrument appointing a proxy may be in the following form or in any other form which the Trustee shall approve.

I,
of
being a Member hereby appoint
of
or failing him,
of
as my proxy to attend on my behalf at the meeting of the Members to be held on the day of
and at any adjournment thereof.

Signed at by me this day of ' '

- The proxy is to vote or/against the resolution(s).
- strike out whichever is not desired. (Unless otherwise instructed, the proxy may vote as he thinks fit).

Validity of vote given by proxy

25.14 A vote given in accordance with the terms of an instrument of proxy shall be 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 as aforesaid shall have been received by the Trustee before the commencement of the meeting or adjourned meeting at which the proxy is used.

Method of voting and chairman's declarations

25.15 At any meeting of the Members, unless (before or on the declaration of the result of the show of hands) a poll is demanded by ten Members holding between them (or representing by proxy) not less than 20,000 Units in Unitised Funds, \$20,000 invested in Non-Unitised Funds or a combination of the two or as required by this Deed or the Superannuation Laws every question submitted to a meeting of Members shall be decided by a show of hands. If a poll is demanded, the resolution shall be decided by a majority of the votes given on such poll. Unless a poll is so

demanded, a declaration by the chairman that a resolution has been carried or carried by a particular majority shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution. The demand for a poll may be withdrawn.

Demand for a poll

25.16 If at any meeting a poll is demanded as aforesaid, 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 but a poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded.

Adjournment of meeting

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

Resolutions binding

25.18 A resolution passed at a meeting of the Members duly convened and held in accordance with this Deed shall be binding upon all Members whether present or not present at such meeting and each of the Members and (subject to the Superannuation Laws) the Trustee shall be bound to give effect thereto accordingly, but the Trustee shall not be liable for anything done or omitted to be done by reason only of its following that direction.

Meeting may sanction alteration

25.19 Without limiting the provisions of **clause 32** or the rights or discretions therein conferred, a meeting of Members shall have the power by Special Resolution to sanction or assent to any alteration addition modification or cancellation proposed by the Trustee of or to any of the covenants or provisions of this Deed and to authorise the Trustee to concur in and execute any supplemental trust deed embodying any such alteration addition modification or cancellation.

Minutes to be kept

25.20 Minutes of all resolutions passed and the proceedings of every meeting of Members shall be made and duly entered in a book to be provided for that purpose by the Trustee and any such minute as aforesaid if purporting to be signed by the chairman of the meeting at which such resolutions were passed or proceedings took place or by the chairman of the next succeeding meeting (if any) of Members shall be conclusive evidence of the matters therein stated and until the contrary is proved every such meeting in respect of the proceedings of which minutes have been made shall be deemed to have been duly held and convened and all resolutions passed thereat to have been duly passed.

Class meetings

25.21 The provisions of **clause 25** relating to meetings of Members shall apply with necessary changes to any separate meeting of Members who hold interests in a particular Division or Fund or who belong to a particular Category.

25.22 Each Personal Retirement Division Member who is an associate of the Trustee covenants that he or she will not exercise a right to vote attached to Units in a Unitised Fund or interests in a Non-Unitised Fund held by or on behalf of it in relation to a resolution:

- (a) calling for the retirement of the Trustee; or
- (b) to approve a payment or other benefit to the Trustee in relation to the retirement from office; or

- (c) to increase the remuneration of the Trustee.

26. Collections and payments

Trustee to collect income

- 26.1 The Trustee shall collect and receive all income of a Fund.

Trustee to pay liabilities

- 26.2 The Trustee shall pay out of a Fund all costs, charges and expenses and other amounts that are payable out of the Fund in accordance with the provisions of this Deed.

Provision for outgoings

- 26.3 The Trustee may make such provisions as it thinks fit for meeting outgoings to be paid pursuant to this clause.

Reserves

- 26.4 The Trustee may set aside out of the gross income of the Trust such sums as it thinks fit to the credit of a reserve or reserves for the purposes of meeting contingencies or for such other purposes as the Trustee may in its absolute discretion think conducive to the interests of the Members who hold Units or an interest in that Fund. The Trustee may invest the sum so set aside and the provisions of this Deed relating to the investment of that Fund shall apply to the investment of such sums.

Operational Risk Reserve

- 26.4A Without limiting the generality of **clause 26.4**, the Trustee shall establish and maintain as provided for in this clause an account herein referred to as the Operational Risk Reserve. The Operational Risk Reserve may be invested in one or more Funds in one or more Divisions, as determined by the Trustee from time to time.
- 26.4B There shall be credited to the Operational Risk Reserve such amounts (if any) as determined by the Trustee from time to time in accordance with a policy determined by the Trustee in relation to the operation of the Operational Risk Reserve and the Superannuation Laws.
- 26.4C There shall be debited to the Operational Risk Reserve such amounts (if any) as determined by the Trustee from time to time in accordance with a policy determined by the Trustee in relation to the operation of the Operational Risk Reserve and the Superannuation Laws.

Capital or income

- 26.5 The question whether any item of receipt or expenditure or surplus or loss or deficiency is on account of capital or income shall be settled by the Trustee (having regard to this Deed, the Tax Act and generally accepted accounting principles and general commercial practice).

Commission

- 26.6 Where any real property investment included in the assets of a Fund offered in the Allocated Pension and Term Allocated Pension Division is managed purchased or sold by or in conjunction with any person being a licensed real estate agent, whether or not any such agent is related to or associated with the Trustee, fees at rates generally prevailing at the time and properly payable to such agent may be paid out of the relevant Fund as an expense of the Fund in addition to any remuneration payable to the Trustee pursuant to **clause 23**.

Project manager's fee

- 26.7 Where any development, redevelopment, extension, improvement, subdivision or demolition of any real property investment acquired or to be acquired as an Asset requires the services of a project manager and the Trustee has engaged a person or company associated with or related to the Trustee as project manager, then such fee as may be determined by the Trustee may be paid

out of the Fund as an expense of the Fund in addition to any remuneration payable to the Trustee pursuant to **clause 23**.

Investment Manager's fees and expenses

26.8 Where the Trustee has engaged a person as Investment Manager for any Fund, then such fee as may be determined by the Trustee may be paid out of the Fund to the Investment Manager as an expense of the Fund in addition to any remuneration payable to the Trustee pursuant to **clause 23**, and the Investment Manager shall be reimbursed from out of the Fund for any expenses it incurs, to the extent that these would, if incurred by the Trustee, have been recoverable from out of the Fund.

Brokerage

26.9 Where any mortgage investment is negotiated, arranged, purchased or sold by or in conjunction with any person being a licensed finance broker, whether or not such broker is related to or associated with the Trustee, fees not exceeding fees payable under the scale authorised by the relevant legislation, or if there is no legislative provision with regard to fees, or authorised scale, then such scale as may be determined by the Trustee, and properly payable to such broker, may be paid out of the relevant Fund as an expense of the Fund, in addition to any remuneration payable to the Trustee pursuant to **clause 23**, or if such fees are payable by the other party to the transaction, shall be paid notwithstanding any such relationship or association with the Trustee.

Recoupment of loss

26.10 If any Fund suffers a loss in any Financial Year, the Trustee may recoup such loss out of the corpus of the relevant Fund or out of the future income of the relevant Fund as it shall from time to time think fit.

27. Reimbursement of Trustee

Reimbursement

27.1 The Trustee, in addition to its remuneration under **clause 23**, shall be indemnified and entitled to be reimbursed out of each Fund in accordance with **clause 27.2** in respect of all costs, charges and expenses which it may incur in relation to first, the matters set out in paragraph (a) below, and, secondly, the matters set out in paragraph (b) below, and thirdly, the matters set out in the remaining paragraphs of this **clause 27.1** and (to the extent that there are not sufficient funds available to permit reimbursement of costs charges and expenses incurred in relation to all of the following matters), in that order of priority, to the extent that the costs, charges and expenses are reasonable in amount and properly incurred:

- (a) all costs, charges and expenses (including legal costs and expenses on a solicitor and own client basis calculated at the solicitor's usual charge out rate) in connection with:
 - (i) the preparation, lodgement, registration (if required) and distribution of any disclosure document;
 - (ii) the preparation, execution, stamping and approval of this Deed;
 - (iii) the preparation, execution, stamping and approval of any deed modifying this Deed; and
 - (iv) the management or administration of the Trust and each Fund or the exercise of any powers, authorities or discretions or the performance of any duties under this Deed;
- (b) all costs, charges and expenses in connection with:

- (i) establishing and maintaining the Register, the Members' Accounts, the Investment Register and the Valuation Roll and the costs of any person engaged or appointed for any of those purposes;
- (ii) the redemption and switching of amounts between Funds and determining the price for the issue or the redemption of Units in a Unitised Fund or interests in a Non-Unitised Fund;
- (iii) establishing and maintaining the accounting and investment recording systems of the Trust and the Funds; and
- (iv) computer facilities relating to the matters referred to in sub-paragraphs (i), (ii) and (iii) of this paragraph (b),

subject to a maximum amount in the Allocated Pension and Term Allocated Pension Division in each Financial Year of 1.5% of the Net Asset Value of a Fund as at the end of the relevant Financial Year (with any excess beyond this limit being borne by the Trustee).

- (c) all costs, charges and expenses in connection with the actual or proposed acquisition, realisation, variation, disposal or other dealing with any Asset or Liability of the Fund (including without limiting the generality of the foregoing, travel expenses, legal fees, brokerage fees, agents' commissions and stamp duty) whether or not such proposed acquisition, realisation, variation, disposal or other dealing is subsequently effected;
- (d) all costs, charges and expenses in connection with the holding, management, supervision, repair, maintenance, insurance, or custody of any Asset of the Fund;
- (e) the remuneration of the Auditor and any reasonable expenses of the Auditor incurred in the performance of his duties under this Deed;
- (f) all costs, charges and expenses in connection with the preparation and lodgement of taxation returns and of any other return required to be lodged under the Superannuation Laws;
- (g) all Taxes payable in respect of the Trust or the Funds;
- (h) all costs in relation to any borrowing by the Trust or the Funds;
- (i) costs of postage and printing of all cheques, accounts, statements, notices, and other documents required to be sent to all or any of the Members by the Superannuation Laws or this Deed;
- (j) the costs of convening and holding any meeting of Members or any class of Members and of carrying out any directions or resolutions of those meetings;
- (k) costs of any valuation of the Funds or of any Asset;
- (l) all costs, charges and expenses incurred in connection with payments to Members under this Deed including, without limiting the generality of the foregoing, costs, charges and expenses of mailing, postage, electronic fund transfers and stamp duty on cheques;
- (m) expenses incurred in connection with the bank accounts of the Trustee in relation to the Trust or the Funds and bank fees (including but not limited to account keeping fees) and other bank or government charges (including but not limited to bank account debits tax and charges in respect of financial institutions duty) incurred in connection with the keeping of or the transaction of business on the bank accounts of the Trustee in relation to the Trust or the Funds;

- (n) fees and expenses payable to any attorneys, managers, consultants, agents, advisers, experts and other persons engaged by the Trustee in relation to the Trust or the Funds or its administration or management and payable out of the Trust under the provisions of this Deed;
- (o) all costs, charges and expenses in connection with any claim or proceedings arising from any alleged breach or default by the Trustee under this Deed PROVIDED THAT if the Trustee is found by any court to be in breach or default under this Deed, the Trustee shall not be entitled to be reimbursed out of the Trust for any costs, charges and expenses incurred by it as aforesaid;
- (p) all costs, charges and expenses associated with or arising out of the termination of the Trust or the Funds;
- (q) all costs in connection with the retirement or removal of the Trustee under this Deed and the appointment of another in its place;
- (r) any other cost, charge or expense incurred by the Trustee in the proper performance of its duties or the proper exercise of its rights, powers or discretions under this Deed.

Apportionment

27.2 Each Fund shall be liable to reimburse the Trustee for the liabilities, costs, charges and expenses mentioned in **clauses 27.1** in the following manner:

- (a) any liability, cost, charge or expense which in the opinion of the Trustee relates wholly to a particular Fund shall be borne by that Fund alone;
- (b) any cost, charge or expense which in the opinion of the Trustee is able to be apportioned fairly between the Funds in the proportions determined by the Trustee shall be so apportioned and borne by the Funds; and
- (c) all other liabilities, costs, charges and expenses shall be apportioned between and borne by each Fund in the proportion that the Net Asset Value of the Fund bears to the amount which is the aggregate of the Net Asset Values of all Funds on the last day of the month immediately preceding the date on which the relevant liability, cost, charge or expense was incurred provided that any liability, cost, charge or expense incurred or paid during the first month after the date of this Deed shall be apportioned between and borne by the Funds in equal proportions.

28. Deductions

28.1 The Trustee may at its discretion deduct from any amount payable to a particular Member or his Legal Personal Representative under this Deed:

- (a) any Tax which has been paid or is payable by the Trustee on account of or in respect of any amount paid or payable to the Member or his Legal Personal Representative under this Deed (including without limitation any amount of Tax payable by reason of the failure of the Member to provide his tax file number to the Trustee);
- (b) any charge made by a person on account of Tax imposed on the deposit in an account of the Trust of any amount received from the Member or any tax imposed on the Trustee in respect of the receipt by the Trustee of those amounts; or
- (c) any charge made by a person on account of Tax imposed on or in respect of the debiting in an account of the Trust of any amount payable to the Member or his Legal Personal Representative under this Deed.

- 28.2 Any deduction under **clause 28.1** may be made at any time and notwithstanding that it could have been made, but was not made, from moneys previously paid to the Member.
- 28.3 Any deduction under **clause 28.1** shall be applied in reimbursing the relevant Fund for any corresponding amount paid or reimbursed from that Fund or reimbursing the Trustee for the payment of the Tax or charge to the person or authority entitled to it.
- 28.4 Each person who is or was at any time a holder of Units in a Unitised Fund or interests in a Non-Unitised Fund shall indemnify that Fund in respect of any Tax or charge referred to in **clause 28.1** paid or payable in respect of that person by the Trustee, or the Fund or reimbursed out of the Fund to the Trustee and not deducted from any payment to that person, notwithstanding that the person concerned has ceased to be a holder of Units or interests in the relevant Fund and notwithstanding that the Trustee shall have failed to make the deduction from any payment to that person.
- 28.5 In deciding whether to make any deduction under **clause 28.1**, the Trustee shall be entitled to act upon the opinion or advice of or information obtained from any barrister, solicitor or accountant instructed by the Trustee.

29. Auditor

Appointment

- 29.1 Subject to **clause 29.7** the Trustee shall appoint a person who is, or a firm of chartered accountants at least one member of which is, a registered company auditor as auditor of the Trust and each Fund and shall ensure that such appointment contains a condition that the Auditor shall hold office subject to this clause. The first Auditor (in relation to the Trust and all Funds formed whilst the original Trustee remains Trustee) shall be the Auditor General of New South Wales.

Removal by Members

- 29.1A Subject to **clause 29.7**, if at any time the Members resolve that the Auditor be requested to retire as Auditor of the Trust and the Funds by special resolution passed at a meeting of Members of which notice specifying the intention to propose such resolution has been given to the Trustee as well as the Members then the Trustee shall by notice in writing to the Auditor remove him as auditor of the Trust and the Funds and shall subject to **clause 29.1** appoint such other qualified person to be the Auditor as the majority of the Members by ordinary resolution nominates or failing such nomination as the Trustee nominates.

Removal by Trustee

- 29.2 Subject to **clause 29.7**, the Trustee may from time to time remove the Auditor and appoint another or others in his place.

Voluntary retirement

- 29.3 Subject to **clause 29.7**, the Auditor may retire upon giving 1 month's notice of his wish so to do.

Trustee to fill any vacancy

- 29.4 Subject to **clause 29.7**, any vacancy in the office of Fund Auditor shall be filled by the Trustee appointing a qualified firm or person.

Notice of meetings

- 29.5 The Auditor shall be entitled to receive notice of any meeting of Members in any Fund.

Auditor's remuneration

- 29.6 The remuneration of the Auditor shall be fixed by the Trustee and shall be paid by the Trustee out of the relevant Fund in accordance with **clause 27.2**.

Same Auditor

29.7 The Auditor for each Fund and the Trust shall be the same.

30. Accounts, audit and reports to Members

Accounting Records to be kept

30.1 The Trustee shall:

- (a) keep such accounting records as correctly record and explain the transactions and financial position of the Trust and each Division;
- (b) so keep its accounting records so as to enable to be prepared:
 - (i) the accounts and statements in respect of the Trust which the Trustee is required to prepare under the Superannuation Laws, and
 - (ii) the returns which the Trustee is required to give or lodge under the Superannuation Laws;
- (c) so keep its accounting records so as to enable those accounts, statements and returns to be conveniently and properly audited in accordance with the Superannuation Laws.

Where Accounting Records are to be kept

30.2 The Accounting Records shall be kept at the Office or at such other place as the Trustee may from time to time determine.

Accounts

30.3 The Trustee shall, in respect of each Financial Year, prepare the accounts and statements in respect of the Trust which it is required to prepare under the Superannuation Laws.

Audit

30.4 The accounts and statements of the Trust which the Trustee is required to prepare under the Superannuation Laws in respect of a Financial Year shall be audited by the Auditor who shall give the Trustee within the time or period prescribed by the Superannuation Laws a certificate in the form prescribed by the Superannuation Laws relating to those accounts and statements.

Reports to Members

30.5 The Trustee shall give each Member or former Member, as the case may be, within the time or period specified by the Superannuation Laws such reports, statements and information as it may be required to give a Member or former Member, as the case may be, under the Superannuation Laws.

Auditor to have access to accounting records

30.6 The Auditor shall be entitled to have access at all reasonable times to the accounting records and other records (including registers) of the Trust and of each of the Funds, and shall be entitled to require from any officer of the Trustee such information and explanation as he desires for the purposes of the audit.

Audit of Register

30.7 The Auditor shall at least once each Financial Year audit the Register.

31. Period and termination

Period of the Trust

31.1 The Trust shall commence on the Date of Commencement and shall, subject to the provisions hereinafter contained, continue in operation until the expiry of the period of 80 years from the Date of Commencement. This provision is inserted for the purpose of avoiding a breach of the rule of law known as the rule against perpetuities.

Prior closure, termination and suspension of a Unitised Fund

31.2 The Trustee may if it considers it to be in the interests of the Members who hold Units in a particular Unitised Fund listed in **Items 1 to 9 (inclusive) of Appendix A of Schedule 1** and **Items 1 to 9 (inclusive) of Appendix A of Schedule 3** so to do, close, terminate or suspend the Unitised Fund, provided always that the Trustee shall not be bound to determine the Unitised Fund under this clause and shall not be liable for any failure to determine it. The Trustee may impose terms, conditions and restrictions in relation to the closure or suspension of the Unitised Fund.

Notice of termination

31.3 Any termination of a Unitised Fund under **clause 31.2** shall take effect by service on the Members who hold Units in the relevant Unitised Fund of a notice stating the termination of the relevant Fund, the reason therefor and the date thereof.

Provisions relating to termination

31.4 Upon termination of a Unitised Fund listed in Items 1 to 9 (inclusive) of Schedules 1 and 3 by effluxion of time or otherwise, then, subject to the succeeding sub-clauses of this clause, and subject to the Superannuation Laws and to the orders of any relevant Court, the Trustee shall as soon as practicable sell, call in and convert into money or cause to be sold, called in and converted into money the Assets of the relevant Unitised Fund and divide and the proceeds of such sale calling in and conversion less all proper costs and disbursements commissions brokerage fees and other outgoings and all proper provisions for liabilities, among the Members who hold Units in the relevant Unitised Fund at the date of the giving of notice under **clause 31.3** in proportion to the number of Units in that Unitised Fund held by them on that date.

Postponement of realization

31.5 The Trustee may postpone the sale, calling in and conversion of any part of the Assets of a Unitised Fund terminated under **clause 31.2** for such time as it thinks it desirable so to do in the interests of the Members who hold Units in the relevant Unitised Fund and shall not be responsible or liable for any loss attributable to such postponement.

Transfer of investments

31.6 Subject to the provisions of this Deed, the Trustee may if it thinks fit transfer any of the Assets of a Unitised Fund terminated under **clause 31.2** to the trustee of any other trust (whether or not the Trustee is in any way associated with such other trust) on receiving Cash equivalent to the Value of such Asset PROVIDED THAT the Trustee acts in a fiduciary relationship of utmost good faith to all Members who hold Units in of the relevant Unitised Fund.

Retention of outgoings and liabilities

31.7 The Trustee may retain in its hands or under its control (for as long as it thinks fit) such part of a Unitised Fund terminated under **clause 31.2** as in its opinion may be required to meet any outgoings or liabilities (actual or contingent) in respect of the Unitised Fund or any of the Assets comprised therein PROVIDED THAT any Assets or money so retained to the extent that they are ultimately found not to be so required shall remain subject to the trust for conversion and distribution contained in this clause.

Release of Trustee

31.8 Upon the Trust being terminated and distribution of the Trust being made as above provided, the Trustee shall be discharged from further performance of any obligations under this Deed.

Interim distribution of entitlements

31.9 Notwithstanding anything herein contained, upon any termination of the Trust or any of the Funds the Trustee may from time to time and at any time make such interim distributions to Members (or to the holders of Units in the relevant Fund, as the case requires) on account of their respective entitlements under this clause as the Trustee shall determine.

Closure, termination and suspension of Divisions and Funds

- 31.10 Where permitted by the Superannuation Laws, subject to **clause 31.2**, the Trustee may (but is not obliged to) from time to time without the approval of Members:
- (a) close, terminate or suspend the Tailored Super Division, the Flexible Income Division or a Fund;
 - (a) impose terms, conditions and restrictions in relation to the closure, termination or suspension referred to in paragraph (a); and
 - (b) where the Tailored Super Division, the Flexible Income Division or a Fund is terminated:
 - (i) transfer the amount of a Member's Account invested in the terminated Division or Fund to one or more other Divisions or Funds as determined by the Trustee; and
 - (ii) transfer the assets of the Trust allocated to the terminated Division or Fund to one or more other Divisions or Funds by an in specie transfer of assets, by a transfer of cash or a combination of the two.

32. Modification of Deed

- 32.1 Subject to any approval required by law and subject to **clauses 32.2 and 32.3H**, the Trustee may from time to time by deed amend, add to or revoke (**modify**) any provision of this Deed (including this clause and any Schedule) as the Trustee may decide, with such modification being expressed to operate from any date, including prospectively or retrospectively.
- 32.2 Subject to **clause 32.3**, the Trustee shall not modify this Deed unless:
- (a) if the modification affects Personal Retirement Division Members, the modification has been approved in accordance with **clause 32.3A**; and
 - (b) if the modification affects Allocated Pension and Term Allocated Pension Division Members, the modification has been approved by a Special Resolution of those Members.
- 32.3 **Clause 32.2** does not apply to any modification of this Deed if:
- (a) the Trustee reasonably believes that the modification will not adversely affect the rights of Members; or
 - (b) the Superannuation Laws permit or require the modification to be made without the modification being approved or voted on by the Members.
- 32.3A A modification of this Deed is approved by Personal Retirement Division Members in accordance with this **clause 32.3A** if:
- (a) the question whether the modification should be made has been voted on at a meeting of Personal Retirement Division Members; and
 - (b) the Trustee convened the meeting by sending by post, to the last known address of each Personal Retirement Division Member, at least 21 days before the meeting, a notice that set out:
 - (i) the date, time and place of the meeting; and

- (ii) the reason for convening the meeting; and
- (c) the Personal Retirement Division Members who, at the meeting, vote (whether in person or by proxy) on the question hold Units equal in value to at least 25% of the total value of all the Units in Unitised Funds and interests in Non-Unitised Funds that are held by persons entitled to vote on the question; and
- (d) the Personal Retirement Division Members who, at the meeting, vote (whether in person or by proxy) in favour of making the modification hold Units equal in value to at least 75% of the total value of all the Units in Unitised Funds and interests in Non-Unitised Funds held by the Members who vote (whether in person or by proxy) on the question at that meeting.

32.3B For the purposes of **clause 32.3A**:

- (a) a person who is a Personal Retirement Division Member is entitled to vote on a question unless the person is prohibited by this Deed or by the Superannuation Laws from voting on the question;
- (b) the value of a Unit is the price at which the Trustee would have to redeem the Unit if the Trustee were required to do so, pursuant to the covenant contained in **rule 7.1 of Schedule 1**, on the day immediately before the day when the meeting is held.

32.3C If a proposed modification of this Deed would, if made, affect the rights of Personal Retirement Division Members holding one or more particular Classes of Units, then for the purposes of the application of **clause 32.3A** in relation to the modification a reference to Units is a reference to Units in that class or classes.

32.3D A Personal Retirement Division Member who is entitled to vote at a meeting convened under **clause 32.3A** on the question of whether a particular modification to this Deed should be made may, by writing signed by the Member, appoint a natural person as the Member's proxy to vote on the question at the meeting.

32.3E If the proxy or the Personal Retirement Division Member gives the Trustee an instrument appointing the proxy under **clause 32.3D**, at least 2 days before a meeting is held under **clause 32.3A**, and the instrument is still in force at the time of the meeting, the proxy has the same right as the Member to attend and speak at the meeting and vote on the proposal.

32.3F **Clause 32.3A** applies to a vote cast by a proxy at a meeting under **clause 32.3A** as if:

- (a) the proxy held, and the Personal Retirement Division Member did not hold, the interest in the Trust in respect of which the proxy was appointed; and
- (b) if the proxy has been appointed as a proxy of one or more other Personal Retirement Division Members - the proxy in his or her capacity as proxy for one of those Members were a different person from the proxy in his or her capacity as proxy for any other of those Members; and
- (c) if, apart from the effect of **clause 32.3F(a)**, the proxy holds an interest in the Trust - the proxy in his or her capacity as the holder of the last-mentioned interest were a different person from the proxy in his or her capacity as proxy for any Member.

32.3G A meeting convened under **clause 32.3A** must be:

- (a) presided over by:
 - (i) a person appointed for that purpose by Personal Retirement Division Members who are present at the meeting; or
 - (ii) if no person is so appointed - a nominee of the Trustee; and

(b) conducted in accordance with **clause 25**.

32.3H If a modification to this Deed affects Tailored Super Division Members or Flexible Income Division Members, the Trustee shall not modify this Deed unless it reasonably believes that the modification will not adversely alter:

(a) a right or claim to accrued benefits; and

(b) the amount of those accrued benefits,

of such Members, unless otherwise permitted by the Superannuation Laws.

32.4 A supplemental deed to establish a new Fund shall not be regarded as a modification of this Deed for the purposes of this **clause 32**.

32.5 Members shall not be entitled to give any instructions or direction to the Trustee to modify this Deed and any such instruction or direction if given shall not be binding on the Trustee.

33. Limitation of liability of Members

33.1 No Member shall have any obligation personally to indemnify the Trustee or any creditor of the Trustee in respect of any of the liabilities (actual, contingent or otherwise and whether due to any deficiency or not) of the Trustee in relation to, arising from or in connection with the Trust or any Fund whether arising from or by reason of the Member being a Member or the holding of a Unit or interest in any Fund or from any direction or request given to the Trustee by the Members or any one or more of them. The only rights, if any, of indemnity of the Trustee and its creditors shall be limited to the Fund or Funds in respect of which the relevant Liability was incurred. Nothing in this Deed shall constitute the Trustee as the agent of any Member.

34. Notices to Members

34.1 Any notice required to be given to a Member under this Deed shall be deemed to have been duly given if given in writing to the Member by letter addressed to him or her at the Member's address appearing in the Register. Any notice given by post shall be deemed to have been served on the next ordinary business day after the day when it was posted and in proving such service it shall be sufficient to prove that the letter containing the notice was so addressed and posted, and a statement signed by the Trustee that it was so posted on the date mentioned in the statement shall be conclusive evidence of that fact.

35. Payments to members and legal personal representatives

Method of payment

35.1 Any payment by the Trustee to a Member under this Deed may be paid:

(a) by crossed 'non negotiable' cheque made payable to the Member or as the Member may direct and sent through the post to the registered address of the Member or otherwise despatched, delivered or made available to be collected as the Member may from time to time specify; or

(b) by payment to the bank account of the Member nominated in writing by the Member; or

(c) by electronic transfer of funds to the bank account of the Member nominated in writing by the Member; or

(d) in any other manner specified by the Member and agreed to by the Trustee,

and if an attempt is made by the Trustee to make a payment using any of these methods and that attempt is unsuccessful then further attempts may be made, until such time as the payment is successfully effected, using any of the other methods mentioned above.

The Trustee shall not be liable for the non receipt of any payment by a Member if the Trustee has despatched payment in accordance with this **clause 35.1**.

Payments to a Legal Personal Representative or a Guardian

35.2 The Trustee may withhold any payment under **clause 11** to a Legal Personal Representative or **clause 11A** to a Guardian until the production to the Trustee of such evidence as the Trustee may require regarding the status of the person claiming to be the Legal Personal Representative or Guardian (as relevant) and the delivery to the Trustee of such indemnities as the Trustee may require. Payment to a Legal Personal Representative or a Guardian may be made by crossed 'non negotiable' cheque made payable to the Legal Personal Representative or Guardian.

Satisfaction and discharge

35.3 Payment of every cheque, if duly presented and paid, will be a satisfaction of the money payable and a good discharge to the Trustee.

36. Miscellaneous provisions

Retention of documents

36.1 Applications and transmission documents shall be retained by the Trustee, but on the expiration of 7 years from the date of each thereof the same may in the absolute discretion of the Trustee be destroyed.

Binding effect of Deed

36.2 Each Member and all persons claiming through a Member shall be bound by and entitled to the benefit of this Deed as if the Member were a party to this Deed and all Units issued hereunder shall be held upon and subject to the provisions herein contained or implied.

Copies of Deed

36.3 A copy of this Deed and any supplemental deed executed under **clause 32** shall at all times during usual business hours be made available by the Trustee at the Office for inspection by Members.

Proper law

36.4 This Deed shall be construed and take effect in accordance with the laws of the State of New South Wales (**the proper law**) and the enforcement of, construction of and validity of this Deed and all matters affecting the Trust, and the rights or obligations of the parties to this Deed or of any Member, shall be governed by the proper law and be subject to the jurisdiction of the Courts of New South Wales.

Schedule 1 – Personal Retirement Division

1. Application and Definitions

1.1A The provisions of this **Schedule 1** apply only to Personal Retirement Division Members.

1.1 In this **Schedule 1**, unless the context otherwise requires, the following expression shall have the meaning assigned to it:

Contribution Splitting Application means an application, in the form determined by the Trustee from time to time, made by a Personal Retirement Division Member to the Trustee to roll over, transfer or allot an amount of benefits for the benefit of the Member's Spouse, as contemplated by regulation 6.44 of the SIS Regulations, as amended or replaced from time to time.

1.2 DELETED

2. Member investment choice

2.1 Subject to **rules 2.7, 2.8 and 27.2**:

- (a) the Liabilities of a Fund are not to be aggregated with the Liabilities of any other Fund or set off against the Assets of any Fund other than the Fund to which those Liabilities relate; and
- (b) the Trustee must account for the Assets and Liabilities included in each Fund separately from the Assets and Liabilities included in all other Funds.

2.2 The Trustee may accept in respect of each Fund an amount which in relation to an Eligible Person who has applied for Units in the relevant Unitised Fund or interest in the relevant Non-Unitised Fund constitutes an Eligible Payment.

2.2A The Trustee has established the Funds listed in **Appendix A of this Schedule 1** as investment options in the Personal Retirement Division.

2.3 For each Fund listed in **Appendix A**:

- (a) that Fund shall bear the name given to it in **Appendix A**; and
- (b) to the extent that Members' Accounts are invested in a Fund, the rights of those Members (as well as the specific powers and duties of the Trustee relating to the Fund, and the specific limitations or restrictions applicable to the Fund) shall be governed by the provisions relating to the Fund set out in **Appendix A**, in addition to the provisions set out elsewhere in this Deed.

2.4 The Trustee may at any time and from time to time execute a supplemental trust deed pursuant to which:

- (a) the Trustee expresses its intention to create a further investment option in the Personal Retirement Division (**New Fund**); and
- (b) a further item is added to **Appendix A** specifying the name of the New Fund and the provisions that shall apply to the New Fund in addition to the provisions of this Deed.

The Trustee may divide a New Fund into Units or may offer a New Fund on a non-unitised basis.

2.5 Unitised Funds in the Personal Retirement Division shall be divided into Units. A Member shall have an interest in the relevant Unitised Fund equal to his or her Proportional Interest but shall not have any interest in any particular part of the relevant Unitised Fund or in any Asset of that

Unitised Fund, but only such interest in relevant Unitised Fund as a whole as is conferred on a Unit under the provisions contained in this Deed. Except as expressly provided in this Deed, all Units in the relevant Unitised Fund shall confer on their respective holders an equal interest (as between all Members invested in that Unitised Fund) and be of equal value at all times.

- 2.6 Except as provided in this Deed or as permitted by law, a Member of a Fund shall not be entitled to:
- (a) require the transfer to him of any Asset;
 - (b) interfere with or question the exercise or non-exercise by the Trustee of any of the powers, authorities or discretions conferred on it by this Deed or in respect of any Asset;
 - (c) lodge any caveat against any real property investment; or
 - (d) except in the case of the redemption of the Member's Units or interest, or on the termination of the relevant Fund, or otherwise in accordance with the provisions of this Deed, receive any amount from the relevant Fund.
- 2.7 Upon acceptance of a Member's Application to the Personal Retirement Division and on such other occasions as the Trustee may determine, a Member may, subject to the Superannuation Laws and any restrictions from time to time imposed by the Trustee, select the Fund or Funds in accordance with which the amount standing to the credit of Member's Account will be invested.
- 2.8 A Member may vary his or her selection of Funds from time to time in accordance with **rule 9**.
- 2.9 To the extent permitted by the Superannuation Laws, the Trustee may:
- (a) determine one or more default Funds for Members who, for any reason, fail to select a Fund in accordance with **rule 2.7**. Different default funds may apply to different groups or classes of Member and/or kinds of Contributions;
 - (b) determine to terminate the default Fund arrangements for this Division or for one or more groups or classes of Member in this Division.
- 2.10 The Trustee may from time to time specify conditions and restrictions relating to Members' selection of Funds in the Personal Retirement Division and the use of default Funds which must be complied with in order for a selection to be valid, including in relation to:
- (a) the minimum amount that may be invested in a Fund;
 - (b) the time or times, and the frequency in relation to which a Member's selection may be made; and
 - (c) at any time vary any term, condition or restriction without the approval of the Member, subject to the Superannuation Laws.
- 2.11 The investment strategy for each Fund offered in the Personal Retirement Division is:
- (a) in relation to a Fund listed in Items 1 to 4 (inclusive) of **Appendix A**, set out in **Appendix A**; and
 - (b) in relation to any other Fund listed in **Appendix A**, as set out in the disclosure document for the Personal Retirement Division.
- 2.12 The Trustee may vary the investment strategy for any Fund offered in the Personal Retirement Division, provided that the Trustee must not vary its investment strategy for a Fund listed in Items 1 to 4 (inclusive) of **Appendix A** in a manner that Members invested in that Fund would not reasonably expect having regard to information contained in disclosure documents issued in relation to the Personal Retirement Division unless notice is given to those Members within such

period before the variation takes effect as is adequate in the reasonable opinion of the Trustee to enable the Members to dispose of their Units in the relevant Fund. Any variation of the investment strategy for the time being of a Fund shall not constitute an alteration or modification of this Deed.

3. Membership and Contributions

Eligibility

- 3.1 A person shall not be entitled to become a Member of the Personal Retirement Division unless he or she is an Eligible Person.

Contributions

- 3.2 Subject to **rule 4.4**, an Eligible Person may contribute to the Personal Retirement Division of the Trust for or in respect of a Member an Eligible Payment of such amount as the Trustee may accept. Subject to the Superannuation Laws and such terms and conditions as the Trustee may determine from time to time, the Trustee may accept a Contribution from any person into the Personal Retirement Division for the benefit of a Member.

Contribution splitting

- 3.3 Unless a contrary intention appears, words and phrases used in **rule 3.4** to **rule 3.8** have the same meanings as in the SIS Regulations.
- 3.4 Notwithstanding any other provision of this Deed, but subject to the Superannuation Laws, where the Trustee receives a valid Contribution Splitting Application from a Personal Retirement Division Member, the Trustee may in its absolute discretion determine to split Contributions received for the Member during the financial year applicable to the Contribution Splitting Application.
- 3.5 Where the Trustee under **rule 3.4** determines to split Contributions, notwithstanding any other provision of this Deed but subject to the Superannuation Laws, the Trustee may:
- (a) either:
 - (i) if a receiving spouse is not a Personal Retirement Division Member, create a new interest in the Trust in the Personal Retirement Division for the receiving spouse and credit the amount set out in the Contribution Splitting Application to that interest, in which case the Trustee may determine the terms and conditions that will apply to the new interest;
 - (ii) if the receiving spouse already has an interest in the Personal Retirement Division, credit the amount set out in the Contribution Splitting Application to the receiving spouse's existing interest in the Personal Retirement Division; or
 - (iii) transfer or roll over the amount set out in the Contribution Splitting Application to another Benefit Arrangement for the receiving spouse; and
 - (b) adjust the interest of the applicant Personal Retirement Division Member in such manner as it considers appropriate to reflect the splitting of Contributions pursuant to **paragraph (a)**.
- 3.6 The Trustee may from time to time specify conditions and restrictions relating to Contribution Splitting Applications (**Contribution Splitting Guidelines**) which, in addition to the requirements of the Superannuation Laws, must be complied with by the Member and receiving spouse in order for a Contribution Splitting Application to be valid. The Contribution Splitting Guidelines may also set out rules regulating the splitting of Contributions.

- 3.7 The Trustee may vary or revoke the Contribution Splitting Guidelines from time to time in its absolute discretion.
- 3.8 The Trustee may charge reasonable fees in respect of any thing done by the Trustee in relation to the splitting of Contributions under this **rule 3**.

4. Applications

- 4.1 An Application to become a Member of the Personal Retirement Division shall be in such form as the Trustee may from time to time determine, shall be signed by or on behalf of the applicant, shall include or be accompanied by such evidence or information as the Trustee may require and together with such information or evidence shall be lodged with the Trustee at the Office or at such other place as the Trustee may from time to time determine. The Trustee may require any applicant to execute a deed acknowledging that he is aware of the terms of this Deed and agreeing to be bound to the terms hereof as though he were an original party hereto.
- 4.2 The Trustee shall not incur any liability in respect of any action taken or things suffered by it in reliance in good faith upon any information, statement or evidence provided by an applicant in accordance with **rule 4.1**.
- 4.3 The Trustee may in its absolute discretion accept or refuse any Application for the Personal Retirement Division and shall not be bound to give any reason for any such refusal provided that:
- (a) the Trustee shall not accept any Application unless it is in receipt of the applicant's Contribution and unless it is satisfied on reasonable grounds that the applicant is an Eligible Person and that the applicant's Contribution is an Eligible Payment; and
 - (b) the Trustee shall accept or refuse any Application within 30 days following its receipt of the Application or within such shorter period as may be prescribed by the Superannuation Laws.

If an Application is not accepted, the Trustee must return forthwith any money that accompanied the Application without deduction.

- 4.4 The Trustee may determine from time to time the minimum amount that it will accept as a Contribution and the minimum amount which may be invested by an applicant in any particular Fund.
- 4.5 Upon acceptance of an Application for the Personal Retirement Division, the Trustee shall:
- (a) enter the name of the applicant as a Member in the Register; and
 - (b) within 2 months after the Trustee's acceptance of the Application, issue or make available to the relevant Member a Transaction Advice which sets out the following information:
 - (i) the date of acceptance of the Member's Application;
 - (ii) the amount of the Contribution;
 - (iii) the number and Class of the Units in any Unitised Fund issued to the Member; and
 - (iv) such other details as the Trustee shall determine or may be required under the Superannuation Laws to give the Member.
- 4.6 All Contributions shall be paid to the Trustee or a Custodian and held by the Trustee or a Custodian upon and subject to the terms of this Deed.

5. Issue of interest in a Fund

5.1 DELETED

- 5.2 Contributions received for the benefit of a Member (less any deductions in accordance with **rule 5.5**) shall be added in whole or in part to:
- (a) subject to paragraph (b), where a Member has made a selection in accordance with **rules 2.7 and 2.8**, the Member's Application; or
 - (b) where a Member has not made such a selection and a determination of the Trustee of one or more default Funds which is applicable to the Member is in force or the Trustee has determined one or more default Funds for that type of Contribution, the default Fund or Funds applicable to the Member or Contribution.
- 5.3 Whenever any Contribution is added to a Unitised Fund under **rule 5.2**, Units in that Unitised Fund shall be created and issued to the relevant Member. The date at which those Units are created and issued shall be determined by the Trustee. The number of Units so created and issued shall be the number derived after dividing the net amount of the addition by the Issue Price of a Unit in the relevant Unitised Fund. Where the number so derived is not a whole number, the number of Units to be created and issued shall be the nearest whole number of Units plus a part Unit rounded down to two decimal places.
- 5.4 Units created and issued as provided in this rule shall continue in existence until cancelled in accordance with this Deed.
- 5.5 Prior to the creation and issue of any interest in the Trust to a Member in relation to a Contribution received for the benefit of a Member, the Trustee shall deduct or require to be deducted from the Contribution any Tax which is payable by the Trustee or out of that Fund on account of or in respect of the acceptance of the Contribution.
- 5.6 Where at the time of the Trustee's acceptance of a Contribution the Trustee is satisfied that the Contribution will comprise in whole or in part a contribution included in the assessable income of the Trust under the Tax Act (**taxable contribution**) in relation to the year of income in which the Contribution is accepted by the Trustee, the Trustee shall deduct from the Contribution in accordance with **rule 5.5** (in addition to any other deduction required under **rule 5.5**) the amount derived after multiplying an amount equal to the taxable contribution component of the Contribution by the rate of income tax applicable to the relevant Fund for the year of income in which the Contribution is accepted by the Trustee.
- 5.7 Where after the acceptance of a Contribution the Trustee is satisfied that either:
- (a) the Contribution will comprise in whole or in part a taxable contribution in relation to the year of income in which the Contribution is accepted by the Trustee; or
 - (b) the Contribution will comprise in whole or in part a taxable contribution in relation to a subsequent year of income,
- the Trustee shall debit the Member the amount derived after multiplying an amount equal to the taxable contribution component of the Contribution by the rate of income tax applicable to the relevant Fund for either the year of income in which the Contribution is accepted by the Trustee or the year of income in relation to which the taxable contribution is a taxable contribution, as the Trustee may determine. In the absence of a previous deduction from the Contribution on account of the Tax, such debit shall be effected by the Trustee redeeming Units in the Fund or Funds in which the Contribution was invested (and if more than one, in the proportions in which the Contribution was invested) having an aggregate value at the time of the redemption equal to the amount of the debit.
- 5.8 Pending payment of the Tax, any deduction from a Contribution under **rule 5.6** shall be paid into and retained in, and shall accrue for the benefit of, the Fund or Funds in which the Contribution is

to be or was invested and, if the Contribution is to be or was invested in more than one Fund, in the proportions in which the Contribution is to be or was invested.

- 5.9 The Trustee may from time to time create such number of Units in a particular Unitised Fund as may be required to reduce the Issue Price of a Unit in that Unitised Fund to \$1.00 or such other amount (not being less than \$1.00) as the Trustee in its absolute discretion may decide. On the date of creation of any Units under this rule, each Member shall be entitled to the same proportion of the number of Units in the relevant Unitised Fund so created and issued as the number (if any) of Units in that Unitised Fund held by him bears to the total number of Units in Issue in the relevant Unitised Fund immediately prior to the date of creation of those Units. Notwithstanding the foregoing, where the creation of Units under this rule would involve a part Unit in relation to any particular Member, the number of Units which that Member shall be entitled to shall be the nearest whole number of Units plus a part Unit rounded down to two decimal places.
- 5.10 Notwithstanding any other provision contained in this Deed, the Trustee shall not be entitled to hold any Units, unless required or permitted to do so under the Superannuation Laws.
- 5.11 A part Unit no smaller than one hundredth of a Unit may be created and issued under **rules 5.3, 5.9 and 9.6**. The Issue Price and the Redemption Price of a part Unit shall be a pro rata amount of the Issue Price and Redemption Price of a Unit respectively. All references in this Deed to Units shall unless the context otherwise requires include a part Unit. Where a holding of Units comprises more than one part Unit, the Trustee may consolidate those part Units.

6. Superannuation contributions surcharge

- 6.1 The Trustee is entitled to debit a Member any amount paid or to be paid by the Trustee under the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* (Cth) and the *Superannuation Contributions Tax (Imposition) Act 1997* (Cth) on account of or in respect of any Contribution made by or on behalf of the Member.
- 6.2 Any debit of a Member under **rule 6.1** shall be effected by the Trustee redeeming Units held by the Member having an aggregate value at the time of the redemption equal to the amount of the debit.
- 6.3 If the Contribution is invested in more than one Fund, the Trustee may redeem Units in the Funds in which the Contribution is invested in such proportions as the Trustee may in its absolute discretion determine.

7. Benefits

- 7.1 Subject to the Superannuation Laws (and in particular the SIS Regulations) and subject to the provisions of this rule:
- (a) a Member may request the Trustee to redeem all or any of the Member's Units in a Unitised Fund or interest in a Non-Unitised Fund and either have the Redemption Proceeds paid as a lump sum to the Member, transfer the Redemption Proceeds to a different Division or rollover or transfer the Redemption Proceeds to another Benefit Arrangement within the meaning of, and in a manner permitted by, Parts 5 and 6 of the SIS Regulations; and
 - (b) the Trustee must comply with any such request.
- 7.2 By virtue of the SIS Regulations:
- (a) the Trustee must not redeem any Units in a Unitised Fund or interest in a Non-Unitised Fund of a Member unless the Redemption Proceeds are to be paid in a manner permitted by the SIS Regulations;

- (b) the Trustee must not redeem any Units in a Unitised Fund or interest in a Non-Unitised Fund of a Member except when, and to the extent that, the Trustee is required or permitted under the SIS Regulations to pay the Redemption Proceeds; and
- (c) the Trustee must redeem all Units in a Unitised Fund or interest in a Non-Unitised Fund of a Member in a Fund when, and to the extent that, the Trustee is required under the SIS Regulations to pay the Member's benefits in the Trust.

7.3 A Member's request to redeem Units in a Unitised Fund or interest in a Non-Unitised Fund (a request to redeem) shall be in writing, duly signed by or on behalf of the relevant Member and shall be in such form as the Trustee may from time to time prescribe. The Trustee shall upon request make available to any Member copies of its current prescribed form of request to redeem.

In the case of a Member who wishes the whole or part of the Redemption Proceeds payable to him or her to be rolled over or transferred within the meaning of, and in a manner permitted by, the SIS Regulations, his or her request to redeem must include a request to that effect and specify the entity to which the payment is to be made and the amount of the payment. The Member must also complete and execute such documents as may be required under the Superannuation Laws or as otherwise may be required by the Trustee for the purposes of ensuring compliance with the Superannuation Laws.

7.4 The Trustee may redeem all or any Units in a Unitised Fund or interest in a Non-Unitised Fund of a Member for the purposes of transferring the Redemption Proceeds to another Benefit Arrangement within the meaning of and in a manner permitted by Parts 5 and 6 of the SIS Regulations.

7.5 In relation to any redemption:

- (a) Any Units in a Unitised Fund redeemed by the Trustee (whether pursuant to a request to redeem or in order to comply with the SIS Regulations) shall be redeemed at a price per Unit equal to the Redemption Price of a Unit in the relevant Fund. The date at which those Units are redeemed shall be determined by the Trustee;
- (b) The Trustee shall, from time to time, determine a formula to calculate the price at which interests in a Non-Unitised Fund are to be redeemed. Any interests redeemed by the Trustee in a Non-Unitised Fund shall be redeemed in accordance with that formula. The date on which any interests in a Non-Unitised Fund are redeemed shall be determined by the Trustee.

The Trustee may deduct from the gross amount payable on redemption all charges, expenses or disbursements properly incurred by the Trustee and all Taxes paid or payable by the Trustee on or in respect of the redemption including, without limitation, any amount of Tax payable by reason of the failure of the Member to provide his tax file number to the Trustee.

7.6 Subject to the provisions of this Deed and the SIS Regulations, the Redemption Proceeds shall be paid by the Trustee:

- (a) if the Redemption Proceeds are payable to the Member because the Member requests, within 30 days after the Trustee's receipt of that Member's request to redeem;
- (b) if the Redemption Proceeds are payable to the Member because of a requirement of the SIS Regulations, within 30 days after the event which required the Units to be redeemed (or within such other period as may be prescribed by the SIS Regulations);
- (c) if, as a consequence of the death of a Member, Redemption Proceeds are payable to the deceased Member's Legal Personal Representative, as soon as reasonably practicable after

the Legal Personal Representative produces the grant of probate or letter of administration to the Trustee; and

- (d) if, as a consequence of the death of a Member, the Redemption Proceeds are payable to a person other than the deceased Member's Legal Personal Representative, as soon as reasonably practicable after the Trustee receives written evidence of the death and such other documentation as the Trustee may require.

7.7 Within 30 days after the payment of the Redemption Proceeds, the Trustee shall issue or make available to the Member a Transaction Advice which sets out the following information:

- (a) the number and class of Units in a Unitised Fund held by the Member which were redeemed for the purposes of the payment;
- (b) the date the Units were redeemed;
- (c) the Redemption Price applicable to those Units;
- (ca) in relation to an interest in a Non-Unitised Fund which was redeemed:
 - (i) the Non-Unitised Fund to which the interest relates;
 - (ii) the amount which was redeemed; and
 - (iii) the date on which the redemption occurred;
- (d) the number and class of Units in a Unitised Fund and amount in a Non-Unitised Fund, if any, still held by the Member;
- (e) such other information as the Trustee may determine or may be required under the Superannuation Laws to give the Member.

7.8 Where a Member ceases to hold any interest in the Trust on a day other than the last day of the Financial Year, the Trustee shall give that Member as soon as practicable thereafter a written statement giving:

- (a) such information (if any) as the Trustee may be required under the Superannuation Laws to give that Member; and
- (b) such other information as the Trustee considers it appropriate to give the Member.

7.9 Subject to the Superannuation Laws, the Redemption Proceeds payable in respect of a Member must be paid to or at the direction of the Member or, in the case of the death of the Member, in accordance with **rule 8**.

7.10 For the purpose of effecting redemptions, the Trustee shall as and when it considers it appropriate, realise such Assets of the relevant Fund as the Trustee considers appropriate.

7.11 Whenever the Trustee is of the opinion that the Assets of a particular Unitised Fund cannot be liquidated at an appropriate price or on adequate terms, the Trustee shall summon a meeting of the Members who hold Units in that Unitised Fund to consider that opinion and to give by Special Resolution any direction which the meeting thinks fit including whether the relevant Unitised Fund should be wound up or whether redemptions should be permitted and, if so, within what time period. The Trustee may in its absolute discretion comply with the direction or decision of the meeting unless the direction or decision is inconsistent with this Deed or the Superannuation Laws and, if it does comply, it shall not be liable for anything it does or omits to do pursuant to that direction or decision.

- 7.12 Upon their redemption, redeemed Units shall be automatically cancelled and the Trustee shall make an appropriate entry in the Register specifying the number and class of Units which have been redeemed.
- 7.13 If at any time the Trustee forms the opinion on reasonable grounds that any monies deposited with a Fund by any Member do not consist solely of Eligible Payments (and for the purposes of establishing this opinion the Trustee may request the Member to supply such information or evidence as it thinks fit), or that the continued holding of the Units or interest in the relevant Fund by a particular Member may be, or become, prejudicial to the Trust remaining a complying superannuation fund, the Trustee may notify the relevant Member accordingly and, upon the issue of such notice, the relevant Member shall be deemed to have requested the Trustee to cause the Units or interest in the relevant Fund to be redeemed in respect of which that notice was issued; and the provisions of this Deed as to redemptions shall apply thereto (mutatis mutandis) to the intent that upon completion of the redemption, the Trustee shall pay the relevant Member the Redemption Proceeds in respect of the amount redeemed.
- 7.14 Unless the Trustee determines otherwise, a request to redeem shall only be in respect of Units in a Fund having an aggregate redemption value of not less than \$500 unless all of the Units in that Fund held by the Member have an aggregate value of less than \$500, in which event a request to redeem shall be for all such Units.

7A. DELETED

8. DELETED

8A. DELETED

9. Switching

9.1 [Deleted]

9.2 Any request to switch between Funds that is not a Progressive Investment Facility Application (**Switching Request**) shall be in writing duly signed by or on behalf of the relevant Member and be in such form as the Trustee may from time to time require or approve and shall be delivered or posted to the Trustee at the Office or at such other place as the Trustee may from time to time determine.

9.3 [Deleted]

9.4 The Trustee shall effect the switching between Funds set out in any Switching Request that complies with **clause 8 and rule 9.2**, and any conditions or restrictions made pursuant to **clause 8.2**:

- (a) subject to **rule 9.4(b)**, within 30 days after the Trustee's receipt of the request; or
- (b) in relation to a Switching Request to or from a Non-Unitised Fund, within 45 days after the Trustee's receipt of the request.

9.4A [Deleted]

9.4B [Deleted]

9.4C [Deleted]

9.4D [Deleted]

9.5 [Deleted]

- 9.6 Where the number of Units derived from a switch is not a whole number, the number of Units to be created and issued shall be the nearest whole number of Units plus a part Unit rounded down to two decimal places.
- 9.7 Following the switching of any Units under this rule, the Trustee shall make an appropriate entry in the Register specifying the number of Units cancelled and the number of Units created and issued.
- 9.8 Within 2 months after a Member's Units in a Unitised Fund or interests in a Non-Unitised Fund have been switched in accordance with this rule pursuant to a Switching Request, the Trustee shall issue or make available to the Member a Transaction Advice which sets out the following information:
- (a) in relation to the Units in a Unitised Fund which were redeemed pursuant to the Switching Request:
 - (i) the Unitised Fund to which the Units related;
 - (ii) the number of Units held by the Member which were redeemed;
 - (iii) the date on which the redemption occurred;
 - (iv) the Redemption Price applicable to the Units, and
 - (v) such other information as the Trustee may determine;
 - (b) in relation to the Units in a Unitised Fund which were issued pursuant to the Switching Request:
 - (i) the Unitised Fund to which the Units relate;
 - (ii) the number of Units issued to the Member;
 - (iii) the date the Units were issued;
 - (iv) the Issue Price of the Units; and
 - (v) such other information as the Trustee may determine;
 - (c) in relation to an interest in a Non-Unitised Fund which was redeemed pursuant to the Switching Request:
 - (i) the Non-Unitised Fund to which the interest related;
 - (ii) the amount which was redeemed;
 - (iii) the date on which the redemption occurred; and
 - (iv) such other information as the Trustee may determine; and
 - (d) in relation to an interest in a Non-Unitised Fund which was issued pursuant to the Switching Request:
 - (i) the Non-Unitised Fund to which the interest relates;
 - (ii) the amount which was invested;
 - (iii) the date the interest was issued;
 - (iv) such other information as the Trustee may determine.

Annexure A to Schedule 1 - Personal Retirement Division Funds

Item 1 – Cash Fund

| | |
|---|---|
| Name of Fund (Rule 2.2A) | Cash Fund |
| Type of Fund (Clause 1.1) | Unitised |
| Investment Strategy (Clause 15.2(a)) | The Cash Fund will be invested (whether directly or indirectly through one or more interposed companies, unit trusts or Managed Investment Schemes) primarily in interest bearing deposits and in short term securities issued, guaranteed or otherwise supported by the Commonwealth or State Governments of Australia or their statutory authorities, authorised Australian banks or authorised dealers in the short term money market. |

Item 2 – Capital Stable Fund

| | |
|---|---|
| Name of Fund (Rule 2.2A) | Capital Stable Fund |
| Type of Fund (Clause 1.1) | Unitised |
| Investment Strategy (Clause 15.2(a)) | The Capital Stable Fund will be primarily invested (whether directly or indirectly through one or more interposed companies, unit trusts or Managed Investment Schemes) in a portfolio of Australian fixed interest securities, interest bearing deposits, and, with a maximum total exposure of less than 20%, in listed Australian shares and listed property trust securities. The Fund may also invest in derivative investment products such as shares and bond futures. |

Item 3 – Balanced Fund

| | |
|---|--|
| Name of Fund (Rule 2.2A) | Balanced Fund |
| Type of Fund (Clause 1.1) | Unitised |
| Investment Strategy (Clause 15.2(a)) | The Balanced Fund will be invested (whether directly or indirectly through one or more interposed companies, unit trusts or Managed Investment Schemes) in a broad range of Australian and overseas investments including (but not limited to) interest bearing deposits, fixed interest securities, real property, unit trusts, listed shares, currency transactions and futures and options contracts. |

Item 4 – Growth Fund

| | |
|--|---|
| Name of Fund (Rule 2.2A) | Growth Fund |
| Type of Fund (Clause 1.1) | Unitised |
| Investment Strategy (Clause 15.2(a)) | The Growth Fund will be primarily invested (whether directly or indirectly through one or more interposed companies, unit trusts or Managed Investment Schemes) in a broad range of Australian and overseas investments with a strong bias on capital growth. Such investments include (but are not limited to) shares, listed property trusts, interest bearing securities and deposits and futures and options contracts. |

Item 5 – Growth Plus Fund

| | |
|---|---|
| Name of Fund (Rule 2.4) | Growth Plus Fund |
| Type of Fund (Clause 1.1) | Unitised |
| Maximum trustee fee for Fund (Clause 23.1) | 2% per annum of the Net Asset Value of the Fund |

Item 6 – Moderate Fund

| | |
|---|---|
| Name of Fund (Rule 2.4) | Moderate Fund |
| Type of Fund (Clause 1.1) | Unitised |
| Maximum trustee fee for Fund (Clause 23.1) | 2% per annum of the Net Asset Value of the Fund |

Item 7 – Australian Equities Fund

| | |
|---|---|
| Name of Fund (Rule 2.4) | Australian Equities Fund |
| Type of Fund (Clause 1.1) | Unitised |
| Maximum trustee fee for Fund (Clause 23.1) | 2% per annum of the Net Asset Value of the Fund |

Item 8 – International Equities Fund

| | |
|----------------------------------|-----------------------------|
| Name of Fund (Rule 2.4) | International Equities Fund |
|----------------------------------|-----------------------------|

| | |
|---|---|
| Type of Fund (Clause 1.1) | Unitised |
| Maximum trustee fee for Fund (Clause 23.1) | 2% per annum of the Net Asset Value of the Fund |

Item 9 – Fixed Interest Fund

| | |
|---|---|
| Name of Fund (Rule 2.4) | Fixed Interest Fund |
| Type of Fund (Clause 1.1) | Unitised |
| Maximum trustee fee for Fund (Clause 23.1) | 2% per annum of the Net Asset Value of the Fund |

Item 10 – Fixed Term Fund

| | |
|---|---|
| Name of Fund (Rule 2.4) | Fixed Term Fund |
| Type of Fund (Clause 1.1) | Non-Unitised |
| Maximum trustee fee for Fund (Clause 23.1) | 2% per annum of the Net Asset Value of the Fund |

Item 11 – Fixed Payment Fund

| | |
|---|---|
| Name of Fund (Rule 2.4) | Fixed Payment Fund |
| Type of Fund (Clause 1.1) | Non-Unitised |
| Maximum trustee fee for Fund (Clause 23.1) | 2% per annum of the Net Asset Value of the Fund |

Schedule 2 – Tailored Super Division

1. Application and Definitions

- 1.1 The provisions of this **Schedule 2** apply only to Tailored Super Division Members.
- 1.2 In this **Schedule 2**, unless the context otherwise requires, the following expression shall have the meaning assigned to it:

Contribution Splitting Application means an application, in the form determined by the Trustee from time to time, made by a Tailored Super Division Member to the Trustee to roll over, transfer or allot an amount of benefits for the benefit of the Member's Spouse, as contemplated by regulation 6.44 of the SIS Regulations, as amended or replaced from time to time.

2. Membership of the Tailored Super Division

Membership

- 2.1 An Eligible Person who is eligible under the Superannuation Laws to contribute to, or have benefits transferred to, the Trust may apply for membership of the Tailored Super Division in a form approved by the Trustee.
- 2.2 Such person becomes a Member from the date the Trustee accepts the application or such other date determined by the Trustee.
- 2.3 The Trustee may in its absolute discretion reject an application or delay consideration of an application.
- 2.4 The Trustee must deal with a person's application money:
 - (a) pending the processing and acceptance of that application; and
 - (b) where the application is refused,in accordance with the Superannuation Laws.
- 2.5 Each Member irrevocably appoints the Trustee his or her attorney to do anything permitted by this Deed.

Cessation of membership

- 2.6 A Member ceases to be a Member when all the benefits of the Member are paid or otherwise exhausted, satisfied or dealt with under this Deed.

Provision of information

- 2.7 Each Member must provide all information and evidence, sign all documents, undergo all medical examinations and tests, and generally satisfy all standards and requirements requested by the Trustee.
- 2.8 The Trustee may refuse to admit a person as a Member or place conditions on the person's membership if:
 - (a) the person does not comply with **rule 2.7** to the satisfaction of the Trustee; or
 - (b) information provided by the person is incorrect or contains an omission.

3. Contributions

Ability to contribute

- 3.1 An Tailored Super Division Member is not required to contribute to the Tailored Super Division but, subject to this **rule 3**, the Tailored Super Division Member or any other person may make contributions to the Tailored Super Division in respect of the Tailored Super Division Member, subject to any terms and conditions determined by the Trustee.

Refusal to accept contributions

- 3.2 The Trustee must refuse to accept contributions to the Tailored Super Division if:
- (a) the person making the contribution is not permitted to do so by the Superannuation Laws;
 - (b) acceptance of the contribution is contrary to the requirements of the Superannuation Laws; or
 - (c) the Trustee is directed not to accept the contribution by a Regulator.
- 3.3 Nothing in this **rule 3** limits the Trustee's discretion to refuse to accept any contribution made on behalf of a Member.

Reasons for refusal of contributions

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

Return of improperly accepted contributions

- 3.5 If the Trustee becomes aware that it has accepted contributions in relation to a Member which should not have been accepted into the Fund, the Trustee must repay, return or refund them to the contributor. If the Superannuation Laws permit, the Trustee may adjust the repaid, returned or refunded contributions for:
- (a) investment performance for the period the contributions were held in the Tailored Super Division; and
 - (b) Liabilities for the period the contributions were held in the Tailored Super Division.

Contribution splitting

- 3.6 Unless a contrary intention appears, words and phrases used in **rule 3.7** to **rule 3.11** have the same meanings as in the SIS Regulations.
- 3.7 Notwithstanding any other provision of this Deed, but subject to the Superannuation Laws, where the Trustee receives a valid Contribution Splitting Application from a Personal Retirement Division Member, the Trustee may in its absolute discretion determine to split contributions received for the Member during the financial year applicable to the Contribution Splitting Application.
- 3.8 Where the Trustee under **rule 3.7** determines to split contributions, notwithstanding any other provision of this Deed but subject to the Superannuation Laws, the Trustee may:
- (a) either:
 - (i) if a receiving spouse is not a Personal Retirement Division Member, create a new interest in the Trust in the Personal Retirement Division for the receiving spouse and credit the amount set out in the Contribution Splitting Application to that interest, in which case the Trustee may determine the terms and conditions that will apply to the new interest;

- (ii) if the receiving spouse already has an interest in the Personal Retirement Division, credit the amount set out in the Contribution Splitting Application to the receiving spouse's existing interest in the Personal Retirement Division; or
 - (iii) transfer or roll over the amount set out in the Contribution Splitting Application to another Benefit Arrangement for the receiving spouse; and
 - (b) adjust the interest of the applicant Personal Retirement Division Member in such manner as it considers appropriate to reflect the splitting of contributions pursuant to **paragraph (a)**.
- 3.9 The Trustee may from time to time specify conditions and restrictions relating to Contribution Splitting Applications (**Contribution Splitting Guidelines**) which, in addition to the requirements of the Superannuation Laws, must be complied with by the Member and receiving spouse in order for a Contribution Splitting Application to be valid. The Contribution Splitting Guidelines may also set out rules regulating the splitting of contributions.
- 3.10 The Trustee may vary or revoke the Contribution Splitting Guidelines from time to time in its absolute discretion.
- 3.11 The Trustee may charge reasonable fees in respect of any thing done by the Trustee in relation to the splitting of contributions under this **rule 3**.

4. Member investment choice

- 4.1 The Trustee may, where permitted by the Superannuation Laws, hold specific investments for separate Members or classes or groups of Members.
- 4.2 Where permitted by the Superannuation Laws, the Trustee may (but is not obliged to):
- (a) establish one or more investment objectives and strategies (each called a **Fund**); and
 - (b) allow a Member or a class or a group of Members to direct the Trustee, or vary such direction to invest the Member's Account and, if there is more than one Fund, the proportion of their Account that is to be invested, in a Fund or Funds (each such direction called a **Member Investment Choice**).
- 4.3 The Trustee may:
- (a) in its absolute discretion, defer carrying out a Member Investment Choice to withdraw from a specific investment or stagger the withdrawal from a specific investment, for any reason;
 - (b) prior to carrying out a Member Investment Choice, seek evidence of the Member's consent to the direction;
 - (c) impose terms, conditions and restrictions on the manner in which a Member Investment Choice may be made, including:
 - (i) the minimum amount that may be invested a Fund;
 - (ii) the time or times, and the frequency in relation to which Member Investment Choice may be made or changed; and
 - (iii) the fees that can be charged in relation to making or changing Member Investment Choice (including a fee for switching between Funds);
 - (d) at any time vary any term, condition or restriction without the approval of the Member, subject to the Superannuation Laws; and

- (e) if a Member who is allowed a Member Investment Choice fails to exercise his or her Member Investment Choice within the time or manner specified by the Trustee, determine the Fund or Funds into which the Member's Account is to be invested and if there is more than one Fund, the proportion of the Member's Account that is to be invested in each Fund.
- 4.4 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.
- 4.5 The Trustee is not liable for the acquisition, delay in acquiring, retention, failure to dispose of, the performance of, or for any loss attributable to, a specific investment.

5. Benefits – General

Payment of benefits

- 5.1 The Trustee is not required to pay a benefit unless the person claiming the benefit:
- (a) makes proper application to the Trustee in the form required by the Trustee;
 - (b) provides information to the Trustee as requested by it to substantiate such claim and benefit; and
 - (c) gives instructions in relation to the method of payment of the benefit which are acceptable to the Trustee.
- 5.2 A benefit of a Beneficiary is calculated as at the date the event which gave rise to the entitlement of the Member occurred (**Event Date**) and may be adjusted for investment performance on the benefit between the Event Date and the date of payment, if the Trustee so determines.
- 5.3 Subject to the Superannuation Laws, the Trustee may pay all or part of a benefit by:
- (a) the transfer of an asset or assets;
 - (b) paying the amount by cheque;
 - (c) electronic funds transfer; or
 - (d) any other means determined by the Trustee.
- 5.4 The Trustee may make any benefit payment conditional and repayable should the Trustee's decision to make that payment be varied, substituted or otherwise overturned by a court or tribunal.
- 5.5 Any amount held in the Fund which is not allocated to any Member or to any Account or which may not or cannot be paid or which is not payable by the Trustee to any Member may be dealt with as the Trustee determines for any purpose determined by the Trustee which is permissible under the Superannuation Laws.

Adjustment of benefits

- 5.6 The Trustee may adjust benefits and rights of a Member to take account of:
- (a) any contributions which have not been paid;
 - (b) any contributions which have been repaid, returned or refunded;
 - (c) any actual or contingent Tax or Liability;

- (d) any amount the Trustee is liable to pay to another person (including, a Regulator, the Commonwealth or a State or Territory) in respect of a Beneficiary pursuant to Superannuation Laws; or
- (e) any incorrect, inaccurate or misleading information supplied, or lack of information supplied, in respect of a Member.

Discharge and release

5.7 Subject to the Superannuation Laws, the Trustee is completely discharged in respect of any payment in accordance with this **Schedule 2** including a payment to a person the Trustee believes in good faith is entitled to the benefit.

Superannuation Benefits

5.8 A benefit is payable to or in respect of an Tailored Super Division Member who:

- (a) dies;
- (b) becomes Totally and Permanently Disabled and the Trustee accepts a claim for a benefit;
- (c) becomes Terminally Ill and the Trustee accepts a claim for a benefit; or
- (d) otherwise satisfies a condition of release set out in the Superannuation Laws and the Trustee accepts a claim for a benefit.

5.9 The benefit payable under:

- (a) rule 5.8(a) is a lump sum equal to the balance of the Member's Account; and
- (b) rules 5.8(b), (c) and (d) is a lump sum equal to such part of the Member's Account as the Member requests and the Trustee approves.

Schedule 3 – Allocated Pension and Term Allocated Pension Division

1. Application and Definitions

1.1 The provisions of this **Schedule 3** apply only to Allocated Pension and Term Allocated Pension Division Members.

1.2 In this **Schedule 3**, unless the context otherwise requires, the following words or expressions shall have the meanings respectively assigned to them:

Allocated Pension includes:

- (a) a Pension that meets the standards of subregulation 1.06(4) or subregulation 1.06(9A)(a) of the SIS Regulations; and
- (b) a Non-Commutable Allocated Pension.

Allocated Pension Category or **AP Category** means the category established under **rule 3.1(a)** and governed by clause 9 whose Members are AP Category Members.

Allocated Pension Category Member or **AP Category Member** means an Allocated Pension and Term Allocated Pension Division Member in receipt of an Allocated Pension.

Category means:

- (a) the Allocated Pension Category or AP Category; and
- (b) the Term Allocated Pension Category or TAP Category,

and, in relation to an Allocated Pension and Term Allocated Pension Division Member, means the Category or Categories to which the Member is admitted or transferred.

Non-Commutable Allocated Pension means:

- (a) a Pension that meets the standards of subregulation 1.06(4) of the SIS Regulations; or
- (b) a Pension that meets the definition of 'transition to retirement income stream' in regulation 6.01 of the SIS Regulations,

and, where the Pension is commuted, the resulting lump sum payment cannot be cashed except in accordance with **rule 11.8**.

Non-Commutable Term Allocated Pension means a Pension that meets the standards of subregulation 1.06(8) of the SIS Regulations and, where the Pension is commuted, the resulting lump sum payment cannot be cashed except in accordance with **rule 11.10**.

Term Allocated Pension includes:

- (a) a Pension that meets the standards of subregulation 1.06(8); and
- (b) a Non-Commutable Term Allocated Pension.

Term Allocated Pension Category or **TAP Category** means the category established under **rule 3.1(b)** and governed by **rule 10** whose Members are TAP Category Members.

Term Allocated Pension Category Member or **TAP Category Member** means an Allocated Pension and Term Allocated Pension Division Member in receipt of a Term Allocated Pension.

2. Member investment choice

- 2.1 The Trustee has established the Funds listed in **Appendix A of this Schedule 3** as investment options in the Allocated Pension and Term Allocated Pension Division.
- 2.2 For each Fund listed in **Appendix A**:
- (a) that Fund shall bear the name given to it in **Appendix A**; and
 - (b) to the extent that Members' Accounts are invested in a Fund, the rights of those Members (as well as the specific powers and duties of the Trustee relating to the Fund, and the specific limitations and restrictions applicable to the Fund) shall be governed by the provisions relating to the Fund set out in **Appendix A**, in addition to the provisions set out elsewhere in this Deed.
- 2.3 The Trustee may at any time and from time to time execute a supplemental trust deed pursuant to which:
- (a) the Trustee expresses its intention to create a further investment option in one or both categories of the Allocated Pension and Term Allocated Pension Division (**New Fund**); and
 - (b) a further item is added to **Appendix A** specifying the name of the New Fund, the categories in which the Fund is to be offered and the provisions that shall apply to the New Fund in addition to the provisions of this Deed.
- The Trustee may divide a New Fund into Units or may offer a New Fund on a non-unitised basis.
- 2.4 Unitised Funds in the Allocated Pension and Term Allocated Pension Division shall be divided into Units and each Unit shall confer on its holder an equal undivided interest in the Unitised Fund to which the Unit relates. Subject to **rule 6.10**, at any given date all of the Units into which the beneficial interest in a Unitised Fund is divided shall be of equal value.
- 2.5 A Unit confers on the Member who is the holder of that Unit a beneficial interest in the Unitised Fund in which the Unit is held but the interest does not entitle the Member, except as provided in this Deed or as permitted by law, to:
- (a) interfere with the rights or powers of the Trustee in its dealings with the Unitised Fund; or
 - (b) an interest in a particular part of the Unitised Fund or in any particular Assets; or
 - (c) require the transfer to the Member of any Asset; or
 - (d) exercise any rights, powers or privileges in respect of any Assets; or
 - (e) lodge with a government authority or any person any caveat or other notice whether under the provisions of any legislation of a State or Territory of the Commonwealth or otherwise:
 - (i) forbidding (either conditionally or absolutely) the registration of any person as transferee or proprietor of or any instrument affecting any Asset of the Unitised Fund; or
 - (ii) claiming any estate or interest in any Asset of the Unitised Fund; or
 - (f) interfere in any way with any other Fund constituted under or pursuant to this Deed.
- 2.6 The Trustee must keep each of the Funds separate provided that this restriction shall not apply in relation to either Contributions received by the Trustee pending their addition to any one or more of the Funds or to any funds released from a Fund pending any payment which is to be debited to

the Account of a Member in accordance with this Deed or which is otherwise to be made in accordance with this Deed.

2.7 Subject to **clauses 2.7, 2.8 and 27.2**:

- (a) DELETED
- (b) the Liabilities of a Fund are not to be aggregated with the Liabilities of any other Fund or set off against the Assets of any Fund other than the Fund to which those Liabilities relate; and
- (c) the Trustee must account for the Assets and Liabilities included in each Fund separately from the Assets and Liabilities included in all other Funds.

2.8 Upon acceptance of a Member's Application to the Allocated Pension and Term Allocated Pension Division and on such other occasions as the Trustee may determine, a Member may, subject to the Superannuation Laws and any restrictions from time to time imposed by the Trustee, select the Fund or Funds in accordance with which the amount standing to the credit of Member's Account will be invested.

2.9 A Member may vary his or her selection of Funds from time to time in accordance with **rule 8**.

2.10 To the extent permitted by the Superannuation Laws, the Trustee may determine:

- (a) one or more default Funds for Members who, for any reason, fail to select a Fund in accordance with **rule 2.8**. Different default Funds may apply to different groups or classes of Member and/or kinds of Contributions;
- (b) determine to terminate the default Fund arrangements for this Division or for one or more groups or classes of Member in this Division.

2.11 The Trustee may from time to time specify conditions and restrictions relating to Members' selection of Funds in the Allocated Pension and Term Allocated Pension Division and the use of default Funds which must be complied with in order for a selection to be valid, including in relation to:

- (a) the minimum amount that may be invested in a Fund;
- (b) the time or times, and the frequency in relation to which a Member's selection may be made; and
- (c) at any time vary any term, condition or restriction without the approval of the Member, subject to the Superannuation Laws.

2.12 The investment strategy for each Fund offered in the Allocated Pension and Term Allocated Pension Division is

- (a) in relation to a Fund listed in Items 1 to 4 (inclusive) of **Appendix A**, set out in **Appendix A**; and
- (b) in relation to any other Fund listed in **Appendix A**, set out in the disclosure document for the Allocated Pension and Term Allocated Pension Division.

2.13 The Trustee may vary the investment strategy for any Fund offered in the Allocated Pension and Term Allocated Pension Division at any time, provided that for a Fund listed in Items 1 to 4 (inclusive) of **Appendix A** it must give Members not less than 14 days prior notice of the proposed variation. Any variation of the investment strategy for the time being of a Fund shall not constitute an alteration or modification of this Deed.

3. Categories of membership

- 3.1 The Allocated Pension and Term Allocated Pension Division may provide benefits to or in respect of Members in the following Categories:
- (a) the AP Category; and
 - (b) the TAP Category.
- 3.2 Interests, including Units, that are issued in a Fund must be allocated to a particular Category.
- 3.3 For the avoidance of doubt, a Member may belong to more than one Category at a time.
- 3.4 Subject to the Superannuation Laws, the Trustee may transfer a Member to a different Category with the consent of the Member.

4. Membership and Contributions

Eligibility

- 4.1 A person shall not be entitled to become a Member unless he or she is an Eligible Person.
- 4.2 An Eligible Person who has made application to become a Member shall become a Member on the date specified by the Trustee in the Transaction Advice sent to the Member pursuant to **rule 5.5**.

Contributions

- 4.3 Subject to **rule 5.4**, a Member may contribute to the Allocated Pension and Term Allocated Pension Division of the Trust an Eligible Payment of such amount as the Trustee may accept. However, the capital supporting a Pension cannot be added to by way of Contribution, allotment of splittable contribution, transfer or rollover after a Pension has commenced.

5. Applications

- 5.1 An Application shall be in such form as the Trustee may from time to time determine, shall be signed by or on behalf of the applicant, shall include or be accompanied by such evidence or information as the Trustee may require and together with such information or evidence shall be lodged with the Trustee at the Office or at such other place as the Trustee shall from time to time determine. The Trustee may require any applicant to execute a deed acknowledging that he is aware of the terms of this Deed and agreeing to be bound to the terms hereof as though he were an original party hereto.
- 5.2 The Trustee shall not incur any liability in respect of any action taken or things suffered by it in reliance in good faith upon any information, statement or evidence provided by an applicant in accordance with **rule 5.1**.
- 5.3 The Trustee may in its absolute discretion accept or refuse any Application and shall not be bound to give any reason for any such refusal provided that:
- (a) the Trustee shall not accept any Application unless it is in receipt of the applicant's Contribution and unless it is satisfied on reasonable grounds that the applicant is an Eligible Person and that the applicant's Contribution is an Eligible Payment; and
 - (b) the Trustee shall accept or refuse any Application within 30 days following its receipt of the Application or within such shorter period as may be prescribed by the Superannuation Laws.

If an Application is not accepted, the Trustee must return forthwith any money that accompanied the Application without deduction.

- 5.4 The Trustee may determine from time to time the minimum amount that it will accept as a Contribution and the minimum amount which may be invested by a Member in any particular Fund.
- 5.5 Upon acceptance of an Application, the Trustee shall:
- (a) enter the name of the applicant as an AP Category Member and/or a TAP Category Member (as relevant) in the Register of Members;
 - (b) establish a Member's Account in respect of the Member in the AP Category and/or the TAP Category (as relevant) to be maintained in accordance with **rule 5.1** which Account(s) shall be numbered; and
 - (c) within 2 months after the Trustee's acceptance of the Application, issue or make available to the relevant Member a Transaction Advice which sets out the following information:
 - (i) the date of acceptance of the Member's Application;
 - (ii) the Category or Categories of membership of the type(s) of Pension payable to the Member;
 - (iii) the number of the Member's Account(s);
 - (iv) the amount of the Contribution credited to the Member's Account in respect of each relevant Category;
 - (v) the number and Class of the Units in any Unitised Fund issued to the Member in respect of a Category; and
 - (vi) such other details as the Trustee shall determine or may be required under the Superannuation Laws to give the Member.
- 5.6 All Contributions accepted in the Allocated Pension and Term Allocated Pension Division shall be paid to the Trustee or a Custodian and held by the Trustee or a Custodian upon and subject to the terms of this Deed.

6. Issue of interest in a Fund

- 6.1 A Contribution (less any deductions in accordance with **rule 6.4**) to the Allocated Pension and Term Allocated Pension Division shall be added in whole or in part to:
- (a) subject to paragraph (b), where a Member has made a selection in accordance with **rules 2.8 and 2.9**, a Fund or Funds in accordance with that selection; or
 - (b) where a Member has not made such a selection and a determination of the Trustee of one or more default Funds which is applicable to the Member is in force or the Trustee has determined one or more default Funds for that type of Contribution, the default Fund or Funds applicable to the Member or Contribution.
- 6.2 Whenever any Contribution is added to a Unitised Fund under **rule 6.1**, Units in that Unitised Fund shall be created and issued to the relevant Member in relation to the relevant Category. The date at which those Units are created and issued shall be determined by the Trustee. The number of Units so created and issued shall be the number derived after dividing the net amount of the addition by the Issue Price of a Unit in the relevant Unitised Fund. Where the number so derived is not a whole number, the number of Units to be created and issued shall be the nearest whole number of Units plus a part Unit rounded down to two decimal places.
- 6.3 Units created and issued as provided in this clause shall continue in existence until cancelled in accordance with this Deed.

- 6.4 Prior to the creation and issue of any interest in the Trust to a Member in relation to the Contribution, the Trustee shall deduct or require to be deducted from the Contribution any Tax which is paid or payable by the Trustee or out of the relevant Fund on account of or in respect of the acceptance of the Contribution and the Trustee shall thereafter either pay the same, retain the moneys which have been deducted until payment is due or reimburse the relevant Fund or itself for payments so made.
- 6.5 Where at the time of the Trustee's acceptance of a Contribution the Trustee is satisfied that the Contribution will comprise in whole or in part a contribution included in the assessable income of the Trust under the Tax Act (taxable contribution) in relation to the year of income in which the Contribution is accepted by the Trustee, the Trustee shall deduct from the Contribution in accordance with **rule 6.4** (in addition to any other deduction required under **rule 6.4**) the amount derived after multiplying an amount equal to the taxable contribution component of the Contribution by the rate of income tax applicable to the Trust for the year of income in which the Contribution is accepted by the Trustee.
- 6.6 Where, after the acceptance of a Contribution, the Trustee is satisfied that either:
- (a) the Contribution will comprise in whole or in part a taxable contribution in relation to the year of income in which the Contribution is accepted by the Trustee; or
 - (b) the Contribution will comprise in whole or in part a taxable contribution in relation to a subsequent year of income,
- the Trustee shall debit the Member's Account the amount derived after multiplying an amount equal to the taxable contribution component of the Contribution by the rate of income tax applicable to the Trust for either the year of income in which the Contribution is accepted by the Trustee or the year of income in relation to which the taxable contribution is a taxable contribution, as the Trustee may determine.
- 6.7 Any deduction from a Contribution under **rule 6.5** and any debiting of a Member's Account under **rule 6.6** shall accrue for the benefit of the Fund or Funds in which the Contribution is to be or was invested and, if the Contribution is to be or was invested in more than one Fund, in the proportions in which the Contribution is to be or was invested.
- 6.8 The Trustee may from time to time create such number of Units in a particular Unitised Fund as may be required to reduce the Issue Price of a Unit in that Unitised Fund to \$1.00 or such other amount (not being less than \$1.00) as the Trustee in its absolute discretion may decide. On the date of creation of any Units under this sub-clause, each AP Category Member and TAP Category Member shall be entitled to the same proportion of the number of Units in the relevant Unitised Fund so created and issued as the number (if any) of Units held by him bears to the total number of Units in Issue in the relevant Unitised Fund immediately prior to the date of creation of those Units. Notwithstanding the foregoing, where the creation of Units under this sub-clause would involve a part Unit in relation to any particular AP Category Member and TAP Category Member, the number of Units which that Member shall be entitled to shall be the nearest whole number of Units plus a part Unit rounded down to two decimal places.
- 6.9 Notwithstanding any other provision contained in this Deed, the Trustee shall not be entitled to hold any Units, unless required or permitted to do so under the Superannuation Laws.
- 6.10 A part Unit no smaller than one hundredth of a Unit may be created and issued under **rules 6.2, 6.8 and 8.10**. The Issue Price and the Redemption Price of a part Unit shall be a pro rata amount of the Issue Price and Redemption Price of a Unit respectively. All references in this Deed to Units shall unless the context otherwise requires include a part Unit. Where a holding of Units comprises more than one part Unit, the Trustee may consolidate those part Units.

7. Redemptions for pension payments and commutations

- 7.1 The Trustee shall redeem a sufficient number of an AP Category Member's or TAP Category Member's Units in a Unitised Fund or a Member's interest in a Non-Unitised Fund as and when the Trustee determines it is necessary to redeem those Units or interest in order to meet any payment which is to be debited to the Member's Account.
- 7.2 The Trustee shall determine from time to time the order in which:
- (a) interests are to be redeemed in circumstances where an AP Category Member or a TAP Category Member holds interests in more than one Fund. Where a Member holds interests in more than one Fund, his or her interest shall be redeemed in the order so determined for the time being by the Trustee;
 - (b) Units are to be redeemed in circumstances where an AP Category Member or a TAP Category Member holds Units in more than one Unitised Fund. Where a Member holds Units in more than one Unitised Fund, his or her Units shall be redeemed in the order so determined for the time being by the Trustee;
 - (c) interests in a Non-Unitised Fund are to be redeemed in circumstances where an AP Category Member or a TAP Category Member holds interests in more than one Non-Unitised Fund. Where a Member holds interests in more than one Non-Unitised Fund, his or her interests shall be redeemed in the order so determined for the time being by the Trustee.
- 7.3 (a) Any Units redeemed by the Trustee in a Unitised Fund shall be redeemed at a price per Unit equal to the Redemption Price of a Unit in the relevant Unitised Fund. The date on which any Units are redeemed shall be determined by the Trustee.
- (b) The Trustee shall, from time to time, determine a formula to calculate the value at which interests in a Non-Unitised Fund are to be redeemed. Any interests redeemed by the Trustee in a Non-Unitised Fund shall be redeemed in accordance with that formula. The date on which any interests in a Non-Unitised Fund are redeemed shall be determined by the Trustee.
- 7.4 For the purpose of effecting redemptions the Trustee shall as and when it considers appropriate realise such Assets of the relevant Fund as the Trustee considers appropriate.
- 7.5 Whenever the Trustee is of the opinion that the Assets of a particular Fund cannot be liquidated at an appropriate price or on adequate terms, the Trustee shall summon a meeting of those Members who hold interests in that Fund to consider that opinion and to give by special resolution any direction which the meeting thinks fit including whether the relevant Fund should be wound up or whether redemptions should be permitted and, if so, within what time period. The Trustee may comply with the direction or decision of the meeting unless the direction or decision is inconsistent with this Deed or the Superannuation Laws and if it does comply shall not be liable for anything it does or omits to do pursuant to that direction or decision.
- 7.6 Whenever any Unit is cancelled in consequence of its redemption, the Trustee shall make an appropriate entry in the Register specifying the number and class of Units which have been redeemed.
- 7.7 Where an AP Category Member or TAP Category Member ceases to hold any Units in any Fund on a day other than the last day of the Financial Year, the Trustee shall give to that Member as soon as practicable thereafter a written statement giving:

- (a) such information (if any) as the Trustee may be required under the Superannuation Laws to give that Member; and
 - (b) such other information as the Trustee considers it appropriate to give to the Member.
- 7.8 If at any time the Trustee forms the opinion on reasonable grounds that the continued holding of any Units by a particular AP Category Member or TAP Category Member may be, or become, prejudicial to the Trust becoming or remaining a complying superannuation fund, the Trustee shall have the right to notify the relevant Member accordingly and upon the issue of such notice redeem all Units held by that Member and the provisions of this Deed as to the redemption of Units shall apply thereto (*mutatis mutandis*), to the intent that upon completion of the redemption of those Units the Trustee shall pay to the relevant Member the proceeds of the redemption of those Units net of any deduction made in accordance with **clause 28.1**.

8. Switching

- 8.1 Any request to switch between Funds that is not a Progressive Investment Facility Application (Switching Request) shall be in writing duly signed by or on behalf of the relevant Member and be in such form as the Trustee may from time to time require or approve and shall be delivered or posted to the Trustee at the Office.
- 8.2 The Trustee shall effect the switching between Funds set out any Switching Request that complies with **clause 8** and **rule 8.1**, and any conditions or restrictions made pursuant to **clause 8.2**:
- (a) subject to **rule 8.4(b)**, within 30 days after the Trustee's receipt of the request; or
 - (b) in relation to a Switching Request to or from a Non-Unitised Fund, within 45 days after the Trustee's receipt of the request.
- 8.3 Where the number of Units derived from a switch is not a whole number, the number of Units to be created and issued shall be the nearest whole number of Units plus a part Unit rounded down to two decimal places.
- 8.4 Following the switching of any Units under this clause, the Trustee shall make an appropriate entry in the Register specifying the number of Units cancelled and the number of Units created and issued.
- 8.5 Within 2 months after a Member's Units in a Unitised Fund or interests in a Non-Unitised Fund have been switched in accordance with this clause pursuant to a Switching Request, the Trustee shall issue or make available to the Member a Transaction Advice which sets out the following information:
- (a) the Account to which the Switching Request relates;
 - (b) in relation to the Units in a Unitised Fund which were redeemed pursuant to the Switching Request:
 - (i) the Unitised Fund to which the Units related;
 - (ii) the number of Units held by the Member which were redeemed;
 - (iii) the date on which the redemption occurred;
 - (iv) the Redemption Price applicable to the Units; and
 - (v) such other information as the Trustee may determine;
 - (c) in relation to the Units in a Unitised Fund which were issued pursuant to the Switching Request:

- (i) the Unitised Fund to which the Units relate;
 - (ii) the number of Units issued to the Member;
 - (iii) the date the Units were issued;
 - (iv) the Issue Price of the Units; and
 - (v) such other information as the Trustee may determine;
- (d) in relation to an interest in a Non-Unitised Fund which was redeemed pursuant to the Switching Request:
- (i) the Non-Unitised Fund to which the interest related;
 - (ii) the amount which was redeemed;
 - (iii) the date on which the redemption occurred; and
 - (iv) such other information as the Trustee may determine; and
- (e) in relation to an interest in a Non-Unitised Fund which was issued pursuant to the Switching Request:
- (i) the Non-Unitised Fund to which the interest relates;
 - (ii) the amount which was invested;
 - (iii) the date the interest was issued;
 - (iv) such other information as the Trustee may determine.

9. Allocated Pensions

- 9.1 Subject to the provisions of this Deed and the Superannuation Laws, the Trustee shall pay each AP Category Member an Allocated Pension as provided in this clause.
- 9.2 The amount of the Allocated Pension payable to an AP Category Member shall be (subject to any subsequent variation as provided in this clause 9) the amount nominated by the Member in his Application. However, if the amount so nominated falls outside the maximum or minimum limits permitted under the Superannuation Laws in force as at 31 December 2005, the amount of the Allocated Pension shall be:
- (a) the maximum that may be paid under the Superannuation Laws, if the amount nominated by the Member exceeded the maximum limit permitted under the Superannuation Laws; or
 - (b) the minimum amount that may be paid under the Superannuation Laws, if the amount nominated by the Member was less than the minimum limit permitted under the Superannuation Laws.
- 9.3 The amount of the Allocated Pension payable to an AP Category Member shall be expressed as an annual payment and shall be paid by an annual single payment or by such instalments (which may be equal or unequal) and on or about such dates as the Member may nominate in his Application and the Trustee may approve. The Pension shall be payable to an AP Category Member as from the time the Member becomes an AP Category Member or, if permitted by the Superannuation Laws, as from such later date as the Member may nominate in his Application and the Trustee may approve.
- 9.4 The Allocated Pension payable to a Member shall be payable from his Account in the AP Category and shall be payable only to the extent that the Member's Account Balance will

permit. The Trustee may close an AP Category Member's Account when the Account Balance is zero. Subject to **clause 11**, the Allocated Pension payable to a Member which has not otherwise ceased to be payable shall cease to be payable on the Trustee being notified of the Member's death. Each Allocated Pension payment shall be subject to any deduction in accordance with **clause 28.1**.

- 9.5 In July of each year or at such other times as the Trustee may determine, the Trustee shall provide to each AP Category Member a notice (**Review Notice**) setting out the following information:
- (a) the Member's Account Balance as at the date specified in the Review Notice;
 - (b) the amount of the current Allocated Pension being paid to the Member;
 - (c) the amount of the minimum Allocated Pension that is permitted to be paid to the Member under the Superannuation Laws;
 - (d) the amount of the maximum Allocated Pension that is permitted to be paid to the Member under the Superannuation Laws; and
 - (e) such other information as the Trustee determines.
- 9.6 Following the receipt of a Review Notice or at such other times as the Trustee allows, a Member may request the Trustee to vary the amount of the Allocated Pension payable to him or the manner or time of payment.
- 9.7 Subject to the Superannuation Laws, the Trustee on approving a request pursuant to **rule 9.6 (Review Request)** shall vary the amount of the Allocated Pension payable to the Member or the manner or time of payment in accordance with the Member's Review Request, as approved by the Trustee.
- 9.8 If the Trustee does not receive a request from an AP Category Member under **rule 9.6** within 1 month after the Review Notice was sent to the Member or if the Trustee does not approve a Review Request, the Trustee shall continue to pay the Member the Allocated Pension in the same amount (subject to any variation required under the Superannuation Laws) and in the same manner and times as the Pension was payable to the Member immediately before the Review Notice was given to him.
- 9.9 An Allocated Pension is not transferrable. An AP Category Member shall not use the capital value of his or her Allocated Pension (calculated in accordance with the Superannuation Laws) and the income from it as security for a borrowing.

10. Term Allocated Pensions

- 10.1 Subject to the provisions of this Deed and the Superannuation Laws, the Trustee shall pay each TAP Category Member a Term Allocated Pension as provided in this **rule 10**.
- 10.2 The amount of the Term Allocated Pension payable to a TAP Category Member shall be expressed as an annual payment and shall be paid by an annual single payment or by such instalments (which may be equal or unequal) and on or about such dates as the Member may nominate in his Application and the Trustee may approve. The Pension shall be payable to a TAP Category Member as from the time the Member becomes a Member or, if permitted by the Superannuation Laws, as from such later date as the Member may nominate in his Application and the Trustee may approve.
- 10.3 The Term Allocated Pension payable to a Member shall be payable from his or her Account in the TAP Category and shall be payable only to the extent that the Member's Account Balance will permit. The Term Allocated Pension shall be payable until the earlier of:

- (a) the expiry of the period chosen by the Member, which is not less than the minimum period permitted under the Superannuation Laws or greater than the maximum period permitted under the Superannuation Laws; and
- (b) when the Member's Account Balance is zero.

The Trustee may close a TAP Category Member's Account when the Account Balance is zero. Subject to **rule 10.8**, the Term Allocated Pension payable to a Member which has not otherwise ceased to be payable shall cease to be payable on the Trustee being notified of the Member's death.

- 10.4 The amount of the Term Allocated Pension payable to a TAP Category Member shall be (subject to any subsequent variation as provided in **rule 10.5**) the amount nominated by the Member in his or her Application. However, if the amount so nominated falls outside the maximum or minimum limits permitted under the Superannuation Laws, the amount of the Term Allocated Pension shall be:
- (a) the maximum that may be paid under the Superannuation Laws, if the amount nominated by the member exceeded the maximum limit permitted under the Superannuation Laws; or
 - (b) the minimum amount that may be paid under the Superannuation Laws, if the amount nominated by the member was less than the minimum limit permitted under the Superannuation Laws.

Each Term Allocated Pension payment shall be subject to any deduction in accordance with **clause 28.1**.

- 10.5 A TAP Category Member (or Reversionary Beneficiary) may from time to time request the Trustee in writing to vary one or both of the following:
- (a) the amount of the Term Allocated Pension payable to him or her, provided that the varied amount of the payment does not fall outside the maximum or minimum limits permitted under or, if the Superannuation Laws permits, determined by the Trustee in accordance with the Superannuation Laws;
 - (b) the manner or time of payment.

Subject to the Superannuation Laws, the Trustee on approving such a request shall vary the amount of the Term Allocated Pension payable to the Member (or Reversionary Beneficiary) or the manner or time of payment in accordance with the request, as approved by the Trustee.

10.6 [Deleted]

10.7 [Deleted]

10.8 [Deleted]

10.9 On the death of a Member in receipt of a Term Allocated Pension:

- (a) who did not nominate a Reversionary Beneficiary,
- (b) [Deleted]

the Trustee must pay a benefit in accordance with **clause 11**.

10.10 Where the Trustee pays a Term Allocated Pension:

- (a) except as provided in **rule 10.7**, a Term Allocated Pension is not transferable;

- (b) neither the capital value of the Pension (calculated in accordance with the Superannuation Laws) nor the income from it can be used as security for a borrowing unless consistent with the Superannuation Laws; and
- (c) if the Pension reverts, it does not have a reversionary component greater than 100% of the benefit that was payable before the reversion.

10A. Reversionary Beneficiaries

10A.1 The Trustee may approve such form, adopt such procedures and impose such terms, conditions and restrictions in connection with the nomination of a Reversionary Beneficiary as the Trustee determines from time to time which must be complied with by a Member in order for a nomination to be valid and effective. The Trustee may impose such terms, conditions and restrictions in connection with the payment of an Allocated Pension or Term Allocated Pension on the death of Member to a Reversionary Beneficiary as the Trustee determines from time to time which must be complied with,

10A.2 A Reversionary Beneficiary nomination ceases to be valid and effective upon the earlier of the following events:

- (a) on receipt by the Trustee from the Member of a replacement, conflicting or inconsistent Binding Nomination, Non-Lapsing Nomination, Reversionary Beneficiary nomination or Non-Binding Nomination;
- (b) the Member separates on a permanent basis from their Spouse; or
- (c) any other event determined by the Trustee from time to time.

10A.3 Upon the death of a Member who has nominated a Reversionary Beneficiary for an Allocated Pension or Term Allocated Pension which is valid and effective at the Member's death, the Trustee must, subject to the Superannuation Laws and any terms and conditions of payment determined pursuant to **rule 10A.1**, continue to pay the Pension to the Reversionary Beneficiary until the earlier of:

- (a) the Member's Account Balance reaching zero;
- (b) the death of the Reversionary Beneficiary;
- (c) in respect of a Term Allocated Pension, the expiry of the period of the Term Allocated Pension chosen by the Member in accordance with **rule 10.3(a)**; or
- (d) the benefit is no longer permitted by the Trustee or by Superannuation Laws to be paid in the form of a Pension,

in which case, the balance (if any) of the remaining Account Balance must be paid to the Reversionary Beneficiary as a lump sum.

10A.4 If the Trustee pays an Allocated Pension or a Term Allocated Pension to a Reversionary Beneficiary under **rule 10A.3**, subject to such conditions and restrictions as the Trustee determines from time to time, unless the context otherwise requires, each reference to the Member, or either AP Category Member or TAP Category Member (as applicable) in this Schedule must be read as a reference to the Reversionary Beneficiary.

11. Commutation of pension

11.1 Subject to the Superannuation Laws and **rules 11.5 to 11.10** (inclusive), a Member (other than a Member who is a Reversionary Beneficiary) may at any time direct the Trustee in writing to

commute the whole or part of the Member's Account Balance in a Category; and direct the Trustee in writing to either:

- (a) pay the commuted amount to the Member as a lump sum; or
 - (b) transfer or roll over the commuted amount to another Benefit Arrangement.
- 11.2 Within 30 days of the receipt of the directions referred to in **rule 11.1(a)**, the Trustee must transfer the amount so specified by the Member in accordance with **clause 8A**.
- 11.3 Within 30 days of the receipt of the directions referred to **rule 11.1(b)**, the Trustee must (where the Trustee is permitted to pay the lump sum) pay the Member the amount so specified by him less any deduction in accordance with **clause 28.1** and issue or make available to the Member a Transaction Advice which sets out the following information:
- (a) the number and Class of Units in a Unitised Fund held by the Member which were redeemed for the purposes of the payment;
 - (b) the date the Units were redeemed;
 - (c) the Redemption Price applicable to those Units;
 - (d) in relation to an interest in a Non-Unitised Fund which was redeemed:
 - (i) the Non-Unitised Fund to which the interest related;
 - (ii) the amount which was redeemed; and
 - (iii) the date on which the redemption occurred;
 - (e) the number and Class of Units in a Unitised Fund and amount in a Non-Unitised Fund, if any, still held by the Member in relation to that Category;
 - (f) such other information as the Trustee may determine or may be required under the Superannuation Laws to give the Member.
- 11.4 Following the transfer or roll over of benefits pursuant to **rule 11.2** or the payment of a lump sum to a Member pursuant to **rule 11.3**, the Trustee must, if required under the Superannuation Laws, recalculate the Pension payable to the Member having regard to the amount (if any) remaining in the relevant Member's Account in relation to that Category, any further written request from the Member and the Superannuation Laws and shall pay the revised Pension to the Member at the same time and in the same manner as the Pension was previously paid.
- 11.5 A deceased Member's Legal Personal Representative shall not be entitled to give the Trustee a direction under **rule 11.1** and following the death of the Member, his or her Account Balance shall be dealt with in accordance with **clause 11**, whichever is applicable.
- 11.6 The Trustee may refuse to make any payment under **rule 11.1** which is less than \$5,000 unless the Member's Account Balance in relation to that Category is less than \$5,000 and the Member's direction relates to the whole of that Account Balance.
- 11.7 An Allocated Pension can only be commuted and paid as a lump sum to a Member under **rule 11.3** if:
- (a) the commutation results from the death of the Member;
 - (b) the sole purpose of the commutation meets the requirements in regulation 1.07A of the SIS Regulations;
 - (c) for partial commutations, the Member's Account Balance after the commutation would be equal to or exceeds the limits in regulation 1.07A of the SIS Regulations; or

- (d) the pension payments for the year to date at least equal the minimum amount required under regulation 1.07A of the SIS Regulations.
- 11.8 A Non-Commutable Allocated Pension can only be commuted and paid as a lump sum to a Member under **rule 11.3** if:
- (a) the purpose of the commutation meets the requirements of the definition of 'non-commutable allocated pension' in regulation 6.01 of the SIS Regulations; or
 - (b) before commutation, the Member has satisfied a condition of release as contemplated in the definition of 'non-commutable allocated pension' in regulation 6.01 of the SIS Regulations.
- 11.9 A Term Allocated Pension can only be commuted and paid as a lump sum to a Member under **rule 11.3** if:
- (a) the commutation occurs within the first six months and otherwise meets the standards of the Superannuation Laws;
 - (b) the commutation results from the death of the Member or Reversionary Beneficiary in the circumstances set out in the Superannuation Laws;
 - (c) the resulting lump sum is used to purchase another income stream;
 - (d) the sole purpose of the commutation meets the requirements in regulation 1.07C of the SIS Regulations;
 - (e) for partial commutations, the balance of the Member's Member Account after the commutation is equal to or exceeds the limits calculated in accordance with regulation 1.07C of the SIS Regulations; or
 - (f) the pension payments for the year to date at least equal the minimum amount required under regulation 1.07C of the SIS Regulations.
- 11.10 A Non-Commutable Term Allocated Pension can only be commuted and paid as a lump sum to a Member under **rule 11.3** if:
- (a) the purpose of the commutation meets the requirements of the definition of 'non-commutable pension' in regulation 6.01 of the SIS Regulations; or
 - (b) before commutation, the Member has satisfied a condition of release as contemplated in the definition of 'non-commutable pension' in regulation 6.01 of the SIS Regulations.

Annexure A to Schedule 3 – Allocated Pension and Term Allocated Pension Division Funds

Item 1 – Cash Fund

| | |
|---|---|
| Name of Fund (Clause 2AA.1) | Cash Fund |
| Type of Fund (Clause 1.1) | Unitised |
| Membership categories in which the Fund is offered (Clause 2AA.1) | (a) the AP Category; and (b) the TAP Category. |
| Investment Strategy (Clause 15.2(a)) | The Cash Fund will be invested (whether directly or indirectly through one or more interposed companies, unit trusts or Managed Investment Schemes) primarily in interest bearing deposits and in short term securities issued, guaranteed or otherwise supported by the Commonwealth or State Governments of Australia or their statutory authorities, authorised Australian banks or authorised dealers in the short term money market. |

Item 2 – Capital Stable Fund

| | |
|---|---|
| Name of Fund (Clause 2AA.1) | Capital Stable Fund |
| Type of Fund (Clause 1.1) | Unitised |
| Membership categories in which the Fund is offered (Clause 2AA.1) | (a) the AP Category; and (b) the TAP Category. |
| Investment Strategy (Clause 15.2(a)) | The Capital Stable Fund will be primarily invested (whether directly or indirectly through one or more interposed companies, unit trusts or Managed Investment Schemes) in a portfolio of Australian fixed interest securities, interest bearing deposits, and, with a maximum total exposure of less than 20%, in listed Australian shares and listed property trust securities. The Fund may also invest in derivative investment products such as shares and bond futures. |

Item 3 – Balanced Fund

| | |
|---|--|
| Name of Fund (Clause 2AA.1) | Balanced Fund |
| Type of Fund (Clause 1.1) | Unitised |
| Membership categories in which the Fund is offered (Clause 2AA.1) | (a) the AP Category; and (b) the TAP Category. |
| Investment Strategy (Clause 15.2(a)) | The Balanced Fund will be invested (whether directly or indirectly through one or more interposed companies, unit trusts or Managed Investment Schemes) in a broad range of Australian and overseas investments including (but not limited to) interest bearing deposits, fixed interest securities, real property, unit trusts, listed shares, currency transactions and futures and options contracts. |

Item 4 – Growth Fund

| | |
|---|---|
| Name of Fund (Clause 2AA.1) | Growth Fund |
| Type of Fund (Clause 1.1) | Unitised |
| Membership categories in which the Fund is offered (Clause 2AA.1) | (a) the AP Category; and (b) the TAP Category. |
| Investment Strategy (Clause 15.2(a)) | The Growth Fund will be primarily invested (whether directly or indirectly through one or more interposed companies, unit trusts or Managed Investment Schemes) in a broad range of Australian and overseas investments with a strong bias on capital growth. Such investments include (but are not limited to) listed shares, listed property trusts, interest bearing securities and deposits, and futures and options contracts. |

Item 5 – Growth Plus Fund

| | |
|---|---|
| Name of Fund (Clause 2AA.3(b)) | Growth Plus Fund |
| Type of Fund (Clause 1.1) | Unitised |
| Membership categories in which the Fund is offered (Clause 2AA.1) | (a) the AP Category; and (b) the TAP Category. |
| Maximum trustee fee for | 2% per annum of the Net Asset Value of the Fund |

Fund (**Clause 23.1**)

Item 6 – Moderate Fund

| | |
|---|---|
| Name of Fund (Clause 2AA.3(b)) | Moderate Fund |
| Type of Fund (Clause 1.1) | Unitised |
| Membership categories in which the Fund is offered (Clause 2AA.1) | (a) the AP Category; and (b) the TAP Category. |
| Maximum trustee fee for Fund (Clause 23.1) | 2% per annum of the Net Asset Value of the Fund |

Item 7 – Australian Equities Fund

| | |
|---|---|
| Name of Fund (Clause 2AA.3(b)) | Australian Equities Fund |
| Type of Fund (Clause 1.1) | Unitised |
| Membership categories in which the Fund is offered (Clause 2AA.1) | (a) the AP Category; and (b) the TAP Category. |
| Maximum trustee fee for Fund (Clause 23.1) | 2% per annum of the Net Asset Value of the Fund |

Item 8 – International Equities Fund

| | |
|---|---|
| Name of Fund (Clause 2AA.3(b)) | International Equities Fund |
| Type of Fund (Clause 1.1) | Unitised |
| Membership categories in which the Fund is offered (Clause 2AA.1) | (a) the AP Category; and (b) the TAP Category. |
| Maximum trustee fee for Fund (Clause 23.1) | 2% per annum of the Net Asset Value of the Fund |

Item 9 – Fixed Interest Fund

| | |
|--------------|---------------------|
| Name of Fund | Fixed Interest Fund |
|--------------|---------------------|

(Clause 2AA.3(b))

| | |
|-------------------------------------|----------|
| Type of Fund (Clause 1.1) | Unitised |
|-------------------------------------|----------|

| | |
|---|---|
| Membership categories in which the Fund is offered (Clause 2AA.1) | (a) the AP Category; and (b) the TAP Category. |
|---|---|

| | |
|--|---|
| Maximum trustee fee for Fund (Clause 23.1) | 2% per annum of the Net Asset Value of the Fund |
|--|---|

Item 10 – Fixed Term Fund

| | |
|--|-----------------|
| Name of Fund (Clause 2AA.3(b)) | Fixed Term Fund |
|--|-----------------|

| | |
|-------------------------------------|--------------|
| Type of Fund (Clause 1.1) | Non-Unitised |
|-------------------------------------|--------------|

| | |
|---|-----------------|
| Membership categories in which the Fund is offered (Clause 2AA.1) | The AP Category |
|---|-----------------|

| | |
|--|---|
| Maximum trustee fee for Fund (Clause 23.1) | 2% per annum of the Net Asset Value of the Fund |
|--|---|

Item 11 – Fixed Payment Fund

| | |
|--|--------------------|
| Name of Fund (Clause 2AA.3(b)) | Fixed Payment Fund |
|--|--------------------|

| | |
|-------------------------------------|--------------|
| Type of Fund (Clause 1.1) | Non-Unitised |
|-------------------------------------|--------------|

| | |
|---|-----------------|
| Membership categories in which the Fund is offered (Clause 2AA.1) | The AP Category |
|---|-----------------|

| | |
|--|---|
| Maximum trustee fee for Fund (Clause 23.1) | 2% per annum of the Net Asset Value of the Fund |
|--|---|

Schedule 4 – Flexible Income Division

1. Application and Definitions

- 1.1 The provisions of this Schedule 2 apply only to Flexible Income Division Members.
- 1.2 In this **Schedule 4**, unless the context otherwise requires, the following words or expressions shall have the meanings respectively assigned to them:

Account Based Pension means:

- (a) a pension payable from this Division under this **Schedule 4** which complies with the standards set out in subregulations 1.06(1) and 1.06(9A)(a) of the *Superannuation Industry (Supervision) Regulations 1994* (Cth); and
- (b) a Transition to Retirement Income Stream.

Pension Account means the Account maintained in respect of an Account Based Pension.

Pension Commencement Date, in relation to a Member means the date a Pension commences to be paid in respect of the Member from this Division.

Transition to Retirement Income Stream or **TRIS** means a pension payable from this Division under this **Schedule 4** which meets the definition of a 'transition to retirement income stream' in the Superannuation Laws.

2. Membership of the Flexible Income Division

Membership

- 2.1 An Eligible Person who is eligible under the Superannuation Laws to contribute to, or have benefits transferred to, the Trust may apply for membership of the Flexible Income Division in a form approved by the Trustee.
- 2.2 Such person becomes a Member from the date the Trustee accepts the application or such other date determined by the Trustee.
- 2.3 The Trustee may in its absolute discretion reject an application or delay consideration of an application.
- 2.4 The Trustee must deal with a person's application money:
- (a) pending the processing and acceptance of that application; and
- (b) where the application is refused,
- in accordance with the Superannuation Laws.
- 2.5 Each Member irrevocably appoints the Trustee his or her attorney to do anything permitted by this Deed.

Cessation of membership

- 2.6 A Member ceases to be a Member when all the benefits of the Member are paid or otherwise exhausted, satisfied or dealt with under this Deed.

Provision of information

- 2.7 Each Member must provide all information and evidence, sign all documents, undergo all medical examinations and tests, and generally satisfy all standards and requirements requested by the Trustee.
- 2.8 The Trustee may refuse to admit a person as a Member or place conditions on the person's membership if:
- (a) the person does not comply with **rule 2.7** to the satisfaction of the Trustee; or
 - (b) information provided by the person is incorrect or contains an omission.

3. Acceptance of contributions, rollovers and transfers

- 3.1 The Trustee may accept into the Flexible Income Division for the benefit of a Member:
- (a) the rollover or transfer of benefits from another Benefit Arrangement in respect of a Member;
 - (b) contributions in respect of the Member from any person where permitted by the Superannuation Laws (including without limitation eligible spouse contributions in respect of the Member);
 - (c) an allotment of splittable contributions made by or on behalf of the Member's Spouse under **clause 4A**; and
 - (d) a rollover or transfer of an amount, equal to the splittable contribution, made by or on behalf of the Member's Spouse, from another Benefit Arrangement.
- 3.2 The Trustee may establish rules governing the acceptance of amounts under **rule 3.1** including, but not limited to, the minimum amount that may be accepted.
- 3.3 The capital supporting a Pension cannot be added to by way of contribution or rollover after the Pension Commencement Date for the Pension.

4. Member investment choice

- 4.1 The Trustee may, where permitted by the Superannuation Laws, hold specific investments for separate Member or classes or groups of Members.
- 4.2 Where permitted by the Superannuation Laws, the Trustee may (but is not obliged to):
- (a) establish one or more investment objectives and strategies (each called a **Fund**); and
 - (b) allow a Member or a class or a group of Members to direct the Trustee, or vary such direction to invest the Member's Account and, if there is more than one Fund, the proportion of their Account that are to be invested, in a Fund or Funds (each such direction called an **Investment Choice**).
- 4.3 The Trustee may:
- (a) in its absolute discretion, defer carrying out an Investment Choice to withdraw from a specific investment or stagger the withdrawal from a specific investment, for any reason;
 - (b) prior to carrying out an Investment Choice, seek evidence of the Member's consent to the direction;
 - (c) impose terms, conditions and restrictions on the manner in which an Investment Choice may be made, including:

- (i) the minimum amount that may be invested a Fund;
 - (ii) the time or times, and the frequency in relation to which Investment Choice may be made or changed; and
 - (iii) the fees that can be charged in relation to making or changing Investment Choice (including a fee for switching between Funds);
- (d) at any time vary any term, condition or restriction without the approval of the Member, subject to the Superannuation Laws; and
- (e) if a Member who is allowed an Investment Choice fails to exercise his or her Investment Choice within the time or manner specified by the Trustee, determine the Fund or Funds into which the Member's Account is to be invested and if there is more than one Fund, the proportion of the Member's Account that is to be invested in each Fund.
- 4.4 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.
- 4.5 The Trustee is not liable for the acquisition, delay in acquiring, retention, failure to dispose of, the performance of, or for any loss attributable to, a specific investment.

5. Pension payments

- 5.1 Subject to the Superannuation Laws and **rule 6**, a Member is entitled to an Account Based Pension or a TRIS, as agreed with the Trustee, in accordance with the provisions of this **Schedule 4**.
- 5.2 Each Pension shall be paid from the Pension Commencement Date and continue to be paid for such period (if any) as is agreed between the Member and the Trustee unless the balance of the Member's Pension Account is exhausted before that time.
- 5.3 In respect of that part (if any) of a Pension Account that is not an unrestricted non-preserved benefit, the Trustee must pay a TRIS.

6. Changes from one Pension to another Pension

- 6.1 Subject to the Superannuation Laws, the Trustee may:
- (a) on the request of a Member or Reversionary Beneficiary; or
 - (b) in its absolute discretion,
- alter the terms of a Pension payable to, or in respect of, the Member or Reversionary Beneficiary from one form of Pension to another form of Pension, from a date determined by the Trustee.

7. Pension to comply with Superannuation Laws

- 7.1 Notwithstanding any other provision of this **Schedule 4**, every Pension paid from this Division must comply with the Superannuation Laws, as it relates to that Pension.

8. Pension Commencement Date

- 8.1 The Trustee may allow a Member to nominate the Pension Commencement Date for each Pension payable in respect of the Member.
- 8.2 The Pension Commencement Date must not be later than the date necessary to comply with the Superannuation Laws.

- 8.3 If the Trustee allows a Member to nominate the Pension Commencement Date for a Pension payable in respect of the Member and the Member does not nominate a Pension Commencement Date that complies with the Superannuation Laws as it relates to that Pension:
- (a) the Trustee may commence to pay the Pension with effect from a Pension Commencement Date that complies with the Superannuation Laws as it relates to that Pension;
 - (b) if the Trustee is unable to identify a Pension Commencement Date that complies with the Superannuation Laws, the Trustee may (in accordance with **rule 6**) commence to pay a different Pension (new Pension) with effect from a Pension Commencement Date that complies with the Superannuation Laws as it relates to the new Pension; or
 - (c) transfer the Member and the Member's Pension Account to another Division.

9. Frequency of Pension payments

- 9.1 Subject to the Superannuation Laws, the Trustee must make Pension payments to the relevant Member with such frequency and at such intervals and times as are agreed between the Trustee and the Member.
- 9.2 Subject to the Superannuation Laws, the Trustee may alter the frequency with which Pension payments are to be made:
- (a) at any time the Trustee considers appropriate; or
 - (b) at any time agreed upon between the Member and the Trustee.
- 9.3 If at any time the frequency of the Pension payments has not been agreed upon by the Trustee and the Member, the Trustee must ensure that at least one Pension payment is made during each financial year after the Pension Commencement Date.
- 9.4 Notwithstanding any agreement with the Member to the contrary, the Trustee must ensure that at least one Pension payment is made to the Member during each financial year after the Pension Commencement Date.

10. Selecting the value of Pension payments

- 10.1 The Trustee may allow a Member to nominate the value of Pension payments to be paid under a Pension during a financial year.
- 10.2 The sum of the Pension Payments made under a Pension to a Member in each financial year or part of a financial year must not be:
- (a) less than the minimum limits; or
 - (b) in the case of a TRIS, greater than the maximum limits,
- set out in the Superannuation Laws in relation to the Pension, provided such payments do not exceed the value determined by the Trustee. In the event that such payments fall outside such limits, the Trustee may, without notice, make such adjustment to the value of all or some of the Pension payments in respect of a Pension as the Trustee considers necessary to ensure that their sum does fall within the limits required under this rule.
- 10.3 If the Trustee allows a Member to nominate the value of Pension payments and the Member does not nominate a value within the limits required under **rule 10.2** within such period as determined by the Trustee, the Trustee must either:
- (a) make the Pension payments for the current financial year calculated according to any previous agreement between the Trustee and Member; or

- (b) in the absence of any such agreement make the Pension payments at the minimum limit required to be paid under **rule 10.2**.

10.4 The Trustee may at any time and without prior notice to the Member adjust the value of Pension payments to such Member to a level that complies with the Superannuation Laws.

11. Commutation

11.1 Subject to **rule 11.4** and the Superannuation Laws, the Trustee may, on the request of a Member, commute to a lump sum, the whole or any part of his or her Pension.

11.2 Subject to **rule 11.4**, on the commutation of the whole of a Pension, subject to the Superannuation Laws, the Trustee must pay a lump sum benefit to the Member equal to the balance of his or her Pension Account as at the date of commutation.

11.3 Subject to **rule 11.4**, on the commutation of part of a Pension, subject to the Superannuation Laws, the Trustee must pay a lump sum benefit to the Member from his or her Pension Account equal to the amount requested up to the balance of the Pension Account as at the date of commutation.

11.4 The Trustee may only commute a TRIS (or any part of it) if:

- (a) the purpose of the commutation is:
 - (i) to cash an unrestricted non-preserved benefit;
 - (ii) to pay a superannuation contributions surcharge; or
 - (iii) to give effect to an entitlement of a Non-Member Spouse under a payment split; or
- (b) after the commutation, the amount commuted would be an unrestricted non-preserved benefit; or
- (c) in any other circumstances permitted by Superannuation Laws as it relates to that Pension.

11.5 The Trustee must commute all or any part of a Pension that is being paid to a Member or a Reversionary Beneficiary where required by the Superannuation Laws.

12. Reversionary beneficiaries

12.1 The Trustee may approve such form, adopt such procedures and impose such terms, conditions and restrictions in connection with the nomination of a Reversionary Beneficiary as the Trustee determines from time to time which must be complied with by a Member in order for a nomination to be valid and effective. The Trustee may impose such terms, conditions and restrictions in connection with the payment of a Pension on the death of the Member to a Reversionary Beneficiary as the Trustee determines from time to time which must be complied with,

12.1A A Reversionary Beneficiary nomination ceases to be valid and effective upon the earlier of the following events:

- (a) on receipt by the Trustee from the Member of a replacement, conflicting or inconsistent Binding Nomination, Non-Lapsing Nomination, Reversionary Beneficiary nomination or Non-Binding Nomination;
- (b) the Member separates on a permanent basis from their Spouse; or
- (c) any other event determined by the Trustee from time to time.

- 12.2 Upon the death of a Member who has nominated a Reversionary Beneficiary for the Account Based Pension which is valid and effective at the Member's death, the Trustee must, subject to the Superannuation Laws and any terms and conditions of payment determined pursuant to **rule 12.1**, continue to pay the Account Based Pension to the Reversionary Beneficiary until the earlier of:
- (a) the Pension Account reaching zero; or
 - (b) the death of the Reversionary Beneficiary; or
 - (c) the benefit is no longer permitted by the Trustee or by Superannuation Laws to be paid in the form of a Pension,

in which case, the balance (if any) of the Pension Account must be paid to the Reversionary Beneficiary as a lump sum.

- 12.3 If the Trustee pays an Account Based Pension to a Reversionary Beneficiary under **rule 12.2**, subject to such conditions and restrictions as the Trustee determines from time to time, , unless the context otherwise requires, each reference to the Member in this Schedule must be read as a reference to the Reversionary Beneficiary.

13. Cessation of Pension

- 13.1 The Pension will cease to be payable on the earlier of the following:

- (a) the balance of the Pension Account is exhausted or decreases to a value determined by the Trustee;
- (b) the term of the Pension agreed to by the Trustee and the Member in **rule 5.2** has expired; or
- (c) on the date determined by the Trustee in accordance with the Superannuation Laws.

- 13.2 Any balance of the Member's Pension Account at the date determined under **rule 13.1** shall be paid to the Member as soon as practicable thereafter.

14. Transfer of Account

- 14.1 The Trustee may transfer the balance of the Member's Pension Account to another Benefit Arrangement in accordance with **clause 8A**.

15. Cessation of membership

- 15.1 A person shall cease to be a Member when the Member ceases to be entitled to any benefits from this Division.

16. Limit on reversion and commutation

- 16.1 Where an Pension reverts or is commuted, it does not have a reversionary component greater than 100% of the benefit that was payable before the reversion or commutation.

17. No Transfer

- 17.1 A Pension may not be assigned or transferred to another person (other than to a Reversionary Beneficiary on the death of the Member or of another Reversionary Beneficiary), unless such transfer is permitted by the Superannuation Laws.

18. Pension not to be used as security

- 18.1 A Member may not use the capital value of a Pension, or the income from a Pension, as security for a borrowing, unless permitted by the Superannuation Laws.