

REI Super

AN INDUSTRY SUPERANNUATION FUND FOR ALL PROPERTY PROFESSIONALS

CONSOLIDATING DEED

This is a consolidated copy of the main legal document governing the Fund and sets out for convenience the provisions currently in force as at the date(s) of preparation (last amendment date incorporated being 22 August, 2019). Those provisions were produced as a result of and from the list of relevant source documents which appears on the next page.

Document	Date Executed
Constituent Deed	4 February 1975
Amending Deed	4 January 1988
Replacement Deed	14 May 1992
Replacement Deed	3 September 1997
Amending Deed	3 November 1997
Amending Deed	19 March 1999
Amending Deed	17 December 2001
Amending & Consolidating	16 May 2003
Amending Deed	19 September 2003
Amending Deed	9 July 2004
Amending Deed	5 November 2004
Amending & Consolidating	21 March 2006
Amending Deed	24 August 2006
Amending Deed	21 March 2007
Amending Deed	24 August 2007
Amending & Consolidating	23 November 2007
Amending Deed	1 June 2008
Amending Deed	27 February 2009
Amending Deed	27 August 2010
Amending Deed	1 March 2012
Amending & Consolidating	23 November 2012
Amending Deed	23 May 2013
Amending Deed	19 November 2015
Amending Deed	31 March 2017
Amending Deed	29 November 2018
Amending Deed	16 May 2019
Amending Deed	22 August 2019

DATED 23rd November 2012

BY

REI SUPERANNUATION FUND PTY LTD (ABN 68 056 044 770)

(the Trustee)

**CONSOLIDATED TRUST DEED AND RULES
FOR**

REI Super

A CONSOLIDATED DOCUMENT CONTAINING:

- Replacement Deed (4424GJB) dated 3 September 1997
 - Amending Deed (4459GJB) dated 3 November 1997
 - Amending Deed (5040GJB) dated 19 March 1999
 - Amending Deed (4424GJB Spouse Conds) dated 17 December 2001
 - Amending and Consolidating Deed dated 16 May 2003
 - Amending Deed (Rei.Cons+1amd) dated 19 September 2003
 - Amending Deed (Rei.Cons+2amd) dated 9 July 2004
 - Amending Deed (Rei.Cons+3amd) dated 5 November 2004
 - Amending Deed (ReiSuper Large Amending Deed 2006) dated 21 March 2006
 - Amending Deed (GJBTRAPS) dated 24 August 2006
 - Amending Deed (multi-eerspsramndt) dated 21 March 2007
 - Amending Deed (amlctf/bankruptcy) dated 24 August 2007
 - Amending and Consolidating Deed dated 23 November 2007
 - Amending Deed (SGOTEexCat1A) dated 1 June 2008
 - Amending Deed (Same-Sex Rltshps) dated 27 February 2009
 - Amending Deed (Lost Members) dated 27 August 2010
 - Amending Deed (Crimes forfeiture) dated 1 March 2012
 - Amending and Consolidating Deed (MySuper) dated 23 November 2012
 - Amending Deed (Directors Voting) dated 23 May 2013
 - Amending Deed (POF alts) dated 19 November 2015
 - Amending Deed (addit. Independent Directors) dated 31 March 2017
 - Amending Deed (AFCA & Ors) dated 29 November 2018
 - Amending Deed (Fee Caps/Penalties) dated 16 May 2019
 - Amending Deed (BSBN & AGMs) dated 22 August 2019
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THIS AMENDING DEED is made the **23rd** day of **November** **2012**.
This Amending Deed was subsequently amended five times after 2012, via amending deeds dated 23 May 2013, 19 November 2015, 31 March 2017, 29 November 2018, 16 May 2019 and 22 August 2019 and the alterations implemented in the last of those amending deeds are now consolidated in by this document for ease of presentation (those in the prior amendments having already been consolidated). The reader is to note that this document whilst being in form only, the present legally enforceable trust instrument which governs the Fund, it in fact is largely merely a summary of those documents from the past which are numerous and in most recent guise, date back to 1997. If necessary, reference should be made to each of, all of, those original documents for certainty.

BY REI SUPERANNUATION FUND PTY LTD (ABN 68 056 044 770) an incorporated legal entity
(the Trustee)

WHEREAS

- A. By deed made 4 February 1975 (**the Original Trust Deed**) a superannuation fund was established and named “The Real Estate and Stock Institute of Australia Superannuation Fund for Directors and Employees” (**the Fund**).
- B. Pursuant to Clause 20 of the Original Trust Deed, the participating Employers under the Fund had the power in General Meeting to approve any amendment to the Original Trust Deed.
- C. Pursuant to Clause 5.1 of the Original Trust Deed, the Original Trust Deed and/or Rules could with the prior approval of the “Board of Governors” be amended by Deed executed by the Trustee **PROVIDED THAT** no amendment shall retrospectively reduce or materially adversely affect the value of the interest in the Fund of any Member or the Dependant of any Member without the written approval of the Commissioner or of that Member. The Original Trust Deed and Rules were amended by complete replacement by amending deed dated 14 May 1992 as amended, and again by three separate sympathetic replacements and amendments dated 3 September 1997, 23 November 2007 and 23 November 2012 as amended (**the Deed**).
- D. The Board of Governors was at the Fund’s commencement, established as a management committee for the Fund and it no longer exists as a separate entity to the Trustee and in fact by incorporation, the individuals who formerly comprised the Board of Governors took on the roles of (initial) directors of the Trustee.
- E. Clause 34 of the Deed enables the Deed to be amended. Clause 34 of the Deed is as follows:
- “34. *Amendments*
- 34.1 *The Trustee may amend any of the provisions of the Deed or Rules including this Clause 34.*
- 34.2 *An amendment must be in writing unless carried out by oral resolution.*
- 34.3 *An amendment may take effect from a date before, at or after the time it is made.*
- 34.4 *An amendment is not effective if, in the Trustee’s opinion, it may reduce the amount of any benefit that has accrued (only as and if such a term is defined by the Act) or retrospectively reduce or materially adversely affect the value of the interest in the Fund of any Member or the Dependant of any Member as at the date of execution or passing of the relevant resolution authorising the amendment unless such reduction is consistent with any requirement of the Act or approval of the Commissioner, or the Member has consented in writing to it or the nature of the amendment is to correct a defect in either the drafting or the benefit design of the Fund.*
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- 34.5 *No amendment may enable an individual person to be appointed as Trustee unless the Act expressly, or by implication, does not prohibit operation for such an amendment to a Regulated Superannuation Fund such as the Fund.*
- 34.6 *No amendment may be made in contravention of the Act or to procure a result prohibited by the Act.*
- 34.7 *Notice of any such amendment shall be given to the Members affected thereby within such period of time and by such method as the Trustee shall decide, provided always that such notice will be in accordance with the standards prescribed under the Act. However, failure to notify at all or effectively does not invalidate any amendment.”*

NOW THIS DEED WITNESSES AS FOLLOWS:

1. Continuation of Fund

- 1.1. The Fund commenced on 4 February 1975.
- 1.2. The Fund is known as REI Super.

2. Rules

- 2.1. The Fund will be administered in accordance with the provisions of this Deed and of the Rules annexed hereto and any reference to “the Rules” in this Deed or in the Rules will mean the Rules for the time being in force. The Rules may be divided into parts or plans applicable only to persons admitted to membership of those parts or plans. Should anything contained in the Rules or any alteration or amendment thereof be inconsistent with the Deed the provisions of the Deed will prevail.

3. Interpretation

- 3.1. In this Deed and in the Rules unless the subject matter or context otherwise requires:
- (a) the singular includes the plural and vice versa;
 - (b) words importing any gender include the other gender;
 - (c) obligations (whether actual or contingent) undertaken by two or more persons bind them jointly and each of them severally;
 - (d) rights or privileges conferred on two or more persons may be enforced by them jointly and each of them severally according to their respective interests;
 - (e) each obligation (whether actual or contingent) undertaken by any person will be construed as if it were a separate independent obligation by that person for valuable consideration received;
 - (f) reference to any statute ordinance or other law or part thereof includes all regulations and other instruments and all consolidations amendments re-enactments thereof or replacements therefor for the time being in force;

- (g) all headings bold typing and italics (if any) have been inserted for convenience of reference only and do not define limit or affect the meaning or interpretation of this instrument;
- (h) reference to a recital schedule or appendix is a reference to a recital schedule or appendix of or to this instrument;
- (i) reference to persons includes bodies corporate and government authorities.

3.2. In addition to the words defined in the Rules the following words have the meanings set after them:

“Act” means as the context may call for, and without being an exhaustive list, any one or all of the:

- AFCA Act, being the Treasury Laws Amendment (Putting Consumers First Establishment of the Australian Financial Complaints Authority) Act 2018,
- Anti-Money Laundering and Counter-Terrorism Financing Act 2006,
- Bankruptcy Act 1966 (Cth) as amended particularly by the Bankruptcy Legislation Amendment (Superannuation Contributions) Act 2007,
- Corporations Act 2001,
- Family Law Act 1975 as amended, particularly by the Family Law Legislation Amendment (Superannuation) Act 2001, and Family Law Legislation Amendment (Superannuation) (Consequential Amendments) Act 2001,
- SIS,
- Superannuation (Resolution of Complaints) Act 1993,
- Superannuation (Financial Assistance Funding) Levy Act 1993 and Amendment Act 2003,
- Superannuation (Rolled-Over Benefits) Levy Act 1993,
- Superannuation Industry (Supervision) Consequential Amendments Act 1993,
- Superannuation Supervisory Levy Imposition Act 1998 and Amendment Acts thereto dated 2005 and 2012,
- Superannuation Supervisory Levy Act 1991 and Amendment Acts thereto dated 1993 and 1995,
- Superannuation Guarantee Charge Act 1992 and the Superannuation Guarantee (Administration) Act 1992 and Amendment Acts thereto dated 2002 and 2012,
- Superannuation (Government Co-Contribution for Low Income Earners) Act 2003 and (Consequential Amendments) Act 2003,
- Superannuation Safety Amendment Act 2004,
- Superannuation (Unclaimed Money and Lost Members) Act 1999,
- Superannuation (Unclaimed Money and Lost Members) Consequential and Transitional Act 1999
- Superannuation Legislation Amendment (MySuper Core Provisions) Act 2012,
- Superannuation Legislation Amendment (Stronger Super) Act 2012,
- Superannuation Legislation Amendment (Trustee Obligations and Prudential Standards) Act 2012,
- Tax Acts,
- Treasury Laws Amendment (Improving Accountability and Member Outcomes in Superannuation Measures No.1) Act 2019,
- Treasury Laws Amendment (Protecting Your Superannuation Package) Act 2019,
- Treasury Laws Amendment (Reducing Pressure on Housing Affordability Measures No. 1) Act 2017,

- Treasury Laws Amendment (Strengthening Corporate and Financial Sector Penalties) Act 2019; and
- numerous Superannuation Laws Amendment Acts and Legislation Amendment Acts

(collectively called “Relevant Acts”) as amended from time to time and where the Trustee deems appropriate includes:

- (a) any Ministerial announcement by the Commonwealth Treasurer or other Minister of proposed changes to the Relevant Acts which will affect the Fund whether the change is to have retrospective effect or not,
- (b) any regulations made under the Relevant Acts and any superannuation prudential standard, guidance note, circular, guideline, ruling, policy statement, announcement, notes, return, forms, prescribed agreement or award or advice given or issued by the Regulator, a Commonwealth or State industrial authority, the responsible Minister of the Commonwealth Government or any other responsible Government authority or officer whether Commonwealth or State; and
- (c) any further Acts or ancillary Acts to the Relevant Acts of the Commonwealth of Australia introduced in connection with the regulation or control of taxation-concessional superannuation funds and fees and costs charged, benefits payable from and/or contributions payable to such a fund

with which the administration of the Fund, the Trustee or its directors individually or collectively must comply or may choose to comply in order to gain or maintain the most favourable marketing position for the Fund, the most favourable Tax, charge, levy and/or fines and any other penalty treatment available at law, to any or all of those persons and wherever possible, to anticipate, minimise or preferably absolutely avoid any negative consequences of same for all such persons.

“Actuary” means any such person as is appointed by the Trustee from time to time and who satisfies the definition ‘actuary’ specified under the Act.

“AFCA” means Australian Financial Complaints Limited ACN 620 494 340 (or simply the Australian Financial Complaints Authority) established under the Act as a company limited by guarantee and having its own Constitution.

“AFS Licence” means an Australian Financial Services Licence.

“Annual Review Date” means 1 July in each year or such other date as the Trustee may determine from time to time.

“Approved Deposit Fund” has the same meaning as contained in Part IX of the Income Tax Assessment Act 1936.

“Auditor” means such a person as is appointed by the Trustee from time to time and who satisfies the definition ‘RSE auditor’ specified under the Act.

“Badged Category” in respect of the Fund means that part of the Deed and Rules which governs the participation of each Badged Category Member.

“Badged Category Member” means a Member entitled to or previously entitled to receive or contingently receive the benefit of contributions paid to the Fund by an Employer Sponsor and who participates in the Fund according to the provisions contained in the Deed and the Rules as apply to a Badged Category.

“Binding Nomination” in respect of a Member means a benefit nomination received by the Trustee from the Member which:

- (a) is in a form and on a form approved for that purpose by the Trustee;
- (b) complies with the Act in respect of binding death benefit nominations; and
- (c) either confirms a previous Binding Nomination given by them to the Trustee or nominates one or more of the Member’s Dependants and/or Personal Representative(s) to receive their death benefit and the proportion or proportions in which it is to be paid

PROVIDED THAT a Binding Nomination received by the Trustee from a person holding a claimed power of attorney (of any form) from a Member, is not recognized by the Trustee as valid.

“Category 1” in respect of the Fund means that part of the Deed and the Rules which governs the participation of each Category 1 Member in the Fund.

“Category 1 Member” means a Member entitled to or previously entitled to receive or contingently receive the benefit of contributions paid to the Fund by an Employer Sponsor and who participates in the Fund according to the provisions contained in the Deed and the Rules as apply to Category 1.

“Category 2” in respect of the Fund means that part of the Deed and the Rules which governs each Category 2 Member's participation in the Fund.

“Category 2 Member” means a Member who is most usually self-employed and who participates in the Fund according to the provisions contained in the Deed and the Rules as apply to Category 2.

“Category 3” in respect of the Fund means that part of the Deed and the Rules which governs each Category 3 Member's participation in the Fund.

“Category 3 Member” means a Member who upon entry to the Fund is not a person who satisfies the conditions for and desires to be admitted in any other Category of membership and who participates in the Fund according to the provisions contained in the Deed and the Rules as apply to Category 3.

“Child ” in relation to a Member means:

- (a) someone who is a child of the person within the meaning of the Family Law Act 1975,
- (b) an adopted child, a stepchild or an ex-nuptial child of the person; and
- (c) a child of the person’s Spouse.

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“Constitutional Corporation” means a trading corporation or a financial corporation, formed within the limits of the Commonwealth, within the meaning of paragraph 51(xx) of the Australian Constitution.

“Deed” means this Deed and includes the Rules annexed hereto as amended from time to time.

“Dependant” means in respect of a Member at the time of the Member’s death or other relevant time:

- (a) a Spouse; and
- (b) any Child of the person; and
- (c) any person(s) with whom the Member had or has an *interdependency relationship* (as defined in SIS and having regard to factors relevant to that statutory definition as specified in any applicable regulations made under that Act); and
- (d) any other person who in the opinion of the Trustee was wholly or partially dependent upon the Member in any way at that time

and the term ‘Dependant’ will also extend at the absolute discretion of the Trustee to any other person deemed acceptable as a Dependant of the Member under the Act.

“Director” means a person who is a director of the corporation appointed to act as Trustee pursuant to Clause 7 and who has consented in writing to that appointment.

“Disclosure Document” means each of any document issued by the Trustee in respect of the Fund specifically for the purposes of compliance with the Act including but not limited to the Trustee’s Product Disclosure Statement and Financial Services Guide.

“Eligible Fund” means a Regulated Superannuation Fund, an Approved Deposit Fund, or an Eligible Rollover Fund or a roll-over annuity within the meaning of the Tax Acts, a retirement savings account or such other like fund or annuity which the Trustee determines to be an Eligible Fund, the acceptance of moneys or assets from or the payment or transfer of moneys or assets to which would not in the opinion of the Trustee jeopardise the status of the Fund as a Regulated Superannuation Fund in any financial year of the Fund.

“Eligible Rollover Fund” means any fund in respect of which a declaration by the Regulator that the fund is an Eligible Rollover Fund under SIS is in force.

“Employee” means an employee of or a director of the Employer Sponsor and includes any person designated an Employee by that person's Employer Sponsor and approved by the Trustee for the purposes of the Act and the Deed.

“Employer Sponsor” means a person who has completed such documentation as the Trustee may require and whom the Trustee has or resolves to admit as such and who has paid or will pay contributions to the Fund in respect of an Employee who is a Member PROVIDED THAT in respect of any Category 1 Member for whom an Employer Sponsor has previously been admitted and for whom an unbroken period of membership of the Fund since that admission also exists, no formal admission documentation will be necessarily required from each subsequent employer of that member in order for that employer to satisfy this definition.

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“Fund” means REI Super.

“Fund Assets” means and includes all money from time to time held by or on account of the Trustee pursuant to this Deed and the investments for the time being representing that money after allowance for all current liabilities of the Fund.

“Fund Policies” means all the Fund’s policies as created for and implemented by the Trustee and in some instances, the Fund Secretary within their Fund secretariat office. Some Fund policies are created to satisfy the Act’s requirements including those applicable under MySuper and some are created to satisfy other legislative and human resource imperatives.

“Fund Secretary” means the person appointed by the Trustee as secretary of the Fund pursuant to Clause 12.3 and includes any deputy or acting Fund Secretary appointed thereunder.

“GST” means any goods and services taxation payable by the Trustee and/or the Fund under the A New Tax System (Goods and Services Tax) Act 1999.

“Insurance Company” means the insurance company with respect to a particular risk for which cover has been obtained pursuant to Clause 16 as the Trustee determines from time to time.

“Lost Member” means a Member defined as a lost member under the Act the benefit or accrued money(s) equivalent of which is required under the Act to be dealt with as lost.

“Member” means a person who is, unless the Act allows otherwise, for the purposes of Category 1, MySuper or Badged Category membership, an Employee and for Category 2 membership means a person in Gainful Employment but for Category 3 membership means anyone other than a Category 1, MySuper, Badged Category or Category 2 Member, who for each of those categories of membership, has been admitted to membership of the Fund in accordance with Rule 2 of the Rules and nothing prevents a Member from being concurrently a MySuper Member and a Member of one or more other categories of membership of the Fund PROVIDED THAT where referred to in the Deed and Rules, the term Spouse Member means a person who is a Member as a result of either transferring into the Fund on that basis or else by becoming eligible for membership either pursuant to Rule 2.5 or via use by the Trustee of its benefit splitting powers in Clause 43 allied with an absence of use of Clause 30 to transfer the Spouse and their entitlement out of the Fund.

“Member Accounts” refer to the definition of this term in Rule 1.1 of the Rules.

“MySuper” means a class of beneficial interest in the Fund which satisfies the requirements of the Act for it to be a MySuper product and for which the Trustee is authorised under the Act to offer that class of beneficial interest.

“MySuper Member” means a Member who participates in the Fund according to the provisions contained in the Deed and the Rules as apply to MySuper and who is entitled to, or in limited circumstances was previously entitled to hold or contingently hold, a MySuper based beneficial interest in the Fund.

“Payment Flag” has the same meaning as in the Act.

“Payment Split” has the same meaning as in the Act.

“Pension” means a benefit payable by instalments out of the Total Account Balance of a Member, whether such instalments be equal or unequal.

“Personal Representative” means that person who acts or those persons who act as executor(s) of a deceased Member's will or administrator(s) of a deceased Member's estate, the trustee of the estate of a beneficiary or prospective beneficiary under a legal disability or a person who holds an enduring power of attorney granted by a beneficiary or prospective beneficiary.

“Preserved Benefit” means any benefit (or part thereof) which, in order for the Fund to gain or maintain the most favourable Tax treatment available at law to it, is required under the Act to be preserved for the Member in the Fund or in another Eligible Fund until permanent retirement from the workforce or merely retirement from Employment after, in either of those cases, attaining such age as the Act prescribes or until the Member's earlier death or permanent disablement or in such other circumstances as are permitted by the Act.

“Regulated Superannuation Fund” means a superannuation fund the Trustee of which will elect, elects or has elected that fund be regulated in accordance with the requirements of SIS.

“Regulator” means as the context requires, the Commissioner of Taxation, the Australian Prudential Regulation Authority, the Australian Securities and Investments Commission, the Australian Transaction Reports and Analysis Centre or the Chief Executive Medicare [as defined under the Human Services (Medicare) Act 1973] or the delegate of any of them or any person who is appointed by an Act of Parliament to supervise the conduct of, reporting by and/or disclosure by superannuation funds (like the Fund) and their trustees.

“RSE Licence” means a Registrable Superannuation Entity Licence as defined in the Act.

“Rules” means the Rules annexed to and forming part of this Deed.

:# “SIS” means the Superannuation Industry (Supervision) Act 1993 and Amendment Acts thereto dated 1997, 2003 and 2010 together with many amendments carried out through Consequential Amendment Acts for efficacy of other Acts.

“Spouse” in relation to a Member includes:

- (a) a person legally married to the Member at the relevant time,
- (b) another person (whether of the same sex or a different sex) with whom the Member is at the relevant time, in a relationship that is registered under a law of a State or Territory prescribed for the purposes of section 22B of the Acts Interpretation Act 1901 as a kind of relationship prescribed for the purposes of that section of that Act; and
- (c) any other person who, at the relevant time, although not legally married to the Member, is living with or lived with the Member on a genuine domestic basis in a relationship as a couple

and at the Trustee's discretion, but only for the purposes of carrying into effect the requirements of the Family Law Act 1975, the term Spouse may also apply to a former Spouse.

“Successor Fund” has the same meaning as contained in the SIS Regulations.

“Tax” means income tax (including any tax on the disposal of assets), withholding tax, stamp, financial institutions and other duties and other taxes, levies, imposts, surcharges, deductions and charges whatsoever including GST, capital gains, eligible termination payments and payroll tax whether described under the Act, the Tax Acts or otherwise, together with interest

thereon and penalties with respect thereto (if any) and charges, fees or other amounts paid on or in respect thereof.

“Tax Acts” means the Income Tax Assessment Acts 1936 and 1997 (as amended), the Superannuation Entities (Taxation) Act 1987, the Income Tax Rates Act 1986, the Income Tax (Companies Prescribed Unit Trust and Superannuation Funds) Act 1985, the Taxation Administration Act 1953, the First Home Super Saver Tax Act 2017 and any act titled the same as or similar to the:

- Superannuation Contributions Tax (Application to the Commonwealth) Act 1997,
- Superannuation Contributions Tax (Application to the Commonwealth - Reduction of Benefits) Act 1997,
- Superannuation Contributions Tax (Assessment and Collection) Act 1997,
- Superannuation Contributions Tax (Consequential Amendments) Act 1997,
- Superannuation Contributions Tax Imposition Act 1997,
- Superannuation (Departing Australia Payments Tax) Act 2007 and Amendment Act thereto dated 2008,
- Superannuation (Excess Concessional Contributions Tax) Act 2007,
- Superannuation (Excess Non-Concessional Contributions Tax) Act 2007,
- Superannuation (Excess Untaxed Roll-over Amounts Tax) Act 2007,
- Superannuation (Government Co-Contribution for Low Income Earners) Act 2003,
- Superannuation (Surcharge Rate Reduction) Amendment Act 2003,
- Termination Payments Tax (Assessment and Collection) Act 1997; and
- Termination Payments Tax Imposition Act 1997

and any other act of the Commonwealth or any State or Territory of Australia relating to the imposition, collection or administration of Tax and any regulations made under any of the foregoing Acts.

“Tribunal” means the Superannuation Complaints Tribunal established under the Act and any other tribunal, commission or body (including but not limited to the Human Rights Commission) with the right at law to request or demand information from the Trustee.

“Trustee” means the trustee for the time being of the Fund holding at least an RSE Licence whether original or substituted and the term will also extend to mean, if the context so requires, an Independent Trustee (as defined in the Act) appointed as the Trustee for the time being of the Fund or a Trustee appointed due to operation of the Act.

“Unclaimed Money” means those benefits or accrued moneys equivalent of which are described as ‘unclaimed money’ under the Act.

4. Contributions

- 4.1. Subject to the provisions of Clause 4.4, the Employer Sponsors, the Members and any other affected person (including the Australian Government) will pay or cause to be paid into the Fund from time to time such contributions or other money as may be required in accordance with the Rules or otherwise in accordance with facilities available under the Act and/or an arrangement with the Trustee having regards to the requirements of the Act.
- 4.2. In order to facilitate ease of administration and to access facilities available from time to time under the Act, the Trustee has the right to accept contributions or remittance of costs, charges and Tax in the form of money or other asset or voucher representing a money value from any

source or sources it deems expedient and in respect of any Member or Members or the Fund generally.

- 4.3. The Trustee may make such arrangements with an Employer Sponsor for the payment of contributions by instalments or otherwise as the Trustee deems expedient.
- 4.4. The Trustee will only accept contributions which can be made to the Fund in accordance with the Act.
- 4.5. In order to remedy what the Trustee believes may be an injustice, the Trustee shall have an absolute right to refuse to accept any contribution paid or payable to the Fund and to repay any contribution already received.
- 4.6. Notwithstanding anything else in this Deed, no legal action may be pursued or presumption may be raised against the Trustee by any Member that it should have taken steps including debt recovery action against any Employer for or in respect of actually or notionally outstanding contributions in respect of that Member. This exclusion from liability shall extend to both Employer and Member contributions.

5. Benefits

- 5.1. Members will be entitled to benefits in accordance with the provisions of the Rules but the liability of the Trustee to make payment to or for any Member or to or for any Dependant or to the Personal Representative of a Member will not in any event exceed the amount of the benefits in respect of that Member that can be provided out of the Member's Member Accounts (as defined in the Rules).
- 5.2. The Trustee will pay or refrain from paying in part or in full any benefit payable pursuant to the Deed to the extent necessary to ensure compliance with the Act or any other legislation which limits the payment of benefits from the Fund.
- 5.3. If the Trustee pays a benefit in good faith to or on behalf of a person whom the Trustee believes to be entitled to it, then the Trustee shall be discharged from all obligations in respect of the benefit so long as the benefit is not paid from the Fund in breach of trust.
- 5.4. Without limiting the generality of anything preceding in this Rule 5:
 - (a) the Trustee is not required to inquire into or seek further evidence about a Binding Nomination or an amendment, replacement, confirmation or revocation of a Binding Nomination which on its face appears to comply with the Act and this Deed; and
 - (b) the Trustee is discharged from any liability to, or claim by, any person whatsoever in respect of a Member's death benefits, if -
 - (i) the Trustee pays their death benefits in accordance with the Member's Binding Nomination and each amendment, replacement, confirmation or revocation notice received appears or at the relevant time appeared, on its face, to comply with the Act and this Deed; or
 - (ii) the Trustee does not pay their death benefits in accordance with the Member's Binding Nomination because the Trustee reasonably believes or at the relevant time reasonably believed that the Binding Nomination in question had lapsed,

had been revoked by the Member or otherwise failed to satisfy the requirements of the Act and this Deed.

6. Management Costs

- 6.1. Subject to the specific requirements of the Act in respect of any MySuper Member, costs of management, administration and other similar costs whether incurred by the Trustee or for services relating to the Fund including those described in Clauses 13, 14 and 39 will be met out of the Fund and/or if applicable, via deduction from Member Accounts (as defined in the Rules) in any manner provided for in the Rules.

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7. Trustee

- 7.1. A Constitutional Corporation holding both an AFS Licence and an RSE Licence is appointed and subject to the requirements of the Act, only a Constitutional Corporation holding at least an RSE Licence may be appointed pursuant to Clause 7.2 to act as sole Trustee. Each such corporation shall be conducted in accordance with the requirements of both its Constitution and of this Deed PROVIDED THAT in the case of any conflict, the Trustee may choose to rely on one of those two documents *PROVIDED ALWAYS THAT appointment and removal of Directors shall occur solely in accordance with this Deed.*
- 7.2. If there is no Trustee of the Fund, then a simple majority of the Employer Sponsors must agree as soon as practicable after becoming aware of the vacancy (but in any case within 30 days of so becoming aware) to appoint a new Trustee and appoint that Trustee.
- 7.3. Each corporation appointed to act as Trustee pursuant to Clause 7.2 will have a minimum of 2 Directors and such maximum number (if any) as the Trustee may from time to time appoint in writing.
- 7.4. If at any time the number of Directors is less than the required number in terms of Clause 7.3 there will be a vacancy or vacancies to be filled.
- 7.5. Pending the filling of all vacancies the continuing or surviving Directors may (subject to the requirements of paragraph (c) of Clause 7.16) exercise any of the powers authorities and discretions that the Trustee is by this Deed authorised to exercise.
- 7.6. Member elected Directors, who must be Members of the Fund, will, subject to Clause 7.8, be deemed appointed as a result of an election called pursuant to Clause 7.9 and conducted in accordance with any procedural rules established pursuant to Clause 7.10, the persons so appointed being, the Member elected Directors.
- 7.7. Elections of Member elected Directors will be held by the Trustee in accordance with rules established for that purpose pursuant to Clause 7.10.
- 7.8. If there is or arises a vacancy among the Member elected Directors, the Trustee will:
- (a) upon the unanimous agreement of all continuing Directors, appoint another Member to fill the vacancy on exactly the same terms and conditions (including period of office) as the Director replaced or, failing such agreement, utilise the power granted it in paragraph (b) of this Clause

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OR

- (b) call an election for the appointment of a replacement Director.
- 7.9. The Trustee will arrange for a full (or if required for the purposes of sub-clause 7.8, partial) election of the Member elected Directors pursuant to Clause 7.10 -
- (a) in respect of each such Director on an individual basis at intervals not exceeding such period or term as might be established under Clause 7.10, or
 - (b) if required by operation of sub-clause 7.8(b), or
 - (c) if all the Directors at any time in their discretion think it desirable having regard to the requirements of the Act.
- 7.10. The Trustee will have full discretion in determining the manner in which Member elected Directors will be elected and procedural rules for that purpose may be established separately to the Deed and altered from time to time as part of ongoing administration of the Fund.
- 7.11. The Directors will appoint, by resolution requiring merely a simple majority, the Chair of the Directors (Chair) and may from time to time, by resolution requiring merely a simple majority, remove him or her from that office and appoint another person by the same process in his or her place PROVIDED THAT an independent Chair may be appointed and replaced hereunder and if so appointed, must also accept simultaneous appointment as a Director.
- 7.12. Subject to all other provisions of this Clause, a certificate signed by the Fund Secretary that a person or corporation named in it has been appointed a Trustee or Director, will be conclusive evidence for all purposes that that person or corporation has been properly appointed or subject to the notice as the case may be.
- 7.13. A Member is only eligible to become a Director, if, at the date of his or her appointment, he or she is an Employee. A Director ceases to be a Director immediately if:
- (a) he or she dies, or
 - (b) he or she becomes an insolvent under administration (as defined in the Act), or
 - (c) he or she resigns, or
 - (d) he or she ceases to be a Member, or
 - (e) if required to be elected by Members, he or she fails to be re-elected at an election held pursuant to Clauses 7.9 and 7.10, or
 - (f) except where the relevant Employer is affected by the operation of Clause 32, he or she ceases to be an Employee, or
 - (g) he or she becomes a disqualified person under the Act, or
 - (h) they no longer satisfy the description under the Act of a person who is 'fit and proper' to perform the role of a director of a trustee such as the Trustee, or
 - (i) he or she is or is required to be removed and/or replaced by operation of law (including that legislated pursuant to the Act) or formal request by the Regulator which is not formally disputed by the Trustee; or

- (j) being either appointed as an independent Director or as independent Chair, any finite term(s) (in the sense of 'time') specified in documents struck in respect of their appointment expires and they fail to be reappointed for any further term(s).
- 7.14. If any of the provisions of Clause 7.13 other than paragraph (a) is applicable in respect of a Director, he or she will execute such documents and do all such things as may be necessary to transfer to any replacement and/or remaining Directors, any powers and responsibilities that are subject to the trusts hereof (and not otherwise ordinarily transferred under the Deed) and in the event of failure to do so, the Trustee has power of attorney to execute such documents and do all such things on his or her behalf. Thereupon the outgoing Director will be deemed to be discharged from the trusts hereof except in relation to any act matter or thing constituting a breach of trust by that Director committed while a Director.
- 7.15. A Constitutional Corporation appointed as Trustee of the Fund ceases to be the Trustee of the Fund if:
- (a) it resigns (which resignation will be made by giving thirty (30) days written notice to the Employer Sponsors), or
 - (b) the Regulator suspends its appointment or removes it from office, or
 - (c) it ceases to hold an RSE Licence, or
 - (d) a receiver or a receiver and manager has been appointed in respect of property beneficially owned by it, or a provisional liquidator or official manager has been appointed in respect of it, or it has begun to be wound up, or
 - (e) it is removed by court order not subject to appeal by the Trustee
- and on ceasing to be Trustee of the Fund, will execute such documents and do all such things as may be necessary to vest the Fund Assets to the incoming Trustee and will deliver all records and other books held by the outgoing Trustee in relation to the Fund to the incoming Trustee. In the event of a failure to do so, if permitted by the Act, the Regulator will exercise such powers to vest the Fund to the incoming Trustee and otherwise the willing immediately former Director or Directors will have power of attorney to execute such documents and do such things on the outgoing Trustee's behalf. Thereupon the outgoing Trustee will be deemed to be discharged from the trusts hereof except in relation to any matter or thing constituting a breach of trust or the Act committed while a Trustee.
- 7.16. The Directors may meet, adjourn and regulate their proceedings as they think fit subject to the following mandatory requirements:
- (a) a quorum consists of not less than two-thirds (2/3rds) of the number of Directors holding office for the time being excluding the number of any casual vacancies;
 - (b) a successful resolution requires a minimum vote in its favour equal to the quorum, each Director having one (1) vote only on each resolution placed and no Director has a second (2nd) vote in any circumstance;
 - (c) the continuing Directors may act notwithstanding any vacancy in their number provided their number does not fall, for the purposes of any meeting, below 2;
 - (d) in the absence of the Chair from any meeting a replacement Director will be appointed pursuant to Clause 7.11 to act as Chair for that meeting only (formal removal pursuant

to Clause 7.11 not, therefore, being necessary), such Director to retain their usual voting rights as a Director and to have no other voting rights as (acting) Chair except for any additional rights appointed under valid proxy;

- (e) they will cause proper minutes of all meetings to be kept and entered in a book provided for the purpose and the minutes of any meeting if purporting to be signed by the Chair of such meeting or by the Chair of the next succeeding meeting of the Directors will be receivable as prima facie evidence of the matters in such minutes; and
 - (f) a resolution in writing signed by all the Directors is as effective as a resolution passed at a duly convened meeting.
- 7.17. (a) The Directors may meet together either in person or by way of communications media subject (if by communications media) to the following conditions:
- (i) all the Directors are entitled to notice of a meeting by telephone or other means of communication and to be linked by telephone or such other means for the purposes of the meeting. Notice of any such meeting may be given on the telephone or other means of communication;
 - (ii) each of the Directors taking part in the meeting by telephone or other means of communication must be able to hear each of the other Directors taking part at the commencement of the meeting;
 - (iii) at the commencement of the meeting each Director must acknowledge his or her presence for the purpose of a meeting of the Directors to all the other Directors taking part.
- (b) A Director who has already acknowledged his or her presence at a meeting may not leave the meeting by purposely disconnecting a telephone or other means of communication unless that Director has previously obtained the express consent of the Chair, and a Director will be conclusively presumed to have been present and to have formed part of a quorum at all times during the meeting by telephone or other means of communication unless the prior express consent of the Chair has been obtained to leave the meeting.
 - (c) A minute of the proceedings of such a meeting by telephone or other means of communication is sufficient evidence of such proceedings and of the observance of all necessary formalities if certified as a correct minute by the Chair.
- 7.18. The Trustee may appoint one or more independent Directors. Independent Directors so appointed must at all times satisfy any definition(s) applicable to them under the Act in respect of their independence and may be removed or replaced in accordance with any requirements of their appointment document(s) and the powers granted the Trustee under the Deed.
- 7.19. A Director who is absent or about to be absent from Australia or who is temporarily unable due to illness or any other reason to attend to their duties as a Director of the Trustee may with the consent of the present Chair appoint any person to represent them as an alternate for the purposes of a Trustee meeting during their absence from Australia or during their temporary inability as aforesaid. The alternate during such absence or temporary inability or until such appointment is revoked by the said Director may exercise all or any of the powers of the Director appointing them but, subject to the Trustee's Constitution specifying otherwise,

cannot fulfil any statutory requirements applicable to the director of a Constitutional Corporation in that corporation's role as a corporation at law rather than as Trustee of the Fund.

- 7.20. A Director may appoint another Director who plans to or is attending a Trustee meeting they cannot attend for any reason, via written proxy satisfying the requirements specified in the Constitution, to either vote as specifically directed in their proxy on any or all resolutions placed or should the proxy so specify, to vote as the proxy-holding Director wishes on any resolution placed. Proxies may be in hard copy or any legible form of electronic media and the Chair will have the right to determine acceptability or otherwise of any proxy presented for use at a Trustee meeting for which they act as Chair.
- 7.21. The Trustee will, with due regard to the requirements of the Act, have full discretion in determining the manner in which annual Member meetings will be conducted and procedural rules for that purpose may be established separately to the Deed and altered from time to time as part of ongoing administration of the Fund.

8. Trustee's Liability Limited

- 8.1. (a) The Trustee is entitled and the individual members and former members of any management committee appointed pursuant to Clause 12.4 are entitled to the extent not prohibited by the Act, to be kept indemnified out of the assets of the Fund against any action or claim against them or liability incurred by them, arising in connection with the performance of their duties or exercise of or purported exercise or failure to exercise their powers and rights under this Deed.
- (b) The Trustee will be liable for, and will keep the Fund indemnified against, any liability incurred by the Fund as a consequence of the Trustee's failure to act honestly or the Trustee's intentional or reckless failure to exercise the degree of care and diligence required of a trustee pursuant to the Act.
- (c) (i) Each Director is entitled to the extent not prohibited by the Act, to be kept indemnified out of the assets of the Fund against any action or claim against any one or more of them or against any liability incurred by any one or more of them, arising in connection with the performance of the duties or exercise of or purported exercise or failure to exercise the powers and rights in their capacities as Directors.
- (ii) Each of the Directors will be liable for, and will keep the Fund indemnified against, any liability incurred by the Fund as a consequence of that Director's failure to act honestly or that Director's intentional or reckless failure to exercise the degree of care and diligence that the Director is required to exercise under the Act.
- (iii) Each Director is entitled to be kept indemnified (by the co-Director concerned) against any liability incurred as a consequence of a co-Director's failure to act honestly or a co-Director's intentional or reckless failure to exercise the degree of care and diligence that the Director is required to exercise under the Act.
- 8.2. The indemnity provided in Clause 8.1 will extend to any payments made to any person whom the Trustee bona fide believes to be entitled thereto although it may be subsequently found that that person was not in fact so entitled.

- 8.3. No Trustee will be liable for the neglect or default of any solicitor banker accountant actuary auditor adviser or other agent employed in good faith by the Trustee or for anything done or omitted to be done by the Trustee in reliance on such solicitor banker accountant actuary auditor adviser or other agent.
- 8.4. The Trustee may rely upon any certificate statement or representation made to it by or on behalf of any Member or prospective Member with respect to the age salary length of service date of cessation of employment state of health of the Member or other fact required to be determined under any of the provisions of or for any purpose of the Deed and the Rules and the Trustee will not be liable on account of the payment of any money or the doing or omission of any act or thing in reliance upon any such certificate statement or representation. Any such certificate statement or representation made by or on behalf of a Member will be and become final and conclusively binding upon that Member and the Dependants of that Member and that Member and those Dependants will be estopped from denying the truth thereof.

9. Inclusions in the Deed Covenanted and Obligated by the Act

- 9.1. The Trustee covenants to be bound by and this Deed will be deemed to contain covenants and obligations (as altered or modified over time) applicable to the Trustee which in accordance with the Act are taken from time to time to be contained in the governing rules of a Regulated Superannuation Fund such as the Fund, the Trustee of which is authorised from such date as first authorisation is obtained by the Trustee and subject to any subsequent reauthorisation, not discontinued, to offer MySuper and deemed not to contain any former covenants and obligations as were so applicable.
- 9.2. A covenant or obligation by or required to be observed by the Trustee under Clause 9.1 also operates as a covenant or obligation by or required to be observed by each of the Directors to exercise a reasonable degree of care and diligence for the purposes of ensuring that the Trustee carries out each covenant and obligation (but only in so far as each particular covenant or obligation operates or does not operate from time to time under Clause 9.1), and so operates as if the Directors were themselves parties to the Deed.
- 9.3. The reference in Clause 9.2 to a reasonable degree of care and diligence is a reference to the degree of care and diligence required by operation of the corresponding covenant under SIS from time to time, which at the date of signing of this Deed is the degree of care and diligence that a superannuation entity director would exercise in the Trustee's circumstances.
- 9.4. The Directors individually covenant to be bound by and this Deed will be deemed to contain covenants and obligations (as altered or modified over time) which are applicable to them as Directors of a Regulated Superannuation Fund and which in accordance with the Act are taken from time to time to be contained in the governing rules of a Regulated Superannuation Fund such as the Fund and deemed not to contain any former covenants and obligations as were so applicable.

10. Powers of Trustee

- 10.1. The Trustee will hold the Fund Assets upon the trusts of the Deed and with and subject to such powers and provisions as are contained in or are necessary ancillary or incidental to the Deed and the Rules.
- 10.2. Subject to the provisions of the Deed the Trustee will have complete management and control of the Fund and of all proceedings matters and things connected therewith.

- 10.3. Subject to the Act, the Trustee may give, enter into and execute all contracts, deeds, indemnities and documents and do all such acts matters and things as it may deem expedient for the purpose of securing the benefits to be provided by the Fund and for otherwise executing and carrying out the trusts, authorities, powers and discretions conferred upon the Trustee by the Deed. For the avoidance of doubt, the Trustee may elect that the Fund be treated by the Regulator and under the Act as a public offer superannuation fund and may sign all documents relevant thereto for the purposes of achieving and maintaining that designation or once achieved, removing that designation.
- 10.4. Subject to the Act, the Trustee in the exercise of the authorities powers and discretions hereby vested in it will have an absolute and uncontrolled discretion and may exercise or enforce or delegate (by power of attorney or otherwise) all or any of those authorities powers and discretions from time to time or at any time or may refrain from exercising all or any of those authorities powers and discretions from time to time or at any time. If any dispute difference or question arises involving any one or more of an Employer Sponsor, the Trustee, a Member or any Dependant or Personal Representative of a Member in relation to this Deed the decision of the Trustee will, subject to Clause 39, be final and binding on all parties.
- 10.5. Any determination made by the Trustee for the purposes of the Rules will be final and conclusively binding upon all persons.

11. Further Powers

- 11.1. The Trustee may borrow money to the extent and for the purposes and the time period as is not prohibited or is required under the Act in respect of Regulated Superannuation Funds, by way of secured or unsecured loan and the Trustee is permitted to apply for a grant of financial assistance in the circumstances established pursuant to the Act.
- 11.2. The Trustee also has the following powers:
 - (a) to settle, compromise or submit to arbitration any claims, matters or things relating to the Deed, the Rules, the Fund or to the respective rights and obligations of an Employer Sponsor, the Members, their Dependents and Personal Representatives;
 - (b) to commence, carry on, defend, compound, settle, abandon or otherwise deal with proceedings (including legal proceedings) relating to the Deed, the Rules, the Fund or the respective rights and obligations of an Employer Sponsor, the Members, their Dependents and Personal Representatives;
 - (c) to transfer its liability and/or prospective liability for Tax in accordance with the Tax Acts;
 - (d) to determine who is entitled to sign documents on behalf of the Trustee;
 - (e) to open bank accounts, cash management accounts or short-term deposit accounts and make regulations for the signing and endorsing of cheques;
 - (f) to act on the advice or opinion of a barrister, solicitor, actuary, medical practitioner, insurer or without limitation other professional person provided that the Trustee is satisfied that the person is qualified by education training and experience to give advice on the subject problem or query;

- (g) to pay for any expenses incurred for insurance of the Fund and/or the Trustee whether incurred by the Trustee, personally by the Directors or an Employer Sponsor;
- (h) to seek modifications of and exemptions from the operation of the Act; and
- (i) generally to do all acts matters and things as the Trustee may consider necessary or expedient or desirable for the administration maintenance and preservation of the Fund and the performance of the obligations of the Trustee under the Deed, the Rules and the Act.

11.3. The Trustee has power to deduct from any contributions received and benefits accrued, accruing, paid or payable by or to the Fund or any other payment to be made hereunder or any income or capital of the Fund, the amount of any Tax payable or which in the opinion of the Trustee will or may become payable from or in respect of it and without regard to whether the liability is the Trustee's, an Employer Sponsor's or a Member's, and also has power to either or both pay the amount deducted to the Regulator or other relevant authority or to store the amount deducted in an appropriate account in the Fund (including, if applicable, a sub-account or sub-accounts of any Fund Reserve) until such time as the Tax liability falls due to be discharged.

12. Delegation/Fund Secretary

- 12.1. The powers authorities and discretions vested in any corporate Trustee by this Deed will, subject to Clause 12.2, be exercised on its behalf by its Directors as a board.
- 12.2. The Trustee may delegate to any committee or other person or company any of the powers, authorities and discretions vested in the Trustee by this Deed and any power, authority or discretion so delegated may, subject to the Act, be exercised by that committee or other person or company.
- 12.3. The Trustee may appoint any person as Fund Secretary (or acting or deputy Fund Secretary). Any such appointment will be on such terms as the Trustee thinks fit and the Trustee may remove any such person from office and may appoint a replacement Fund Secretary. The Fund Secretary will perform such duties and have such powers as the Trustee determines from time to time.
- 12.4. The Trustee may from time to time appoint one or more management committees each consisting of not less than two persons to which the Trustee may delegate such of the powers authorities and discretions vested in it by the Deed as it from time to time thinks fit. The members of any management committee may be removed from office by the Trustee at any time. The Trustee may from time to time prescribe rules for or otherwise regulate the conduct of any management committee. Any management committee shall at all times be and remain subject to and conform with any directions of the Trustee.

13. Advisers

- 13.1. The Trustee may employ such managers, consultants, auditors (including the Auditor), investment advisers, other advisers, solicitors, counsel, actuaries, brokers, agents and other persons, firms or companies as it may consider desirable for the proper administration of the Fund and pay to those persons from the Fund such remuneration as the Trustee may determine.

- 13.2. The Trustee may, where it considers necessary, obtain the advice of the Actuary in circumstances in which it considers that the Actuary's training and experience would be of assistance.

14. Investment Custodians and Managers

- 14.1. The Trustee will have power from time to time under the Act to appoint such one or more companies as it may think fit and as are not prevented from acting as an investment custodian or investment manager of a superannuation entity, to act as investment custodian or investment manager or both for such period or periods with such remuneration and subject to such conditions (including all requirements as specified by the Act) as the Trustee may from time to time determine.
- 14.2. The Trustee may delegate to and confer upon each investment custodian or investment manager such powers discretions and authorities relating to the holding of legal title, the custody of title deeds and documents of any nature whatsoever or relating to the custody, management, investment, sale, getting-in, valuation and transposition of that part of the Fund Assets entrusted to that investment custodian or investment manager for custody, investment or sale as the Trustee may think fit.
- 14.3. The Trustee has power to remove any investment custodian or investment manager.
- 14.4. The powers of custody, management, investment, sale, getting-in, valuation and transposition of the Fund Assets may be exercised and carried out either by the Trustee or by one or more investment custodians or investment managers or partly by one and partly by the other or others in their or its own name or names by such methods or means as the Trustee may from time to time determine.
- 14.5. The Trustee may agree with an investment custodian or investment manager to pay or make provision for any liability for Tax (actual or notional) and whether it be current or projected in respect of contributions or Fund Assets.

15. Investment Powers

- 15.1. Any money forming part of the Fund Assets and available for investment will be invested by the Trustee. Subject to the Act, the Trustee may invest in any one or more of the following:
- (a) any investment authorised by the laws of Australia or of any of its States or Territories for the investment of trust money;
 - (b) interest bearing deposits or on current account with any bank or other financial institution or building society approved by the Trustee;
 - (c) bills of exchange drawn by any company which have been accepted or confirmed by any bank or bank guaranteed financial institution or any subsidiary company of such bank or bank guaranteed financial institution;
 - (d) debentures of or preference or ordinary shares or stock in or registered notes either secured or unsecured issued by or unsecured loans to or stock options or share options or rights or warrants offered by any company;
 - (e) units or sub-units of any fixed or flexible unit trust or any mutual fund;

- (f) the purchase of land of any tenure or of any rights or interest in or upon or in relation to land;
- (g) deposits with or loans to any company or institution secured by mortgage upon any part of the property or assets of such company or institution;
- (h) deposit administration or managed fund contracts with any life insurance company;
- (i) specifically subject to the requirements of the Act, financial options, financial futures, contracts, forward contracts, swap contracts, underwriting or sub-underwriting arrangements or other financial instruments that may periodically be available;
- (j) fixed interest securities including government bonds; and
- (k) any other investment whether or not similar to any of the foregoing which the Trustee considers to be appropriate

with power from time to time to sell or to get in any of those investments and to vary or to transpose them for other investments in any of the classes specified and to make any deposit payments or margins as may be necessary.

15.2. Pursuant to the powers of investment given by Clause 15.1, the Trustee may, in respect of different Members and including MySuper Members in acceptable circumstances under the Act, pursue different investment strategies. For this purpose, the Trustee may offer extensive Member choice or limited choice facilities with respect to both:

- (a) investment strategies; and
- (b) presently accrued benefits or account balances and future contributions.

15.3. The possible investment strategies from which the Trustee may choose for the purposes of Clause 15.2 are determinable from time to time by the Trustee and will be conveyed, once determined, in appropriate written form to Members together with such other information (including, if applicable, the “default” or no choice strategy) as the Act requires or the Trustee considers appropriate.

15.4. The Trustee may accept written directions from Members as to choice from amongst offered investment strategies and subject to the Act, may choose (or by default make no choice should it be expedient) to ignore any Member's written directions as to choice.

15.5. Subject to the Act, the Trustee does not accept any liability at all for:

- (a) any decision made by it to not accept a Member's written direction; or
- (b) having accepted a written direction from a Member (by its mere physical receipt), reasonable failure to then implement that direction; or
- (c) any cost, expense, damage or other liability arising from a delay in the transfer or payment of any benefit as a result of delay in realising illiquid investments.

15.6. Except as not prohibited by the Act, the Trustee must not lend or give financial assistance to any Member or relative of a Member or any other specified person under the Act, using any part of the Fund Assets or money(s) which may form part thereof.

- 15.7. Except as not prohibited by the Act, the Trustee must not intentionally acquire any asset from a Member or from a relative of a Member or any other specified person under the Act.
- 15.8. Any power to invest any of the monies and/or assets of the Fund given to the Trustee pursuant to this Clause will, subject to any determination otherwise by the Trustee pursuant to Clause 37, be exercised at “arms length” or if not, in circumstances that are not prohibited by the Act and in all other respects in accordance with the requirements (including specifically the issue of limitation of “in-house” assets) of the Act.
- # 15.9. To the maximum extent permitted by law:
- (a) The only obligations of the Trustee with regard to the making and monitoring of investments for the Fund (“Investment Obligations”) are those imposed by the Trust Deed and SIS and the Regulations thereto; and
 - (b) All Investment Obligations imposed or implied by law, equity or statute other than those referred to in paragraph (a) are expressly excluded from direct or indirect application to the Fund.

16. Insurance Contracts

- 16.1. The Trustee may effect, take out and maintain contracts of insurance or annuity on the lives or otherwise in respect of any of the Members and their Dependants or in respect of any asset or liability of the Fund. The Trustee may secure by the contracts the whole or any part of any of the benefits payable from the Fund and continue to renew all or any of the contracts for such periods and for such amounts as it thinks fit. The Trustee may agree at any time with the issuer of the contract for any contract to be varied modified or surrendered.
- 16.2. The Trustee will be specifically empowered hereby to seek out and secure a contract or contracts of insurance for the purposes of protection and for indemnification of the Fund and jointly and individually, each of the Directors of the Trustee.

17. Fund Records

- 17.1. The Trustee will keep or cause to be kept records of all Members and of all deaths withdrawals retirements and other matters necessary for the proper administration of the Fund and will also keep or cause to be kept proper accounts to show the position of and dealings with and in relation to the Fund.
- 17.2. Such of the records produced for the purposes of this Clause as are required by the Act to be retained for a particular period of time will be retained by the Trustee for that period.

18. Annual Accounts

- 18.1. The Trustee will cause to be prepared once in each year, such financial statements as it deems necessary.
- 18.2. Each financial statement and other relevant records may be audited by the Auditor annually or at such other time or times as the Act may require and/or the Trustee request.
- 18.3. If, in the opinion of the Auditor, the Fund satisfies the requirements of the Act for each particular year of income the Auditor may sign an audit certificate and/or complete any other

documentation necessary under any applicable accounting standards for a Regulated Superannuation Fund.

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18.4. Copies of each audit certificate and any other documentation completed by the Auditor will be provided to the Trustee and the appropriate Regulator, or dealt with in such other manner as the Act may require.

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18.5. Notwithstanding anything else provided in this Clause, the Auditor will have all necessary rights and powers to investigate and report to the Trustee and/or the appropriate Regulator, all information and opinion(s) formed about the Fund required to be so reported by the Act.

19. Bank Account

19.1. The Trustee may open and operate on such bank or other current accounts as it considers desirable and all cheques and other negotiable or transferable instruments and all receipts for money paid to the Trustee will be signed drawn accepted endorsed or otherwise executed as the case may be in such manner as the Trustee from time to time by resolution determines.

20. Fund Assets-Valuation and Segregation

20.1. As soon as practicable after each Annual Review Date and at such other times as the Trustee may consider necessary or desirable the Trustee will determine or cause to be determined the value of the Fund Assets taking into account any money receivable or recoverable by the Fund on any account any provisions or reserves and any charges and expenses accrued or unpaid.

20.2. In determining the value of an asset that forms part of the Fund Assets, the Trustee may adopt such basis as it, in its absolute discretion, determines to be appropriate at the time and such basis may take into account stamp duty, brokerage and such other costs and expenses involved in the acquisition and sale of investments as the Trustee deems fit.

20.3. In relation to any Pension payable or potentially payable to or in respect of a Member's membership, the Trustee may:

(a) segregate or set apart that portion of the Fund Assets which represent the Pension for the sole purpose of enabling discharge of the whole or part of the current or non-current liabilities in relation to the payment of that Pension and aggregate that portion of the Fund Assets with those applicable to any other like Pension or Pensions payable or potentially payable

; and

(b) constitute the segregated Fund Assets as segregated current and non-current pension assets within the meaning of section 273A and section 273B of the Income Tax Assessment Act 1936 (as amended) and obtain such certificates (from an Actuary or other suitable person under the Act) in relation to the adequacy of segregated Fund Assets available to meet current and non-current Pension liabilities as is necessary under the Act and/or the Tax Acts.

21. Provision of Information and Access

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21.1. The Trustee will provide or make available to each Member, Spouse, Employee, Employer Sponsor, Regulator or such other person or body or Tribunal as required by the Act, in an

appropriate form or forms (which may include the use of electronic media) and within any time period prescribed under the Act, such Disclosure Documents, information, certificates and notices as are required under the Act PROVIDED THAT where the Act allows, reasonable charges may be specified by the Trustee (and levied by it) for the provision of such documentation.

- 21.2. The Trustee will make suitable arrangements for the provision of access to premises in any manner necessary for it to satisfy or facilitate satisfaction by it, of the requirements of the Act.
- 21.3. Each Employer Sponsor of a Category 1 Member, Badged Category Member or MySuper Member, promptly after it comes to its notice, must notify the Trustee of the death, retirement, resignation, disablement or dismissal of the Member and provide all other information in its possession regarding its Employees who are Members or prospective Members as may reasonably be required from time to time by the Trustee and the Trustee may act upon and is not required to verify any information given to it by an Employer Sponsor.

22. Medical Evidence and Proof of Age

- 22.1. The Trustee may require a Member from time to time to provide evidence of good health or other information by submitting to a medical examination or otherwise and if such medical examination or other information or the lack of submission thereof results in the Trustee forming the opinion that any one or more of the health occupation or pastimes of the Member are such that the Trustee would be unable to arrange insurance cover with the Insurance Company at normal rates of premium the benefits payable in respect of the Member on death or disablement may be varied by the Trustee in such manner as the Trustee decides.
- 22.2. If the Insurance Company refuses to provide or limits insurance cover or refuses to pay, in part or in full, insurance proceeds for a Member in the event of death or disablement of the Member arising out of particular circumstances or causes (including without limitation acquired immune deficiency syndrome or directly related precursor condition or illness) or otherwise, the Trustee will vary the benefits payable in respect of the Member in such manner as the Trustee decides.
- 22.3. A Member must provide such proof of correct age as the Trustee reasonably requires and in the event that the age of a Member as recorded prior to the submission of such proof is found to be incorrect the benefits payable to or in respect of the Member may be varied by the Trustee in such manner as the Trustee decides.

23. Claimants Produce Evidence

- 23.1. The payment of any benefit is subject to the person claiming it producing all evidence, doing anything and executing such documents as the Trustee may reasonably require and the Trustee may postpone the payment of any benefit until such requirements have been met.
- 23.2. A Member cannot be paid in cash any portion of a Preserved Benefit unless the Member supplies to the satisfaction of the Trustee, all of any information required under the Act or by the Trustee having regard to the Act, to enable payment of that portion of the Preserved Benefit in cash.

24. Forfeiture of Interest

- 24.1. No interest in any part of the Fund may be, or be attempted to be, charged, assigned, mortgaged or otherwise dealt with in any manner whether or not for any consideration except

for the purpose of transferring benefits with the Trustee's approval to another Eligible Fund in accordance with the provisions of Clause 30.

24.2. In the event of any Member or any Dependant of a Member where such Dependant has become entitled (conditionally or otherwise) to a benefit under this Deed or the Personal Representative(s) of any Member:

- (a) being under a legal incapacity; or
- (b) assigning mortgaging or charging or attempting to assign mortgage or charge any interest in the Fund except for the purpose of dealing with benefits pursuant to Clause 30; or
- (c) subject to paragraphs (d) and (e), doing or suffering any act or thing whereby the relevant Member might if absolutely entitled to any interest in the Fund be deprived of the personal enjoyment thereof; or
- (d) being declared bankrupt in circumstances where an interest or portion of interest remaining in the Fund has accrued in respect of the relevant Member as a result of contributions and/or transfers of property to the Fund on or after 28 July, 2006 which are void against a trustee in bankruptcy validly appointed under the Act and the subject of a superannuation account-freezing notice and/or other notice or order validly issued under the Act and received by the Trustee; or
- (e) being the subject of a court order (however called) under the law of the Commonwealth, a State or a Territory requiring forfeiture of all or part of a person's benefits in the Fund to the Commonwealth, State or a Territory,

the relevant person's interest or affected portion of that interest in the Fund will, subject to any limitations imposed by law (including the Act) on the Fund and to operation of Clause 40.4 so as to avoid a position where Commonwealth law may declare the whole of this Clause 24.2 void, be immediately forfeited to the Fund.

24.3. Subject to the requirements of the Act, the Trustee:

- (a) will, in respect of any interest or portion of an interest forfeited as a result of operation of Clauses 24.2 (d) and/or (e), deal with that interest or portion of an interest by paying same to the applicable trustee in bankruptcy or to the required Commonwealth, State or Territory concerned's receiver of such forfeited monies or otherwise as required or allowed under the Act;
- (b) but may (but it will not be incumbent upon the Trustee to do so) cause any other entitlement in the Fund which has been forfeited pursuant to Clause 24.2-
 - (i) either to be paid or applied to or for the benefit or maintenance of the Member or any of the Dependents of the Member to such extent (if any) and in such circumstances as the Act may not prohibit and/or the Regulator may consent; or
 - (ii) to be paid to a trustee or trustees for the benefit of all or any of the Member and the Dependents of the Member who are under a legal incapacity or disability and the Trustee may execute a trust deed setting out the manner in

which the benefit may be applied and the rights and duties of the trustee or trustees under the trust.

- 24.4. Nothing in this Clause prevents the Trustee from restoring any benefit in part or in full to any person considered to be rightfully entitled thereto by the Trustee even though such benefit may already have been forfeited to the Fund.
- 24.5. Any monies forfeited pursuant to Clause 24.2 and not applied by the Trustee in accordance with Clause 24.3 will, subject to prior operation of Clause 24.4 and the requirements of the Act, remain in the Fund and be dealt with for the general purposes of the Fund.

25. Variation of Benefits and Contributions

- 25.1. If a Member suffers any change in Salary or any other change in circumstances, the Trustee may make such adjustments to the benefits in respect of that Member as the Trustee considers necessary.
- 25.2. The Trustee may in respect of any particular Member (and otherwise than in circumstances addressed generally through Clause 34) vary the contributions payable and/or any present and/or future benefits to be provided or both in such manner as any applicable Employer Sponsor accepts in writing and if required under the Act, to which the relevant Member's written consent is available.

26. Limitation on Benefits

- 26.1. The Trustee may pay any benefit payable from the Fund to the full extent and in such form or combination of forms as the Act or any other legislation which limits the payment of benefits from the Fund allows or prescribes.
- 26.2. To ensure continued satisfaction by the Fund of requirements of the Act and any other applicable legislation, the Trustee has power to require any Employer Sponsor to procure from any Member at any time details of any benefits, pensions and allowances that have been or may be provided for the Member or for Dependants of the Member from any other fund to which the Act applies.

27. Preservation of Benefits

- 27.1. The Trustee must ensure that any Preserved Benefit being provided by the Fund is preserved in accordance with the requirements of the Act whilst it resides in the Fund.
- 27.2. The Trustee is empowered to deal with any Preserved Benefit in accordance with Clause 30.
- 27.3. The Trustee may only pay or transfer a Preserved Benefit from the Fund in circumstances acceptable under the SIS and regulations thereto.

28. Reservation as to Other Schemes

- 28.1. If an Employer Sponsor:
 - (a) is at any time compelled or required by law to make contributions or payments or provisions to or in respect of:
 - (i) any scheme of national or social security for the benefit of its Employees; or

- (ii) any scheme of superannuation including that provided under the terms of an Award or industrial agreement; or
- (b) elects to contribute to an alternate fund providing a superannuation retiring allowance pension or benefit in respect of a Member similar to that paid by the Fund

then to the extent that such modifications are not prohibited by the provisions of the Act, an Award or industrial agreement with, in the Trustee's opinion, application to the Members affected thereby, that Employer Sponsor will be entitled at any time thereafter and whether or not any obligation in respect or any such matter was in existence at the date hereof to request the Trustee to make such modifications:

- (a) in the contributions of Employer Sponsors;
- (b) in the contributions of Members;
- (c) in the benefits payable to Members; and
- (d) otherwise howsoever

as the Trustee decides.

- 28.2. No modification may be made pursuant to Clause 28.1 which would prejudice the most favourable Tax treatment available to the Fund under the Act, or cause the trusts contained in the Deed and these Rules to fail for any reason whatsoever.
- 28.3. The Trustee will notify affected Members and affected Employer Sponsors of the effect of any modifications carried out pursuant to this Clause 28.

29. Transfers-in and Successor Funds

- 29.1. Subject to Clause 29.3, the Trustee may at any time arrange with a Member who was a member of another Eligible Fund or with the trustee of another Eligible Fund in circumstances the subject of Clause 29.2, to receive from or in respect of that Member or from the trustee of that other Eligible Fund by way of transfer or otherwise:
 - (a) any money and/or other property and/or investments including any policy of life insurance in respect of that Member's interest in that other Eligible Fund; and
 - (b) any information required by the Act.
- 29.2. If a transfer of the kind referred to in Clause 29.1 is made in circumstances where, for the purposes of the transfer, the Fund will be a Successor Fund of another Eligible Fund or the transfer is in order to effect the receipt of an existing or intended MySuper Member's MySuper based beneficial interest in another Eligible Fund, the Trustee is not required to obtain the consent of any affected Member or proposed Member. Otherwise, the transfer may only be carried into effect with the prior consent of each affected Member or proposed Member.
- 29.3. Where allowed by the Act, for the purposes of consolidation of any Member's superannuation within the Australian superannuation system, the Trustee may receive a transfer carried out under Clause 29.1, or under this Clause but from a Regulator or Eligible Fund, without the affected Member's consent

- 29.4. The money and/or property and/or investments transferred to and received by the Trustee pursuant to this Clause will be subject to all requirements that the Act may impose.
- 29.5. The benefits being provided for a Member under the Deed and Rules will be adjusted in such manner as the Trustee determines to take account of the money and/or property and/or investments transferred in respect of that Member pursuant to this Clause.

30. Transfers out of and within the Fund

- 30.1. If a Member in writing delivered to the Trustee, requests that all or part of that Member's entitlement and/or any other relevant amount in the Fund be transferred to such Eligible Fund as the Member may nominate and if such payment would not be inconsistent with any requirements of the Act, then the Trustee may, subject to Clauses 30.2 and 30.3, transfer the amount of that entitlement and/or any other relevant amount or that part of it, to that Eligible Fund.
- 30.2. The Trustee may impose reasonable conditions in respect of minimum amounts for transfer, minimum amounts to be retained in Member Accounts after transfer and times and frequencies of withdrawals having regard to the need for efficient and cost effective administration of the Fund.
- 30.3. If a Member has become entitled to a benefit, in the absence of receipt by the Trustee of any written request from the Member to transfer that benefit pursuant to Clause 30.1, the Trustee may transfer that benefit to an Eligible Rollover Fund of the Trustee's choice.
- 30.4. If the Act requires a Member to be treated as a Lost Member or designates Unclaimed Money to be held by the Fund in respect of a Member, the Trustee will cause the lost amount applicable to the Lost Member or the Unclaimed Money to be paid (and carried out such reporting as is required in respect of those matters) to the Regulator and/or other authorised State or Territory body authorised by law to receive it.
- 30.5. Notwithstanding Clauses 30.1 to 30.4 (both inclusive), where required by the Act for the purposes of consolidation of any Member's superannuation within the Australian superannuation system or if within the Fund, consolidation of a MySuper Member's Total Account Balance (as defined in Rule 1.1 of the Rules) in their MySuper Account (as also defined in Rule 1.1 of the Rules), the Trustee will (unless the Member 'opts-out' in acceptable circumstances under the Act, in which case the Trustee will abide by the Member's direction) transfer the required part or whole of the Member's Total Account Balance (defined as aforesaid) to the required Regulator, Eligible Fund or MySuper Account (also defined as aforesaid) for the Member.
- 30.6. The Trustee may facilitate a merger of the Members with the members of any other Eligible Fund and for such purpose may carry out a bulk transfer of Fund Assets and of Members via Clause 30.1 and/or on a Successor Fund basis and may also transfer either on a pro-rata allocated, or unallocated basis, any excess of Fund Assets over Fund liabilities to the Eligible Fund chosen as the merged fund or Successor Fund.
- 30.7. A payment of any amount of a Member's entitlement and/or any other relevant amount made pursuant to this Clause will, if made out of the Fund rather than merely within the Fund, be in complete discharge and satisfaction of the Trustee's actual or implied obligations to the Member in respect of that amount of the Member's entitlement PROVIDED THAT should payment of all the Member's accrued entitlement be made out of the Fund pursuant to this Clause, it will be in complete discharge and satisfaction of all the Trustee's actual or implied

obligations to that Member under the Deed and the Rules and to the extent allowed thereby, the Act.

31. Termination of Fund

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- 31.1. The Trustee may at any time resolve to terminate the Fund.
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- 31.2. The Fund will automatically terminate upon the Trustee ceasing to act as Trustee and where a new Trustee is not duly appointed within one month (or such other period as the Act requires or the Regulator specifies) of that vacancy occurring.
- 31.3. The Trustee will, where possible, give all Employer Sponsors at least 30 days' and the Members within such period of time as the Act requires or otherwise, at least 30 days written notice of the termination of the Fund.
- 31.4. On commencement of termination of the Fund in accordance with either Clause 31.1 or Clause 31.2, the Trustee will not admit any new Employer Sponsors or Members to the Fund.
- 31.5. When any period of notice referred to in Clause 31.3 has expired or otherwise as soon as practicable after commencement of termination of the Fund, the Fund Assets will be applied, subject to the Act and if applicable the advice of the Actuary, in the following order of priority but only to the extent to which the Fund Assets allow:
- (a) first, in paying the costs and expenses of winding up the Fund and any Tax levied against the Fund;
 - (b) second, in providing for any minimum benefit in respect of each Member as the Act may require;
 - (c) third, in dividing the balance among the remaining Members of the Fund in accordance with the amount of benefit which would have been payable under the Rules had they ceased to be Members at the date of the termination. In the event that the balance is less than the total of those benefits the balance will instead be divided in such proportions as the Trustee determines; and
 - (d) fourth and last, in dividing any finally remaining balance among the remaining Members and/or Employer Sponsors in such proportions as is fair and reasonable.
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- 31.6. If at any time there are no Members or other beneficiaries presently entitled to benefits and in the opinion of the Trustee all benefits which could become payable from the Fund have been paid, then the Trustee may, determine to terminate the Fund (if this has not already commenced) and in this event the Fund will be dissolved and any moneys and other assets then remaining in the Fund after payment of any expenses incurred by the Fund will be realised and the proceeds distributed amongst such of the Employer Sponsors, former Members, former beneficiaries and Dependants and in such shares as the Trustee must decide.
- 31.7. As soon as practicable after it is determined by the Trustee, the Trustee will notify the Member's Dependants, Personal Representatives and other beneficiaries concerned of the manner and of the extent to which their benefits are or are to be affected and will, to the extent that the Act allows, pay from the Fund the benefits to which they have become respectively entitled. Alternatively, the Trustee may transfer all or part of that Member's benefits together with any other entitlements or other amounts in the Fund in accordance with the provisions of Clause 30.

32. Winding Up of an Employer Sponsor

32.1. In the event of:

- (a) an Employer Sponsor ceasing to carry on business (for any reason whatever); or
- (b) an order being made or an effective resolution being passed for the winding up of an Employer Sponsor, unless such winding up shall be for the purpose of reconstruction or amalgamation and such reconstructed or amalgamated company has the necessary power and agrees with the Trustee to take the place of that Employer Sponsor in the Fund and the Trustee consents to the participation in the Fund of the reconstructed or amalgamated Employer Sponsor; or
- (c) the Employer Sponsor electing for whatever reason to cease participating in the Fund and providing thirty (30) days written notice of same to the Trustee

then from the date of the happening of the appropriate event the interest in the Fund of the Employer Sponsor and those Members being Employees of such Employer Sponsor and the Dependants of such Members shall be dealt with (subject to the satisfaction of all rights accrued by the Members prior to that date) in such manner as the Trustee shall determine including (if appropriate) a transfer out of the Member's benefits pursuant to Clause 30.

32.2 In the event of an Employer Sponsor of a number of Category 1 Members and/or Badged Category Members calling a meeting of its creditors or should a receiver or receiver/manager or official manager or inspector be appointed in respect of an Employer Sponsor that Employer Sponsor will immediately notify the Trustee to that effect. The Trustee may take such action as it deems appropriate in the circumstances.

33. Employer Sponsor Leaving The Fund

33.1. In the event of an Employer Sponsor of a number of Category 1 Members, MySuper Members and/or Badged Category Members deciding and notifying the Trustee that it has or wishes to cease to be an Employer Sponsor, the Trustee will make such arrangements in consultation with that Employer Sponsor as ensures the security of the relevant Members' benefits that have accrued in the Fund as a result of contributions made by or in respect of them to the date on which new arrangements become effective.

34. Amendments

34.1. The Trustee may amend any of the provisions of the Deed or Rules including this Clause 34.

34.2. An amendment must be in writing unless carried out by oral resolution.

34.3. An amendment may take effect from a date before, at or after the time it is made.

34.4. An amendment is not effective if, in the Trustee's opinion, it may reduce the amount of any benefit that has accrued (only as and if such a term is defined by the Act) or retrospectively reduce or materially adversely affect the value of the interest in the Fund of any Member or the Dependant of any Member as at the date of execution or passing of the relevant resolution authorising the amendment unless such reduction is consistent with any requirement of the Act or approval of the Regulator, or the Member has consented in writing to it or the nature of the amendment is to correct a defect in either the drafting or the benefit design of the Fund.

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- 34.5. No amendment may enable an individual person to be appointed as Trustee unless the Act expressly, or by implication, does not prohibit operation for such an amendment to a Regulated Superannuation Fund such as the Fund.
- 34.6. No amendment may be made in contravention of the Act or to procure a result prohibited by the Act.
- 34.7. Notice of any such amendment shall be given to the Members affected thereby within such period of time and by such method as the Trustee shall decide, provided always that such notice will be in accordance with the standards prescribed under the Act. However, failure to notify at all or effectively does not invalidate any amendment.

35. Notice

- 35.1. Notice pursuant to the Deed will be deemed to have been properly given if handed to or sent by prepaid post addressed to the Trustee at its registered office or the Employer Sponsor at its registered office or to a Member at the Member's place of residence last known to the Trustee or, if considered appropriate by the Trustee, their Employer Sponsor.
- 35.2. A letter is taken to be received on the fifth (seventh, if the addressee is outside Australia) business day after posting.
- 35.3. Electronic media may, at the Trustee's discretion and only in accordance with any requirements of the Act, be used as a valid form of notice instead of any other form specified under this Clause so long as reasonable criteria for recording, sending and receipt by the relevant parties are established prior to use of such media.

36. Rights Not Prejudiced

- 36.1. Nothing in the Deed will or will be deemed to affect, prejudice or alter in any way any right or power of an Employer Sponsor with regard to the dismissal or salary of or any promotion, demotion or other dealing whatsoever with any of its Employees whether they are Members or not.
- 36.2. Membership of the Fund must not be used, alleged or claimed as a ground for damages or increasing damages in any action or claim by the Member or any person claiming through the Member in respect of dismissal or other dealing and is no representation or guarantee of continuance of employment.

37. Deeming Clause, Fund Policies and MySuper

- 37.1. The Fund is a Regulated Superannuation Fund.
- 37.2. The Trustee must do anything it is required to do under the Act and may do anything it is specifically permitted to do under the Act. The Trustee may resolve to do anything else it is not specifically prohibited from doing under the Act.
- 37.3. The Trustee is not required to do anything it is prohibited from doing under the Act.
- 37.4. The Trustee will not be taken to be in contravention of the Deed or to be in breach of trust if it does anything or fails to do anything:
 - (a) in order that the Fund complies with the Act; or

(b) so that the Fund fails to comply with the Act,

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if the act, or failure to act, by the Trustee was at the relevant time or is now retrospectively approved under the Act or:

- (i) the Regulator issues a notice of compliance or chooses not to issue a notice of non-compliance under the Act; or
- (ii) the contravention was rectified in accordance with the Act; or
- (iii) the Regulator issues a specific or generally applicable modification or exemption from the requirements of the Act, in respect of that act or failure to act.

37.5. At any time this Deed is taken:

- (a) to include each provision which is required by the Act to be included, but only for so long as the Act continues to require its inclusion;
- (b) to exclude any provision to the extent that and for so long as the Act prohibits the provision from being included;
- (c) to be amended accordingly from time to time so as to achieve all results necessary under this Clause 37 and for this purpose the Trustee is deemed hereby to have consented to each such amendment.

37.6. Without limiting the generality of the foregoing, the Trustee and any other relevant persons as specified in SIS and the regulations thereto will ensure compliance with any applicable requirements of the Act regarding, but not being limited to -

- accounts, records and audit;
- actuarial investigations;
- investments, loans, acquisitions of assets, and borrowings;
- provision of information;
- limits on contributions;
- limits on benefits;
- vesting preservation and portability of benefits;
- unclaimed monies;
- minimum benefits;
- Fund Policies requirements; and
- MySuper requirements under the Act or promulgated otherwise (including any exceptions thereto).

38. Application of Federal Discrimination Legislation

38.1. The Trustee wishes to avail itself in the administration of the Fund and in particular in the payment of benefits of any exceptions applicable to superannuation pursuant to Federal anti-discrimination legislation and for this purpose, and this purpose only, the Trustee specifically states and agrees that in the payment of any dependant superannuation benefit under the terms of the Deed, it (or any other person with delegated authority) will not discriminate against any person in a manner not acceptable under applicable legislation without approval of the discrimination from an appropriate authority.

39. Dispute Resolution

- 39.1. The Trustee will take all reasonable steps to ensure that at all times there is in force an arrangement under which a Member, Dependant or such other person as permitted by the Act (“beneficiary”) has the right to make inquiries into or complaints about the operation and management of the Fund in relation to that beneficiary and such inquiries and complaints will be properly considered and dealt with in accordance with the requirements of the Act.
- 39.2. Any Member, Dependant or other beneficiary aggrieved by a decision arrived at by any person or body empowered by Clause 39.1 to hear and determine a dispute will, subject to Clause 41 and to any abilities at law (subject to time periods completed) to proceed straight to AFCA on a matter, have such rights of objection, appeal (if any) or such further avenues of remedy (if any) as the Act specifies, including in particular, rights in respect of complaint to AFCA.
- 39.3. Costs incurred by the Trustee in respect of the operation of this Clause 39 including any appeals or further avenues of remedy sought, will be dealt with pursuant to Clause 6.

40. General

- 40.1. No waiver of any provision of this Deed will be effective unless such waiver is in writing and signed by each of the parties against whom such waiver is claimed. No waiver of any breach is deemed to be a waiver of any other or subsequent breach. No variation to this Deed will be effective or enforceable unless made in writing and in accordance with Clause 34.
- 40.2. This Deed constitutes the entire agreement between the parties relating to the subject matter of this Deed and supersedes all previous communications whether oral or written between the parties or their representatives with respect to that subject matter.
- 40.3. This Deed and any amendment(s) thereto may be signed in any number of counterparts with the same effect as if the separate signatures or executions were on this Deed or, if applicable, the relevant amendment.
- 40.4. Subject to Clause 40.5, if any provision or sub-provision of this Deed is or is determined to be illegal invalid void or voidable that provision or sub-provision will be severed from this Deed and the legality or validity of the remainder of this Deed is not affected and the remainder of this Deed will continue in full force and effect.
- 40.5. If any provision or sub-provision of this Deed would otherwise be partly or wholly invalid because it:
 - (a) subjects the Trustee to direction by another person; or
 - (b) permits a person to exercise a discretion without the consent of the Trusteethen the Trustee's consent is required for the giving of the direction or the exercise of the discretion to be considered as effective for the purposes of the Fund.
- 40.6. Notwithstanding anything else appearing in this Deed but subject to any other implication specifically implied in a particular Clause or Rule for application to that Clause or Rule, any reference to an Employer Sponsor contained in this Deed is deemed by this Clause not to render such Employer Sponsor a fiduciary at law to any Member.
- 40.7. The rights of Members and their Dependents to receive benefits from the Fund are fully set out in this Deed and are fully secured.

40.8. Each Member appoints the Trustee as attorney at law for the purposes of carrying out the objects of the Fund and utilising the powers of this Deed.

41. Proper Law of Trust

41.1. This Deed is governed by and will be construed in accordance with the law of the State of Victoria.

42. Remuneration and Self Benefit

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- 42.1. (a) The independent Chair, duly appointed in accordance with Clause 8.3 of the Trustee's Constitution and Clause 7.11 and who has not ceased to be the independent Chair, shall be entitled to such remuneration from time to time as is determined from time to time pursuant to Clause 6.15 of that Constitution.
- (b) The Trustee, any Director, any member of a management committee appointed pursuant to Clause 12.4 and any agent duly authorised to act on behalf of the Trustee may be remunerated for the *bona fide* provision of services to the Fund on such basis as the Trustee determines from time to time to be proper and reasonable.
- (c) The Trustee and the independent Chair shall be reimbursed for reasonable expenses incurred in the performance of the duties of the office in the manner described in Clause 6.16 of the Trustee's Constitution. The administrator may, in lieu of reimbursement, pay directly out of the Fund, any reasonable expenses so incurred.
- 42.2. All benefits accruing to a Director (being a beneficiary under the Fund) as a beneficiary or otherwise, may be retained for that Director's own absolute benefit subject to the conditions of the Fund and no decision of the Trustee or that Director or the exercise of any power by the Trustee or that Director may be invalidated on the grounds that the Trustee or that Director had a direct or personal interest in the result of any decision or in the exercising of any power.

43. Family Law Related Benefit Changes

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- 43.1. In order to comply with or give effect to the terms of any court order or valid agreement between parties recognised by both the Act and the Family Law Act 1975 (as amended) as having power to determine superannuation benefits whilst they reside in the Fund (a Payment Split), the Trustee has power on an arbitrary basis, to create a benefit entitlement change for any affected Member that could involve a reduction in their personal entitlements and/or to delay via a concept called 'flagging' (application of a Payment Flag) the payment of any benefit until a future date . A Payment Flag may be lifted by the Trustee at any time to accord with the requirements of the Act.
- 43.2. The Trustee may utilise Clause 30 in order to transfer any Spouse or former Spouse's entitlement from the Fund in circumstances acceptable under both the Act and the Family Law Act 1975 (as amended). The Trustee may also consider use of Rule 2.5 in respect of any Spouse subject to operation of this Clause and may make rules for that purpose under administration.
- 43.3. Reasonable costs of application of this Clause 43 in respect of any Member, Spouse Member and/or benefit may be accrued for direct payment by a person or applied individually or generally (or any combination of those) to affected Member Accounts.

44. Badged Categories

44.1 The Trustee may establish a Badged Category by executing a document (**Memorandum of Commencement**) constituting the new Badged Category of the Fund containing such of the following particulars as are relevant:

- (a) the name of the Badged Category;
- (b) the rules for that Badged Category [which may be the present Rules of the Fund incorporated merely by reference in that document and for that purpose all references in the Rules to a Member (excluding a Category 2 Member) and if appropriate, Spouse Member, being deemed to extend to a Badged Category Member of that type];
- (c) the pool of assets for which benefits are or are to be provided;
- (d) any other matters the Trustee determines, and

that Memorandum of Commencement shall take effect (including retrospectively) upon the date stated in that document, or if none, the date of its execution.

44.2 The Disclosure Documents issued in respect of a Badged Category may, with the approval of the Trustee carry the name of the Badged Category's sponsor (be that an Employer Sponsor or otherwise) in terms of actual disclosure of that sponsor and if applicable, any name chosen for that Badged Category by the sponsor and consented to by the Trustee.

44.3 The provisions of the Deed (excluding the Rules) apply to a Badged Category in the same manner as they apply to any other category of membership established under the Deed, unless the Memorandum of Commencement applicable to that Badged Category expressly provide otherwise.

44.4 In circumstances required by the Act, the Trustee may establish a sub-plan or sub-plans and act in respect of any of those in a manner or manners different to the remainder of the Fund.

IN WITNESS WHEREOF the Trustee executes this Amending Deed hereunder on the date appearing at the top of page 1.

THE COMMON SEAL of the REI)
SUPERANNUATION FUND PTY LTD)
(ABN 68 056 044 770) was hereunto affixed)
by the authority of the Board of Directors in the)
presence of:)

Secretary/Director*

(*strike through incorrect person)

NOTE TO READER:
CONSOLIDATION ONLY
NOT FOR EXECUTION

Director

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**‘ANNEXURE’
RULES OF REI Super**

1. Interpretation

1.1 In these Rules unless the contrary intention appears:

“**Additional Employer Sponsor Contribution Account**” means the account established in respect of each affected Member pursuant to Rule 6.1.

“**Allot**” means to deduct an amount from a Member’s Member Accounts and credit an amount to the Spouse Member Account created for or existing in the Fund in respect of that Member’s Spouse.

“**Award**” means an award, determination or registered collective agreement or a specific unregistered agreement covering, in the Trustee's opinion, such Member.

“**Condition of Release**” means the conditions specified in Schedule 1 of SIS with their applicable cashing restrictions for payment of superannuation benefits from superannuation funds like the Fund.

“**Employment**” means for any casual Employee, such period of employment with the Employer Sponsor as the Employer Sponsor specifies from time to time to the Trustee but in respect of each other Employee means, continuous service with the Employer Sponsor or deemed continuous service (for the purpose of enabling an Employer Sponsor to comply with the Act's requirements) and for the purposes of the Fund, service will not cease to be continuous by reason only of:

- (a) a transfer from service with one Employer Sponsor to service with another Employer Sponsor; or
- (b) temporary absence from service in any circumstances which, subject to any conflicting requirements of the Master Policy, the Employer Sponsor regards as not resulting in a break in the continuity of service and advises the Trustee in sufficient time for the Trustee to be able to maintain any available and applicable Master Policy cover to the Member

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PROVIDED THAT for the purposes of determining cessation of employment in respect of a Spouse Member, the Trustee may treat cessation of employment with any employer over the career history of the Spouse Member as acceptable.

“**Former Fund**” means any superannuation or like fund specified by an Employer Sponsor to the Trustee.

“**Fund Reserve**” means such value(s) as is/are determined pursuant to Rule 7.1

“**Gainful Employment**” in relation to a Member, means engagement in a business, trade, profession, vocation, calling, occupation or employment for gain or reward, for such minimum period as the Act may specify as required if the Member is presently or will immediately commence contributions or be the subject of commencement by an Employer Sponsor of contributions to the Fund.

“**Master Policy**” means an insurance policy or policies issued to the Trustee by an insurance company or the money from time to time representing the same.

“**Member Accounts**” means all the accounts conducted pursuant to Rule 6 in respect of a Member or Members generally (as the context requires).

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“**Member Contribution Account or Spouse Member Account**” means the account established in respect of each affected Member pursuant to Rule 6.1.

“**MySuper Account**” means the account established in respect of each MySuper Member pursuant to Rule 6.1.

“**Net Earnings Rate**” means any earnings rate or rates of the Fund's Assets or portions of the Fund's Assets as determined upon the Member's exit from the Fund or otherwise from time to time by the Trustee and apportioned and allocated generally or individually to Members at differential rates and in determining net earnings rate(s) to apply, the Trustee will be entitled to utilise last known unit prices to it in respect of any unithised investments and may take into account matters such as averaging, expense recognition, any allocations to and from the Fund Reserve, whether the rate(s) is/are annual or interim, positive, zero or negative and if applicable, any MySuper requirements.

“**ORFR**” means the Fund's Operational Risk Financial Reserve operated pursuant to Rule 7 of the Rules and relevant Fund Policies designed to address the manner in which the Trustee chooses to satisfy the Act's Operational Risk Financial Requirement.

“**Period**” means a period of time commencing on July 1 and terminating on the earlier of-

- (a) the date of effect of a transfer-out under Clause 30 of the whole of an affected Member's entitlements and any other applicable amounts in the Fund; and
- (b) the date of cessation of an affected Member's Employment which results in the rollover of the whole of the Member's benefit entitlements to another Eligible Fund; and
- (c) the immediately subsequent June 30 to that July 1.

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“**Reversionary Pensioner**” means a Spouse who is the subject of a formally binding nomination in the Fund as the intended recipient of any Pension as may become payable upon the death of their nominating Member and where that Member was at the Member's date of death, in receipt of a term Pension based on the life expectancy of their nominated Spouse.

“**Rollover Account**” means the account established in respect of each affected Member pursuant to Rule 6.1.

“**Salary**”-

- (a) for each Category 1 Member or MySuper Member means his or her 'ordinary time earnings' as defined in the Superannuation Guarantee (Administration) Act 1992 (as amended) or only if, in the opinion of their Employer, the result is numerically favourable in respect of the Member, a relevant Award to that Member or such other definition of “Salary” as is available under the relevant Award and required, in the opinion of their Employer, to be used by them with respect to that Member

; and

- (b) for each Category 2 Member, Category 3 Member or Badged Category Member means such remuneration as is accepted by the Trustee as his or her remuneration including if applicable, a component based on 'ordinary time earnings' (defined as per paragraph (a) of this definition) but subject to inclusion of only such items as may be included in "Salary" having regard to any applicable definition of "Salary" contained in the Act.

"SG/Award Contribution Account" means the account established in respect of each Member pursuant to Rule 6.1.

"SG Contribution" in respect of each Member means a minimum of such percentage of Salary as is specified as a minimum for the purposes of that Member and that Member's Employer Sponsor under the Act in order for that Employer Sponsor or to assist that Employer Sponsor to avoid in part or in full, any assessed or assessable penalty and/or shortfall under the Act in respect of that Member but in any case, less any (unless the relevant Employer notifies the Trustee of its desire for the Trustee to treat the resulting offsetting otherwise) contributions required to be made or else voluntarily made in respect of that Member by the Employer Sponsor to other Eligible Funds during the relevant SG Contribution assessment period and only where those contributions are disclosed to the Trustee within a time-frame and in a form considered reasonable by the Trustee.

"Total Account Balance" means in respect of a Member, as at a particular date the sum of the balances of all the Member Accounts conducted in respect of the Member in the Fund at that date after all relevant deductions including administration and Tax, fees and charges have been deducted.

"Total and Permanent Disablement" means -

- (a) Total and Permanent Disablement as defined in the Master Policy effected by the Trustee and in force for the time being for the purposes of providing in part or in full, a benefit payable on the total and permanent disablement of the Member or agreed upon from time to time by the Trustee and the relevant Insurance Company for the purposes of the Master Policy. Every question as to whether a Member has suffered Total and Permanent Disablement will be decided by the Insurance Company and the decision of the Insurance Company on any such question is final; or
- (b) where there is deliberately no current Master Policy effected by the Trustee to secure part or all of the benefits payable pursuant to Rule 9 or else if required for compliance with the Act, the term "Total and Permanent Disablement" means either as a minimum or 'floor' test or as the definition itself, such definition of permanent incapacity as is contained in the Act or failing any such definition, and "Totally and Permanently Disabled" has a corresponding meaning.

"Totally and Temporarily Disabled or Total and Temporary Disablement" in respect of a Member means being disabled or in a state of disablement accepted by the Insurance Company in respect of that Member under any policy as is effected by the Trustee for the purpose of providing a benefit for or in respect the Member under Rule 9A.

2. Eligibility

- 2.1 Unless the Act requires otherwise, an Employee becomes eligible for Category 1 and/or MySuper membership of the Fund on the earlier of the day the Employee's Employment commences with their Employer Sponsor and the Trustee receives a contribution from an Employer Sponsor in respect of them.
- 2.2 Unless the Act requires otherwise, all substantially self-employed persons in Gainful Employment are eligible for Category 2 membership of the Fund.
- 2.3 Unless the Act requires otherwise, and although other acceptable circumstances on occasion may exist (for specific referral to the Trustee for consideration) every person who expresses the wish to transfer or rollover in respect of themselves, acceptable superannuation based assets to the Fund from another Eligible Fund and also who can satisfy the Fund's administration based requirements such as proof of identity and ownership of the assets, is eligible for Category 3 membership.
- 2.4 Any person eligible for membership of the Fund pursuant to Rule 2.1, Rule 2.2 or Rule 2.3 will be admitted as a Member on the later of any date of eligibility referred to in that Rule, such date as the Trustee advises in the applicable Disclosure Document to the person, or such other date as the Trustee advises to the person in written form (including any of all electronic forms).
- # 2.5 Any Spouse of a Member or for the purposes of Clause 43 only, former Spouse of a Member, may at the Trustee's discretion and having regard to any rules under administration as are established for this Rule by the Trustee, be eligible to be admitted by the Trustee as a Member of the Fund but subject to all requirements of the Deed and these Rules as apply to a Spouse Member.
- # 2.6 The Trustee may decline any person as a Member or any group of persons as Members or any application or applications to become Members of the Fund made by any person and is not required to designate any reason for so declining that person or group of persons.

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3. Membership

- 3.1. Upon becoming a Member of the Fund, a person is deemed to have approved of and is bound by all the provisions of the Rules and the Deed.
- 3.2. Each Member is deemed to have authorised the Employer Sponsor to deduct from that Member's Salary the amounts of the contributions (if any) to be made by the Member to the Fund.
- 3.3. Membership of the Fund continues until the date on which the Member ceases to be entitled to any further benefit under the Fund.
- # 3.4. Each new Member will be classified by the Trustee upon entry to membership as a Category 1 Member, Category 2 Member, Category 3 Member and/or a MySuper Member or a Spouse Member based on the information and documentation supplied to the Trustee and each Member may be reclassified from time to time by the Trustee.
- 3.5. Members may be categorised and recategorised as to their category or categories of membership within the Fund PROVIDED THAT no MySuper Member may have their

MySuper Account closed as a result of their recategorisation within the Fund, without their consent.

- 3.6. Notwithstanding anything else appearing in this Deed and Rules, no legal presumption may be raised against the Trustee that it should or should not accept or have accepted any contribution from or in respect of a Member.

4. Contributions By Members

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- 4.1. No Member is required to, but each Member may (except in respect of Spouse Members for whom no Employer Sponsor has contributed in respect of them or for whom no other Member has contributed in respect of them -such a Member **must not** contribute), subject to Rule 4.2, contribute to the Fund at such rate or percentage of Salary or remuneration or other amount as the Member elects (effective from a date and in a form suitable to the Trustee) and the Trustee consents to accept.
- 4.2. Except in respect of contributions made in respect of an Employer Sponsor's liability under an Award or unless otherwise required or permitted by the Act, the Trustee will, subject to the Act, only accept contributions from a Member if the Member is under the age of seventy-five (75) years or has satisfied such other requirements as the Act may specify.
- 4.3. Subject to the requirements of the Act and any administrative rules the Trustee may establish from time to time (including its policy on fees and charges), each Member:
- (a) who is ceasing membership, once in the Period in which they cease membership, as at the close of that Period, or
 - (b) who is continuing in membership, may once in the immediately subsequent Period to a Period

request the Trustee to Allot up to maximum extent(s) permitted under the Act in respect of contributions made under Rule 4 and any other like splittable amounts received by the Fund in respect of the Member in that Period (for Members requesting under paragraph (a) immediately above) or in the immediately prior Period (for Members requesting under paragraph (b) immediately above) as still remain in the Fund, the whole or part of those contributions and other like splittable amounts.

- 4.4. Notwithstanding anything hereinbefore mentioned, no legal presumption may be raised against the Trustee that it should or should not accept or have accepted a contribution from or in respect of a Member merely because the Trustee had not sighted or received an application for membership of the Fund.

5. Contributions By Employer Sponsors

- 5.1. An Employer Sponsor may, subject to Rule 5.4, contribute to the Fund, in respect of each Category 1 Member or MySuper Member, part or all of the minimum required SG Contribution and/or Award based contribution in respect of the Member together with such further amounts (if any) as the Employer Sponsor and each affected Member individually agrees or otherwise as the Employer Sponsor directs the Trustee.

- 5.2. An Employer Sponsor may, subject to Rule 5.4, at any time or from time to time in respect of any or all of its Employees who are Category 2 Members, make contributions to the Fund of such amounts as the Employer Sponsor and each affected Member individually agrees, including if applicable, part or all of the minimum required SG Contribution and/or Award based contribution in respect of the Member.
- 5.3. Notwithstanding both Rules 5.1 and 5.2, an Employer Sponsor may agree with the Trustee to contribute amounts different from and/or in a form different to those which might be contributed by it under either Rule 5.1 or Rule 5.2.
- # 5.4. Except in respect of contributions made in respect of an Employer Sponsor's liability for the minimum required SG Contribution and/or Award contribution or unless otherwise required or permitted by the Act, the Trustee will only accept contributions in respect of a Member from an Employer Sponsor if the Member is under the age of seventy-five (75) years and/or has satisfied such other requirements as the Act may specify.
- # 5.5. Subject to the requirements of the Act and any administrative rules the Trustee may establish from time to time (including its policy on fees and charges), each Member:
- (a) who is ceasing membership, once in the Period in which they cease membership, as at the close of that Period, or
 - (b) who is continuing in membership may once in the immediately subsequent Period to a Period

request the Trustee to Allot up to maximum extent(s) permitted under the Act in respect of contributions made under Rule 5 and any other like splittable amounts received by the Fund in respect of the Member in that Period (for Members requesting under paragraph (a) immediately above) or in the immediately prior Period (for Members requesting under paragraph (b) immediately above) as still remain in the Fund, the whole or part of those contributions and other like splittable amounts.

- 5.6. Subject to any requirements of the Act, an Employer Sponsor may from time to time make unallocated contributions to the Fund.

6. Accounts

- # 6.1. The Trustee may maintain or cause to be maintained in the books of the Fund as required in respect of each Member, any or all of Member Accounts known, for the purposes of this Deed and Rules only, as an SG/Award Contribution Account or a MySuper Account (although both those Accounts could be maintained in respect of a Member), a Member Contribution Account or instead if applicable, a Spouse Member Account, a Rollover Account and, if necessary, an Additional Employer Sponsor Contribution Account and/or other actual or notional accounts and sub-accounts as the Trustee may desire.
- 6.2. Subject to any fee, Tax and/or cost reimbursement made under administration at the direction of the Trustee, the following items will be credited to the SG/Award Contribution Account maintained in respect of a Member:
- (a) all SG Contribution(s) and/or Award based contributions in respect of that Member made to the Fund by an Employer Sponsor pursuant to Rule 5;

- (b) any share of the Fund Reserve apportioned to the Member's SG/Award Contribution Account by the Trustee from any general allocation to Member Accounts made pursuant to Rule 7;
- (c) any part of transfers-in to the Fund pursuant to Clause 29 to be credited at the absolute discretion of the Trustee to SG/Award Contribution Account;
- (d) all of any positive Net Earnings Rate apportioned to the Member's SG/Award Contribution Account by the Trustee.

6.3. Subject to any fee, Tax and/or cost reimbursement made under administration at the direction of the Trustee, the following items will be credited to the Member Contribution Account or Spouse Member Account maintained in respect of a Member:

- (a) all of any contributions in respect of that Member made to the Fund pursuant to Rule 4;
- (b) such portion of those made by an Employer Sponsor pursuant to Rule 5 as the Employer Sponsor directs;
- (c) any share of the Fund Reserve apportioned to the Member's Member Contribution Account or Spouse Member Account by the Trustee from any general allocation to Member Accounts made pursuant to Rule 7;
- (d) any part of transfers-in to the Fund pursuant to Clause 29 to be credited at the absolute discretion of the Trustee to the Member's Member Contribution Account or Spouse Member Account;

(e) any applicable benefit re-distribution carried into effect by the Trustee in favour of the Member as a Spouse pursuant to Clause 43 where that re-distributed amount remains in the Fund;

(f) all of any positive Net Earnings Rate apportioned by the Trustee to the Member's Member Contribution Account or Spouse Member Account.

6.4. Subject to any fee, Tax and/or cost reimbursement made under administration at the direction of the Trustee, the following items will be credited by the Trustee to the Rollover Account maintained in respect of an affected Member:

- (a) amounts transferred to the Fund in respect of that Member pursuant to Clause 29 as are not credited to another Account pursuant to this Rule 6;
- (b) any share of the Fund Reserve apportioned to the Member's Rollover Account by the Trustee from any general allocation to Member Accounts made pursuant to Rule 7;
- (c) all of any positive Net Earnings Rate apportioned to the Member's Rollover Account by the Trustee.

6.5. Subject to any fee, Tax and/or cost reimbursement made under administration at the direction of the Trustee, the following items will be credited to the Additional Employer Sponsor Contribution Account maintained in respect of an affected Member:

- (a) such portion of those contributions made by an Employer Sponsor pursuant to either Rule 5.1 or Rule 5.2 as is not otherwise credited in respect of that Member pursuant to Rule 6.2 and/or Rule 6.3;
- (b) any share of the Fund Reserve apportioned to the Member's Additional Employer Sponsor Contribution Account by the Trustee from any general allocation to Member Accounts made pursuant to Rule 7;
- (c) any part of transfers-in to the Fund pursuant to Clause 29 to be credited at the absolute discretion of the Trustee to the Member's Additional Employer Sponsor Contribution Account;
- (d) all of any positive Net Earnings Rate apportioned to the Member's Additional Employer Sponsor Contribution Account by the Trustee.

6.6 Subject to any fee, Tax and/or cost reimbursement made under administration at the direction of the Trustee, the following items will be credited to the MySuper Account maintained in respect of a MySuper Member:

- (a) all SG Contribution(s) and/or Award based contributions and all of any other contributions in respect of that Member made to the Fund by an Employer Sponsor or by themselves pursuant to Rules 4 and 5 as are not credited to another of the Member Accounts maintained in respect of them in the Fund;
- (b) any share of the Fund Reserve apportioned to the Member's MySuper Account by the Trustee from any general allocation to Member Accounts made pursuant to Rule 7;
- (c) any part of transfers-into or rollovers to the Fund pursuant to Clause 29, to be credited, at the absolute (but at all times subject to the Act) discretion of the Trustee to the Member's MySuper Account;
- (d) all of any positive Net Earnings Rate apportioned to the Member's MySuper Account by the Trustee.

6.7 The following items will be debited by the Trustee at its absolute discretion, to the Member Accounts conducted in respect of each Member having regard to any specifically applicable requirements of the Act:

- (a) all of any negative Net Earnings Rate allocated to the Member's Member Accounts by the Trustee;
- (b) the cost of the premiums required to insure the death and disablement benefits in respect of Members that are incurred by the Fund and not (solely at the absolute discretion of the Trustee) otherwise paid out of the Fund Reserve;
- (c) the appropriate share as determined by the Trustee of the fees, costs, charges and expenses of management, administration or otherwise that are incurred by the Trustee for the Fund and not reimbursed to Member Accounts or paid instead, out of the Fund Reserve or the ORFR;

- (d) the appropriate share as determined by the Trustee of any Tax levied against the Fund or a Member which is attributable to contributions made to the Fund or benefits accrued or accruing in or payable from the Fund by or in respect of the Member and which has already been paid or may become payable from the Fund or the Member Accounts conducted in respect of the Member or the Fund Reserve or the ORFR, or as might be or become necessary to be reimbursed to those Member Accounts, the Fund Reserve or the ORFR, based on actual or projected liabilities;
- (e) any overpayment of a government co-contribution made under the Act and required to be remitted to a Regulator (or other appropriate authority);
- (f) all internal transfers between Member Accounts within the Fund;
- (g) all transfers-out of the Fund in respect of Members pursuant to Clause 30.

7. Fund Reserve and the ORFR

- 7.1. The Trustee may determine a value or values for and establish and retain part or all of the Fund Assets in an unallocated or allocated form or forms as a Fund Reserve and as the ORFR as contemplated by the Act, if such retention(s) is/are desired by the Trustee and not prohibited by SIS.
- 7.2. The Trustee may, for the purposes of segregating Fund Assets retained under Rule 7.1 create a sub-account of the Fund Reserve or merely a separate distinct account within the Fund out of the Fund Reserve to be used as the ORFR. Any value retained and allocated to the ORFR must be applied only to uses acceptable under the Act including specifically for targeted and actual cover of the risk of operational losses including legal risks but excluding strategic and reputational risks.
- 7.3. The Trustee may, subject to the requirements of the Act, utilise any value retained and allocated to the Fund Reserve but not forming part of the ORFR, in such manner and/or form including, if appropriate, in the smoothing or averaging of Net Earnings Rates or influencing Net Earnings Rates as the Trustee may determine from time to time.

8. Death

- 8.1. If a Member dies, a death benefit will be payable in respect of the Member.
- 8.2. The amount of the death benefit payable where the Member dies will, subject to the provisions of the Deed, be equal to the sum of-
 - (a) the Member's Total Account Balance determined at the date used for calculation of a benefit; and
 - (b) the amount recovered (if any) under any Master Policy effected by the Trustee to provide a benefit in respect of the particular Member under this Rule 8 and this amount will extend to any further or additional insurance cover obtained in respect of a Member by the Trustee, at the request of the Member or the Member's Employer Sponsor.

9. Total Permanent Disablement Benefit

- 9.1. If an event occurs or a condition arises prior to a Category 2 Member ceasing Gainful Employment or any other Member in Employment, ceasing Employment which results in that Member becoming Totally and Permanently Disabled before such age as the Master Policy specifies, a total and permanent disablement benefit will be payable.
- 9.2. The amount of the total and permanent disablement benefit payable will, subject to the terms of the Master Policy, be equal to the sum of –
- (a) the Member's Total Account Balance determined at the date used for calculation of a benefit; and
 - (b) the amount recovered (if any) under any Master Policy effected by the Trustee to provide a benefit in respect of the particular Member under this Rule 9 and this amount will extend to any further or additional insurance cover obtained in respect of a Member by the Trustee, at the request of the Member or the Member's Employer Sponsor.
- 9.3. On the Total and Permanent Disablement of a Member, no benefit will be payable under any other Rule to or in respect of any Member who becomes entitled to a benefit in accordance with the provisions of this Rule.

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9A. Temporary Disablement Benefit

- 9A.1 In the event of a Member for whom this benefit is offered by the Trustee becoming Totally and Temporarily Disabled before attaining sixty-five (65) years of age, a disability income benefit shall become payable up to the lesser of eighty-five percent (85%) of the Member's monthly remuneration (as accepted by the Insurance Company in accordance with the terms of the applicable insurance policy) and \$A20,000.00 reduced by the annual amount (apportioned monthly) of any income or compensation paid or payable to the Member under any provision (statutory or otherwise) or as a result of worker's compensation or similar legislation or any other amount deducted from benefits under the insurance policy effected by the Trustee PROVIDED THAT the maximum amount payable will be restricted to any upper limit imposed by the insurance policy or the Insurance Company with which the relevant policy is effected and the reference to eighty-five percent (85%) includes an allowance of ten-percent (10%) applying for those who elected it, as a superannuation contribution to the Fund.
- 9A.2 The Trustee shall pay or apply any disability income benefit payable as a result of the Total and Temporary Disablement of the Member to or for the benefit of the Member by equal monthly instalments, the first such instalment being due at least 30 days and no more than 90 days after the date on which the Member became Totally and Temporarily Disabled and the last such instalment being due on whichever is the earliest of:
- (a) the date from which the Member is no longer Totally and Temporarily Disabled; or
 - (b) the date of death of the Member; or
 - (c) subject to the actually applicable terms under the relevant insurance policy, either the date of payment of the twenty-fourth (24th) monthly instalment of the disability income; or
 - (d) the date of the Member's sixty-fifth (65th) birthday; or

- (e) the date on which the Member is no longer under the regular care of a medical practitioner as defined for the purposes of the applicable insurance policy.

10. Normal or Spouse Benefit

- 10.1 If a Category 1 Member, MySuper Member or Spouse Member ceases Employment or a Category 2 Member ceases Gainful Employment or attains sixty-five (65) years of age in circumstances in which no other benefit is payable to or in respect of that Member pursuant to these Rules, a normal benefit equal to the Member's Total Account Balance will, subject to treatment of any Preserved Benefit component in accordance with Clause 27 and satisfactory evidence is provided that all of any cashing restrictions will be satisfied under the relevant Condition of Release applicable, be payable unless the Member requests otherwise PROVIDED THAT in circumstances where the Member has not ceased all Employment or Gainful Employment and is beyond sixty-five (65) years of age, the Trustee may use its discretion as to point or points of payment of part or all of the Member's Total Account Balance.
- 10.2 Each Member who satisfies all conditions applicable under Rule 10.1 and validly requests it or for whom insufficient information is held or provided to the Trustee as regards their intended exit from the Fund, their normal benefit (equal to their Total Account Balance) will remain in the Fund accruing with such further contributions as are received and with Net Earnings Rate until the earlier of :
 - (a) subsequent satisfaction of Rule 10.1 by them in respect of a later period of Employment or Gainful Employment (whichever applies), or
 - (b) another Condition of Release applies to them and satisfactory evidence is provided that all of any cashing restrictions will be satisfied as apply to that Condition of Release; or
 - (c) in respect of their normal benefit for which Rule 10.1 had already been satisfied, they again validly request payment of that benefit (with Net Earnings Rate) and provide all necessary information to the Trustee in order for payment to be completed.
- 10.3 If a Category 3 Member requests to or is otherwise required to exit the Fund with part or all of their Total Account Balance having satisfied a Condition of Release and provided satisfactory evidence to the Trustee that any applicable cashing restrictions will be satisfied, a normal benefit (equal to such part or whole of their Total Account Balance as they request or are required to exit with) will, subject to treatment of any Preserved Benefit component in accordance with Clause 27, be payable to or in respect of them.

11. Statutory Benefits/Hardship

- 11.1. The Trustee may be requested in writing at any time by a Member (including any Spouse Member), in accordance with the Act (a request to which the Trustee may or may not accede) to pay a lump sum benefit to or in respect of that Member comprising part or all of the then value (less any applicable administration and Tax charges) of the Member's Total Account Balance. For the purposes of this Rule, the Trustee may take into account in respect of any amount to be released to satisfy a Member or Spouse Member's request, the extent (if any) of approval for that release provided by the Regulator and any Tax applicable, in respect of that person.
- 11.2. A Member or Spouse Member may, for the purpose of relieving severe financial hardship or on compassionate grounds approved by the Regulator and as a single lump sum or multiple of

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lump sums to the extent allowed in any period and not exceeding in total for any particular case any amount declared for the purposes of the Act, request the Trustee to pay a benefit from the Member's Member Accounts for the purpose of relieving the hardship or other adverse circumstances. The payment of any benefit in accordance with this Rule 11.2 will be entirely at the Trustee's discretion.

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12. Pension Benefits

- 12.1 The Trustee must (unless it determines at its absolute discretion and at any time(s) not to pay any one or more type(s) of Pension) pay to or in respect of a Member, a term, allocated (closed to new offers 20 September 2007 and terminated as at a date fixed under administration), account-based (offered from 20 September 2007) or transition to retirement Pension:
- (a) commencing on the date(s) specified in the Member or other acceptable proposed recipient's application for the Pension, which date(s) must not be earlier than nor later than any specified in the Trustee's Disclosure Document and as necessary to comply with the Act's requirements; and
 - (b) terminating on the earlier of the following occurring-
 - (i) the lesser of all Fund Assets attributed to provision of the Pension or the applicable part or whole of the Total Account Balance attributable to provision of the Pension have been expensed, or
 - (ii) a date requested by the recipient and consented to by the Trustee; or
 - (iii) another condition to cessation of on-going payment applicable under this Rule 12, is satisfied.
- 12.2 A Pension paid under this Rule 12 must comply with the requirements of the Act.
- 12.3 A Pension paid under this Rule 12 may be the subject of such terms and conditions as the Trustee considers appropriate from time to time including those referred to in the Trustee's Disclosure Document but not limited to any maxima and minima, frequency, increases (if any), default level, any commutation and reversion rights and documentary evidence necessary.
- 12.4 The capital value of a Pension and any income from the Pension cannot be used as security for a borrowing.
- 12.5 Specifically subject to Rule 12.3, if a Member dies whilst being in receipt of any Pension other than a term Pension for which a Reversionary Pensioner was nominated in the Fund, the remaining Total Account Balance of the Member otherwise attributable to the payment of the Pension must be paid in accordance with Rule 8 and Rule 13.
- 12.6 Specifically subject to Rule 12.3, if a Member dies whilst being in receipt of a term Pension for whom a Reversionary Pensioner was nominated in the Fund and:
- (a) that Reversionary Pensioner is a Dependant and is located, that Reversionary Pensioner will be paid a Pension of a type otherwise acceptable under this Rule 12; or
 - (b) that Reversionary Pensioner is either not a Dependant or is not located or else has died, then the remaining Fund Assets as would otherwise have been attributable to the payment of a Pension to them under this Rule 12, will be forfeited under Clause 24.2 (a)

as though a legal incapacity had been found to exist or otherwise dealt with as the Act may require.

- 12.7 Should a Reversionary Pensioner die whilst in receipt of a Pension, then the remaining Fund Assets otherwise attributable to the payment of a Pension to them, will be forfeited under Clause 24.2(a) as though a legal incapacity had been found to exist or otherwise dealt with as the Act may require.
- 12.8 Should any recipient of a Pension (other than a Member or Reversionary Pensioner) die whilst in receipt of a Pension, then the remaining Fund Assets otherwise attributable to the payment of a Pension to them, will be paid in accordance with Rule 8 and Rule 13 with the word 'recipient' substituted for each use of the word 'Member' in those Rules.
- 12.9 If a Member becomes Totally and Permanently Disabled whilst being in receipt of a Pension, the remaining Total Account Balance of the Member otherwise attributable to the payment of the Pension will be paid in accordance with Rule 9 and Rule 13.

13. Payment Of Lump Sum Benefits

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- 13.1 Upon an amount becoming payable pursuant to any Rule other than Rule 9A, Rule 11 or Rule 12 (except via cross-reference from that Rule), the Trustee will, subject to the provisions of the Deed, pay that amount in accordance with the provisions of this Rule.
- 13.2 (a) In the event that any part of the benefit payable pursuant to Rule 10 is a Preserved Benefit, that part only of the benefit will, unless it is transferred in accordance with Clause 30 or unless the relevant Member has satisfied a Condition of Release with a 'Nil' cashing restriction or satisfied such conditions of early release as the Regulator has established or declared as appropriate for consideration by the Trustee, be either transferred out of the Fund pursuant to Clause 30.2 or, retained in the Fund indefinitely.
- (b) Any amount payable pursuant to Rule 10 which is not dealt with pursuant to Rule 13.2(a) will, subject to Rule 13.4, be dealt with pursuant to Rule 13.8.
- 13.3 Any amount payable pursuant to Rule 9 will be paid or applied for the benefit of the Member in such manner as the Trustee in its absolute discretion decides.
- 13.4 If a Member dies before the whole of the benefit payable pursuant to Rule 9 or Rule 10 has been paid or applied pursuant to Rule 13.2 or Rule 13.3 that benefit or any balance remaining will be payable in accordance with Rule 13.5 or, if applicable, Rule 13.6 or Rule 13.7.
- 13.5 Any amount payable on the death of a Member will, unless a Binding Nomination is held and applies under Rule 13.6, be paid or applied either to or for the benefit of such one or more of the Dependants of the deceased Member to the exclusion of the other or others of them or to the Member's Personal Representative and in such shares and proportions as the Trustee in its absolute discretion decides.
- 13.6 Any amount payable on the death of a Member for whom the Trustee holds a current Binding Nomination in respect of their death benefits, the Trustee must follow the Binding Nomination. However, if the Binding Nomination cannot be followed for any reason (including because having existed longer than 3 years since recognition by the Trustee as first applying, it has lapsed under the Act, it has been revoked or does not otherwise comply with the Act or this Deed) then to the extent that the Binding Nomination cannot be followed, the Trustee must:

- (a) deal with the Member's death benefits as if the Binding Nomination had not been given; and
 - (b) treat the Binding Nomination as if it was non-binding.
- 13.7 If the Trustee is unable to locate any Dependants or Personal Representative of a deceased Member, in a situation where death benefits are payable in respect of them, the Trustee:
- (a) may pay those benefits to such person or combination of persons as the Trustee in its absolute discretion determines (subject always to the requirements of the Act) to be appropriate, or
 - (b) should the Act require or permit, the Trustee will cause those benefits to be paid or transferred to the Australian Taxation Office or other suitable Regulator or statutory receiving authority; or
 - (c) in circumstances of dispute as to beneficiary, the Trustee may agree to a compromise payment, or decide to proceed to or may agree to mediation, arbitration or payment into court of those benefits.
- 13.8 Any amount payable from the Fund in accordance with the provisions of this Rule 13 will be paid as a lump sum or a multiple of lump sums unless it is agreed in writing by the Trustee and the person or persons entitled to receive it or the cashing restrictions applicable under the relevant Condition of Release satisfied by the Member require it, that it will either be:
- (a) wholly or partly paid in the form of a Pension acceptable under Rule 12, or
 - (b) used in whole or in part to purchase an annuity (lifetime, should the relevant cashing restrictions require it) of equivalent value; or
 - (c) should the relevant cashing restrictions allow, obtain an allocated pension or pensions (term or otherwise) or an account-based pension in the name of a beneficiary or beneficiaries from an external provider of such superannuation facilities.
- 13.9 Where any amount is payable to or for the benefit of an infant, the Trustee may pay that amount to the person appearing to the Trustee to be the parent or guardian or person having the actual custody or control of such infant or with whom such infant is residing on behalf of such infant and the receipt of such person for any money so paid will be good and sufficient discharge to the Trustee therefor and the Trustee will not be bound to see to the application thereof.
- 13.10 For the purposes of facilitating administration the Trustee may, if appropriate with the affected Member, Dependant or other beneficiary's consent, postpone payment of any benefit or part of a benefit for a period not exceeding any maximum period specified under the Act after the date of cessation of Employer Sponsor contributions in respect of the relevant Member and in the interim period may make or arrange for payments of part or all of the benefit to be made at convenient times. If payment is postponed for any period, Net Earnings Rate allocations will be made from time to time to the benefit or such part of the benefit as remains.