

**RETAIL EMPLOYEES SUPERANNUATION TRUST  
CONSOLIDATED TRUST DEED**

**I certify that the following 79 pages is the consolidated Trust Deed for the Retail Employees Superannuation Trust, incorporating all amendments up to 8 April 2026.**

*Signed: Duncan Whiteside*

**Duncan Whiteside  
General Counsel – Rest**

**Solicitor of the Supreme Court of NSW  
Level 21, 50 Bridge Street, Sydney, NSW 2000**

**13 April 2026**

# Consolidated Trust Deed for the Retail Employees Superannuation Trust

## Incorporating all amendments up to 8 April 2026.

**THIS TRUST DEED** is made the 2nd day of December 1987<sup>1</sup> by **RETAIL TRADERS' SUPERANNUATION PTY LIMITED**<sup>2</sup> a company incorporated in New South Wales having its registered office situated at 20 York Street, Sydney in the said State<sup>3</sup> (hereinafter called the "**Trustee**"<sup>4</sup>).

### WHEREAS

- I. One of the objects for which the Trustee have been established is to undertake and conduct any fund or scheme for the provision of superannuation disability or other benefits and to act as trustees of any such fund or scheme.
- II. The Australian Retailers Association, the National Retail Association Limited and Shop Distributive and Allied Employees' Association (hereinafter jointly referred to as "**the Sponsors**"<sup>5</sup>) have resolved that an indefinitely continuing scheme to be known as the Retail Employees Superannuation Trust (hereinafter referred to as "**the Plan**") be established and maintained solely for the purpose of the provision of superannuation benefits for such persons who being eligible become Members thereof in manner more particularly hereinafter provided in the event of their permanent retirement from gainful employment or Leaving the Industry or in the circumstances of incapacity from work attributable to illness or accident as is approved by the Regulator<sup>6</sup> or in the event of the death of such persons for their Dependents.
- III. The Trustee have consented to the request of the Sponsors to act as the first trustees of the Plan as is witnessed by their execution of this Deed.

<sup>1</sup> The trust deed has since been amended on 17 February 1988, 13 December 1988 (twice), 24 February 1989, 30 November 1990, 17 May 1991, 1 April 1992, 1 April 1993, 20 August 1993, 27 June 1994, 26 July 1994, 10 August 1995, 21 June 1996, 26 July 1996, 24 September 1997, 19 December 1997, 19 June 1998, 26 February 1999, 22 June 1999, 8 October 2001, 15 April 2002 (twice), 24 April 2003, 30 September 2004, 20 December 2004, 30 June 2005, 16 April 2006, 1 July 2007, 26 June 2008, 11 December 2008, 24 March 2009, 6 August 2009, 24 January 2011, 24 March 2011, 20 June 2011, 29 November 2011, 20 December 2012, 18 February 2013, 11 June 2013, 19 November 2013, 8 August 2016, 13 May 2021, 29 May 2025 and 8 April 2026.

<sup>2</sup> On 3 May 1991, Retail Traders Superannuation Pty Limited changed its name to Retail Employees Superannuation Pty Limited

<sup>3</sup> The registered address for the Trustees is now Level 21, 50 Bridge St Sydney NSW 2000.

<sup>4</sup> By clause 2 of Deed of Amendment dated 30 November 1990, it was declared that all references to "Trustees" would thereafter be a reference to "Trustee". This amendment has been made throughout the deed. Subsequent grammatical changes have not in all cases been made by the deeds of amendment

<sup>5</sup> By clause 1 of the first of two Deeds of Amendment dated 13 December 1988 the Shop, Distributive and Allied Employees' Association was included as a Sponsor. By clause 2 of the Deed of Amendment dated 10 August 1995 the Pharmacy Guild of Australia was omitted as a Sponsor. By clause 1 of the Deed of Amendment dated 6 April 2006, the Sponsors are now the Australian Retailers Association, the National Retail Association Limited and Shop Distributive and Allied Employees' Association. By Schedule 1 of the Deed of Amendment dated 8 April 2026, the Sponsors are now the Australian Retail Council and the Shop Distributive and Allied Employees' Association.

<sup>6</sup> By item 3 of the Schedule to the Deed of Amendment dated 22 June 1999, all references to "Commissioner" were replaced with "Regulator".

<sup>7</sup> The Commencing Date was specified in the original Rules as 1 January 1988. This date was replaced with the date 26 June 1989 by clause 1 of the Deed of Amendment dated 24 February 1989.

NOW THIS DEED WITNESSES THAT

- A. The Plan is hereby established with effect from the Commencing Date set out in the Rules.<sup>7</sup>
  
- B. The Trustee hereby declare that the Plan will be held in trust upon the terms and conditions and subject to the trusts powers authorities and discretions contained in this Deed and in the Schedules hereto.
  
- C. The Trustee hereby covenant to manage the Plan and to ensure that it is administered in accordance with all relevant legislation, regulations and guidelines relating to superannuation funds and their eligibility for taxation concession or exemption in accordance with the Act as hereinafter defined.

IN WITNESS WHEREOF these presents have been duly executed on the day and year first hereinbefore written.

THE COMMON SEAL of RETAIL TRADERS' )  
SUPERANNUATION PTY. LTD.    )  
was hereto affixed in accordance )  
with its Articles of Association    )  
in the presence of )

.....  
Director

.....  
Secretary

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## SCHEDULE

### 1. INTERPRETATION

#### 1.1 Interpretation of terms used

In this Deed and in the Rules:

- (a) the words and expressions defined in the Rules shall unless the context otherwise requires have the meanings assigned to them in the Rules;
- (b) the headings are for convenience of reference only and shall not affect the interpretation of this Deed;
- (c) words importing the singular number include the plural and vice versa and words importing the masculine feminine or neuter genders include all genders as the case may require;
- (d) the words and expressions defined are indicated by capital letters for convenience. The absence of a capital letter shall not alone imply that the word or expression is used with a meaning different from that given by its definition;
- (e) a word or phrase appearing in a certain context which when used in a similar context in the Act would have a particular meaning, has that meaning in this Deed;
- (f) quarter means a period of three months ending at the end of March, June, September or December;
- (g) unless the context otherwise requires, a reference to any legislation includes any regulation or instrument made under it and where amended, re-enacted or replaced means that amended, re-enacted or replacement legislation; and
- (h) a reference to 'product' is not a reference to a class of interest in the Plan, but rather to the branding and name given to a group of interests in the Plan and a reference to a MySuper Product or Choice Product is a reference to the relevant class of interest in the Plan.

#### 1.2 Rules

The Rules form part of this Deed and set out the benefits and contributions in relation to the Plan and otherwise regulate its management.

#### 1.3 Applicable Law

The law applicable to the Plan shall be the law of the State or Territory where the Trustee has its registered office as at the date of this Deed.

### 2. APPOINTMENT AND REMOVAL OF TRUSTEE

#### 2.1 Eligibility to be Trustee

- (a) Only a constitutional corporation having power so to act and to carry out the trusts hereof shall be eligible to be the trustee of the Plan and the board of directors of such corporation shall be comprised of such persons as will at all times ensure that the Plan is a Complying Superannuation Fund.

(b) The Plan shall be administered by the Trustee (which term shall for the purpose of this clause include any subsequent trustee) in a manner which will not prejudice the continued classification of the Plan as a Complying Superannuation Fund.

## 2.2 Trustee Consent

A person to be appointed as a trustee shall consent in writing (whether in a Deed of Appointment or otherwise) to the appointment.

## 2.3 Vacation of Office

The Trustee may resign its office as trustee of the Plan by notice in writing to the Sponsors. The Trustee will cease to be the trustee of the Plan on the date that a replacement trustee is appointed by the Sponsors under clause 2.4.

## 2.4 Appointment of New Trustee

If the Trustee notifies the Sponsors of its intention to resign its office as trustee of the Plan under clause 2.3, the Sponsors shall appoint a replacement trustee of the Plan as soon as reasonably practicable or on a date agreed with the Trustee. The replacement trustee must be a corporation that is authorised to act as the trustee of the Plan under the Act.

## 2.5 Replacement of Acting Trustee

If the Regulator has removed the Trustee from its office under the Act and appointed an acting trustee, the Sponsors shall appoint a replacement trustee with effect upon the termination of the appointment of the acting trustee, or as soon as reasonably practicable thereafter. The replacement trustee must be a corporation that is authorised to act as the trustee of the Plan under the Act.

## 2.6 Sponsor Decisions

The Sponsors may act by simple majority.

# 3. MEETINGS OF TRUSTEE

## 3.1 Trustee Decisions

The Trustee may act by resolution of the board of directors passed in the manner required by the Act.

## 3.2 Minutes

The board of directors of the Trustee shall cause proper minutes to be kept and entered in a book provided for the purpose of recording all their resolutions and proceedings relating to the carrying out of the provisions of this Deed and the Rules.

# 4. DELETED

## 5. TRUSTEE - LIABILITY AND INDEMNITY

### 5.1 No Personal Liability

- (a) No Trustee, director or officer of the Trustee shall be under any personal liability in respect of any loss or breach of trust in respect of the Plan or the benefits of a Member unless the same shall have been due to:
  - (i) its own failure to act honestly in a matter concerning the Plan; or
  - (ii) intentional or reckless failure to exercise, in relation to a matter affecting the Plan, the degree of care and diligence that the Trustee, director or officer was required to exercise.
- (b) The Trustee may take out such indemnity and fidelity insurance as it thinks fit and the cost of such shall be an expense of the Plan.

### 5.2 Indemnity - Lien

Notwithstanding anything to the contrary herein contained or implied:

- (a) the Trustee, its directors and, to the extent permitted by the Act, its officers shall be entitled to be indemnified by the Plan against all claims losses or liabilities incurred by it or them in the execution or attempted execution or in respect of the non-execution of the trusts, authorities, powers and discretions contained in this Deed;
- (b) without limiting the generality of clause 5.2(a), the indemnity provided shall apply to any payment made in respect of a Member or to any person whom the directors or officers of the Trustee or any person acting under delegation from the Trustee or its directors bona fide believe to be entitled to the payment;
- (c) the Trustee shall have a lien on and may use any moneys for the time being in the hands or coming into the hands of the Trustee for the above indemnity and also for the payment of all proper legal and other costs, charges and expenses of administering or winding up the Plan and otherwise of performing its duties under this Deed (including, but not limited to, the costs and expenses of insurance and remuneration payable by the Trustee in respect of its directors and officers).

The lien in this clause 5.2(c) does not apply over or in relation to a Member's Benefits to the extent that it is not permitted expressly or by necessary implication by the SIS Act.

For the purposes of sub-clauses (a), (b) and (c), this indemnity shall not apply to the Trustee, director or officer of the Trustee where the Trustee or that director or officer:

- (i) fails to act honestly in a matter concerning the Plan; or
- (ii) intentionally or recklessly fails to exercise, in relation to a matter affecting the Plan, the degree of care and diligence that the Trustee, director or officer is required to exercise; or
- (iii) the liability is for a monetary penalty under a civil penalty order under the Act.

## 6. TRUSTEE - DISCRETIONS ETC – DELEGATION

### 6.1 Powers and Discretions

The Trustee in the exercise of the powers, authorities and discretions vested in it by this Deed and the Rules shall have an absolute and uncontrolled discretion and may exercise, enforce or delegate or refrain from exercising enforcing or delegating all or any of those powers, authorities or discretions from time to time and at any time subject to the constitution of the Trustee and the Applicable Requirements.

### 6.2 Delegation

- (a) Subject to the constitution of the Trustee and the Applicable Requirements, the Trustee may from time to time delegate any of its powers and authorities to:
- (i) a committee of directors of the Trustee;
  - (ii) a director of the Trustee;
  - (iii) an employee or officer of the Trustee; or
  - (iv) any other person,
- (each a **Delegate**), as the Trustee thinks fit and may at any time revoke any such delegation.
- (b) Any Delegate shall in the exercise of the powers so delegated conform to any regulations that are imposed on the Delegate by the Trustee and the requirements of the Applicable Requirements.
- (c) A power exercised by a Delegate shall be deemed to have been exercised by the Trustee.
- (d) A Delegate may at any time refer to the Trustee any matter for consideration in lieu of such matter being considered by the Delegate.

### 6.3 Exercise of Discretion by Person other than Trustee

No discretion under these trusts exercisable by a person other than the Trustee is to be exercised unless:

- (a) the Trustee consents to the exercise of that discretion; or
- (b) the exercise of the discretion relates to the contributions that an Employer will, after the discretion is exercised, be required or permitted to pay to the Plan; or
- (c) the exercise of the discretion relates solely to a decision to terminate the Plan; or
- (d) the circumstances in which the discretion was exercised are covered by the Applicable Requirements.

## 7. POWERS OF TRUSTEE

Without prejudice to the powers vested in the Trustee by this Deed and the Rules or otherwise the Trustee shall have the following powers:

- (a) to do or procure to be done or refrain from doing such acts, matters and things as in the opinion of the Trustee may be necessary or desirable:
  - (i) to enable the Plan to become and continue to be a Complying Superannuation Fund for the purposes of the Applicable Requirements; or
  - (ii) to comply with or satisfy any provision or requirement of the Applicable Requirements,including making elections contemplated by or pursuant to the Applicable Requirements;
- (b) to appoint and at its discretion remove or suspend auditors, managers, secretaries, clerks, agents, property managers and other servants, appoint them for permanent, temporary or special services as it from time to time thinks fit, determine their powers and duties and fix their fees, salaries or emoluments and require security in such instances and to such amount as it may think fit and any person so employed shall be deemed for the purposes of this Deed and the Rules to be employed by the Trustee;
- (c) to institute, conduct, defend, compound, or abandon any legal proceedings by or against the Plan or its officers or otherwise concerning the affairs of the Plan and also to compound and allow time for payments or satisfaction of any debts due and of any claims or demands by or against the Plan;
- (d) to make and give receipts, releases and other discharges for money payable to or from the Plan and for the claims and demands of the Plan;
- (e) to open bank accounts and to retain on current or deposit account at any bank such moneys as it considers proper and to make regulations for the operation of such bank accounts including the signing and endorsing of cheques in connection therewith provided that any bank account opened by the Trustee shall be operated on by not less than two persons authorised by the Trustee or in such other manner as the Trustee may from time to time determine;
- (f) to act on the advice or opinion of any accountant, actuary, barrister, solicitor or medical practitioner or other professional person or expert (whether or not such advice or opinion was obtained by the Trustee) in relation to any relevant matter or question without being liable to any person in respect of anything done or omitted to be done by the Trustee in good faith based on such advice or opinion;
- (g) to determine who shall be entitled to sign on the Plan's behalf, receipts, acceptances, endorsements, releases, contracts and documents;
- (h) to pay benefits out of the Plan to persons entitled;
- (i) to make, do, sign, seal, deliver and execute all act, deeds, matters and things whatsoever necessary or incidental to the exercise or performance of the powers or trusts of this Deed and the Rules;
- (j) to take on lease or hire and make improvements to any real or personal property on such terms and conditions as the Trustee shall in its absolute discretion determine;
- (k) to refund contributions paid to the Trustee by mistake PROVIDED THAT the Trustee is satisfied that the mistake is genuine and that such refund is not prohibited by the Applicable Requirements;

- (l) to establish a complaints procedure to deal with complaints by beneficiaries in a manner as required by the Act. The procedure shall be determined by the Trustee in its absolute discretion;
- (m) where appropriate, to charge fees for the provision of information required to be provided by the Act;
- (ma) where appropriate, to charge fees for the provision of information required to be provided by the Family Law Act 1975;
- (n) to pay a financial services licensee or a representative of a financial services licensee amounts in relation to the provision of financial product advice or other financial services to one or more Members that relates to that Member's or those Members' interests in the Plan;
- (o) to advertise, market and otherwise promote the Plan and to join in with trustees of other superannuation funds to advertise, market and otherwise promote superannuation funds including the Plan;
- (p) to determine and to vary the Minimum Amount and the class or classes of Members to whom the Minimum Amount is to apply;
- (q) to determine and to vary the minimum account balance that must remain after payment on the grounds of severe financial hardship and to determine and to vary any other criteria for eligibility for payment on the grounds of severe financial hardship;
- (r) subject to the Applicable Requirements, to set and to vary fees to be charged to Members in respect of member investment choice;
- (s) at its discretion delay or place limits or restrictions on the payment, transfer or switching of a Benefit for such period while there is an occurrence or existence of any circumstance or event which the Trustee generally considers would make it not practicable or could be materially prejudicial to the interests of Members or pay, transfer or switch a benefit by instalments over such a period;
- (t) at its discretion suspend the calculation of the Crediting Rate or determination of the value at which an interest in the Plan is issued or switched for another interest in the Plan or paid or transferred out of the Plan, for such period while there is an occurrence or existence of any circumstance or event which the Trustee generally considers would make it not practicable or could be materially prejudicial to the interests of Members;
- (u) in relation to any benefits payable by way of pension, the Trustee may:
  - (i) invest, hold in reserve or otherwise deal with the assets which represent the pension entitlements in respect of Members for the sole purpose of enabling the discharge of the whole or part of the current or non-current liabilities in relation to the payment of pensions as those liabilities fall due for payment; and
  - (ii) obtain such actuarial advice and other certificates in relation to the assets invested, held in reserve or otherwise dealt with to meet the current and non-current pension liabilities as the Trustee considers necessary for the purposes of the Applicable Requirements or as the Act shall require;

- (v) to establish as part of, or as a fund separate to, the Plan, one or more Sub-plans, on such terms and in such manner as the Trustee determines (including by the Trustee's approval of terms contained in an Employer Application for participation) provided that liabilities of a Sub-plan can only be satisfied out of the assets of that Sub-plan;
- (w) subject to the Applicable Requirements, the Trustee may (but is not obliged to) charge different levels of fees or charges (including no fees or charges) in respect of different Employers or Members, as if such Employers or Members were members of different classes of participant in the Fund, and without regard to any criteria relating to the Employers' or Members' participation in the Fund, or otherwise;
- (x) to accept in addition to contributions, money or other assets from another benefit arrangement in respect of a Member on such terms and conditions as the Trustee may determine;
- (y) to appoint by deed or otherwise any person to act as its attorney in any place in the world to do any acts in connection with or arising out of the exercise of the trusts, powers and discretions under this document and in relation to all or any part of the Fund in the same manner as the Trustee could do personally. Such attorney may be given such ancillary powers and be subject to such provisions and restrictions as the Trustee thinks fit by including a power to appoint substitutes. The Trustee shall not by reason only of having made the appointment be responsible for any loss arising thereby;
- (z) to indemnify or undertake to indemnify any person, company, government or institution in respect of any claims, matters or things relating to the Plan or to the rights of Members or former Members in respect of the Plan provided that an indemnity shall only be provided to the extent that it is not limited by or would be inoperative under the Act;
- (za) to determine, where the Trustee considers it to be appropriate, to submit any dispute to conciliation by an External Dispute Resolution Scheme and agree to be bound by terms of settlement proposed in a conciliation where those terms are acceptable to the Trustee;
- (zb) to establish and abolish policy committees for such groups of Members as the Trustee determines is appropriate from time to time. The Trustee shall establish the procedures for nominating, electing or appointing members of the policy committee and the conduct of such committees; and
- (zc) to set crediting rate and unit pricing policies, including policies as to how to deal with market disruption and errors and whether or not compensation should be made where errors occur in the unit price or crediting rate.

## 8. APPOINTMENT OF MANAGERS, ADMINISTRATORS ETC

### 8.1 Investment Managers and Custodian Trustee

- (a) Without limiting the generality of the powers conferred on the Trustee under this Deed, the Trustee may appoint such one or more corporations as it may think fit to act as investment manager and/or custodian trustee subject to such conditions as

the Trustee may determine and may delegate to and confer upon each such investment manager or custodian trustee such powers as the Trustee may think fit.

- (b) The Trustee shall not be liable or responsible for any act, omission, error of judgement, negligence or breach of trust of any such investment manager or custodian trustee and shall not be bound to take proceedings against any investment manager or custodian trustee in respect thereof.
- (c) The Trustee may pay out of the assets or income of the Plan to any such investment manager or custodian trustee such fees, charges and/or remuneration for its services as the Trustee considers proper and may remove such investment manager or custodian trustee or alter the terms of its appointment as it sees fit.

## 8.2 Insurer

- (a) The Trustee may arrange insurance policies for such benefits as from time to time are negotiated with insurers and the payment of premium and other outgoings in respect thereof.
- (b) All such insurance policies are to be held on trust for the benefit of the Members.

## 8.3 Administrator

- (a) The Trustee may appoint one or more administrators to administer all or part of the Plan or Sub-plans on such terms and conditions as the Trustee shall think fit and the Trustee may remove any such person as an administrator.
- (b) An administrator may be granted such duties and powers in relation to administration and management of the Plan or Sub-plans as the Trustee thinks fit and may likewise reduce, alter or extend the duties and powers of a Plan or Sub-plan administrator.

## 8.4 Actuarial Valuation and Certificates

The Trustee must appoint an Actuary for any Plan or Sub-plan which is required by the Act to have actuarial valuations. The Trustee must ensure that actuarial valuations are conducted when the Act requires. The Trustee must obtain all actuarial certificates required by the Act in relation to each plan or Sub-plan.

# 9. INVESTMENTS

## 9.1 Allowable Investments

The Trustee may, in its name or under its control, invest the whole or any part of the moneys or assets of the Plan in any one or more of the following forms of investment either within or outside Australia with power from time to time to sell, vary, transpose or convert any of the investments of the Plan:

- (a) any investment authorised by law for the investment of trust funds;
- (b) the purchase of or subscription for shares, stock, options, debentures, securities or other interests of any kind in any corporation wheresoever situated or incorporated whether those shares, stock, debentures, securities or other interests are fully or partly paid up or have any liability thereon;

- (c) deposits at call or otherwise with any bank, insurer or financial institution;
- (d) policies of insurance or assurance on the life or disability of any Member or in superannuation policies, pooled superannuation trusts, or annuities and investment management policies or like policies issued by an insurance company;
- (e) the acquisition or purchase of units, sub-units or other fractional interests howsoever called whether divided or undivided in or of any unit trust (whether fixed or flexible) or other schemes in the nature of a unit trust;
- (f) mortgages over freehold or leasehold property either by direct loan or by purchase at discount or otherwise of existing mortgages;
- (g) freehold or leasehold property for rental purposes or otherwise and either as sole owner or joint owner;
- (h) to purchase or to otherwise acquire and to sell or otherwise dispose of property, rights or privileges which the Trustee is authorised to acquire or dispose of on such terms and conditions as it shall think fit;
- (i) real or personal property of any description;
- (j) to make, draw, accept, endorse, discount and issue promissory notes, bills of exchange and other negotiable or transferable instruments without any qualification as to bank acceptance or otherwise;
- (k) book debts, options, futures contracts, futures options, swap agreements, forward rate agreements, foreign currency other contracts of a derivative nature and other choses in action wheresoever situated or enforceable and any shares or interests therein;
- (l) bonds or other securities of any government, instrumentality or statutory body of any country or state, territory, local government authority or other division of any country, whether by way of original subscription, purchase or otherwise;
- (m) loans or advances of any trust property whether secured or unsecured;
- (n) any reversionary or deferred property or rights of any description wheresoever situate or enforceable and whether by way of original creation or assignment or otherwise; and
- (o) to invest part of the Plan in assets for the purposes of capital gain only or which may be of a wasting or speculative nature;

PROVIDED THAT the Trustee shall not:

- (i) lend any money or give other financial assistance to a Member or relative of a Member;
- (ii) allow the level of in-house Assets to exceed the level determined by the Act;
- (iii) invest money of the Plan unless the Trustee and the other party to the relevant transaction are dealing with each other at arm's length in respect of the transaction; and
- (iv) acquire an asset (other than cash) from a Member or a relative of a Member except where permitted by the Act.

Without in any way limiting the generality of the powers of the Trustee apart from this clause the Trustee may:

- (aa) subject to the Act, borrow from a bank or other financial institution on such terms and conditions, without security, as it shall in its absolute discretion think fit for the purposes of temporary finance in order to overcome cash flow problems in the payment of benefits or to settle an acquisition of an asset of the Plan;
- a) institute, prosecute and execute legal proceedings of any kind and in any court including but not limited to proceedings to recover possession of all or any part of any property or to sue for and recover rent or damages or to enforce any contract with power to abandon, settle, compromise and release those proceedings when deemed expedient;
- (b) employ such managers, staff and servants and engage such contractors and professional services as may be necessary or desirable;
- (ba) for the purposes of investment, establish, promote, acquire, invest in, or cause the incorporation or join in or consent to the establishment or re-organisation of companies, partnerships, joint ventures or unit trusts, as it shall think fit and to act from time to time as manager, officer or agent of any such body; and
- (bb) grant an option over an asset of the Plan;

and with regard to any freehold or leasehold property for the time being forming part of the Plan, may:

- (c) subdivide, build on any land and maintain, improve, extend and demolish buildings in whole or in part;
- (d) pay all rates, taxes and other outgoings and effect and maintain such insurances as the Trustee may consider expedient;
- (e) carry out such repairs, painting and other acts of preservation as the Trustee may consider expedient;
- (f) lease the said property or any part or parts thereof for such period or periods at such rent or rents and with such powers, rights and privileges and subject to such conditions and stipulations as the Trustee may consider expedient and to accept surrenders of or otherwise determine such leases;
- (g) sell or otherwise dispose of the said property at such price or prices upon such terms and conditions and subject to such restrictions or rights and in such manner and by such means as the Trustee may consider expedient and upon any such sale or apart therefrom to grant easements and other rights; and
- (h) exercise such acts of management or ownership of the said property as may be incidental or ancillary to any of the Trustee's powers.

## 10. CONTRIBUTIONS

### 10.1 Payments to Trustee

Each Employer shall pay by the due date to the Trustee or as directed by it:

- (a) all contributions (if any) deducted from the Salary of each Member in accordance with the Rules; and
- (b) out of the Employer's own money (subject as provided below) the Employer's contributions in accordance with the Rules.

#### 10.2 Contributions from Sub-plan Reserve Accounts

Employer contributions required by this clause 10 may be treated as having been made by an Employer if debits are made by the Trustee from a Sub-plan Reserve Account in respect of the Employer in accordance with rule 14.8.

#### 10.3 Due Date

- (a) For the purpose of this clause 10, "due date" for contribution is the date specified in the Employer Application or the date agreed to between the Trustee and the Employer and otherwise twenty-eight days after the end of each quarter in which the Salary the subject of contributions to the Plan was paid to the Member.
- (b) Interest is payable by the Employer on contributions which remain unpaid after the due date at the same rate charged by the Commonwealth Bank of Australia to its clients in respect of overdrafts of less than \$100,000 together with any costs reasonably incurred by or on behalf of the Trustee in collecting these contributions. However, nothing in this Deed or the Rules shall impose an obligation on the Trustee to take any action to recover unpaid contributions or interest from an Employer where in the opinion of the Trustee it would be uneconomical to do so.

#### 10.4 Employer's Contributions

The contributions payable by the Employer in respect of any Member shall be paid by:

- (a) the Employer by which the Member is for the time being employed; or
- (b) if the Employer is one of a group of companies which consists of a holding company and its subsidiaries - any one or more of the companies in the group which are participating in the Plan.

#### 10.5 Additional Sums

The Employer may pay to the Trustee such additional sums (if any) as the Employer may from time to time determine PROVIDED THAT the payment of such sums are not inconsistent with the classification of the Plan as a Complying Superannuation Fund. Those sums shall be applied by the Trustee in accordance with the provisions of this Deed.

#### 10.6 Particulars

When making payment of contributions each Employer shall provide the Plan Administrator with relevant particulars as to how contributions are to be allocated between Members.

#### 10.7 Investment of Contributions

All contributions received by or on behalf of the Trustee shall be applied and invested as described herein.

## 11. ACCOUNTS

### 11.1 Establishment of Accounts

- (a) For the purpose of determining the benefits to which a Member may become entitled, the Trustee shall establish and maintain or cause to be established and maintained in respect of each Member such accounts as may be required to record the entitlements of the Member.
- (b) The Trustee shall establish and maintain an account for the purposes of holding an Operational Risk Financial Requirement Reserve and one or more Reserve Accounts.
- (c) Nothing in the Deed or Rules shall entitle any Member to any specific asset of the Plan and the Trustee shall have an absolute discretion as to which part of the Plan is applied to provide funds to enable the payment of any benefit which becomes payable from the Plan.

### 11.2 Moneys Required to be Held on Separate Trust

The Trustee must establish a separate trust account and pay into that account in the name of each person any moneys required to be held on separate trust and deal with these moneys as required by the Act.

## 12. CONTRIBUTIONS, TRANSFERS AND ROLLOVERS

The Trustee may accept any contributions by or in respect of a Member, and rollovers or other transfers in respect of a Member, permitted by the Act.

## 13. ADMISSION OF EMPLOYERS

### 13.1 Employer Application

An employer which desires to participate in the Plan may apply to the Trustee for admission to the Plan in a form approved by the Trustee.

### 13.2 Acceptance or Rejection

The Trustee may, after obtaining such advice as is necessary, accept or reject any such Employer Application.

### 13.3 Effect of Employer Application

The Employer Application shall, on being accepted as referred to in clause 13.2 and until amended as hereinafter provided:

- (a) set out the terms and conditions under which the employees of the Employer are admitted to the Plan and the contributions by and in respect of those Employees; and
- (b) be binding on the employer and each of the Employees of the employer who become a Member of the Plan.

### 13.4 Admission

If the Employer Application is acceptable to the Trustee, the Trustee shall admit the employer to the Plan as an Employer. The Trustee may give the employer written notice of its admission to the Plan.

#### 13.5 Successor Fund Employer

- (a) The Trustee may admit as a Successor Fund Employer an employer of a Successor Fund Member.
- (b) A Successor Fund Employer will, if it makes contributions to the Plan for at least one of the Members who is Successor Fund Member for a period of three months, be deemed to:
  - (i) be bound by the terms of this trust deed;
  - (ii) have agreed to contribute to the Plan for each of its Employees who is a Successor Fund Member at the rate and at such times that is not less than the rate and the times it was obliged to contribute to the fund the subject of the Successor Fund Agreement.

#### 13.6 Date of Commencement

Unless notified of a particular date of admission, the date of admission of an employer to the Plan as an Employer shall be the date the employer is entered into the records of the Plan as an Employer.

#### 13.7 Employer Application - Amendment by Employer

- (a) Subject to clause 13.7(b) hereof, the employer may, with the consent of the Trustee at any time add to, repeal, amend or alter any of the terms and conditions set out in the Employer Application for admission to the Plan.
- (b) Subject to the Applicable Requirements no addition, repeal, amendment or alteration shall impose any increase in liability on a Member to contribute to the Plan without the Member's consent nor shall such addition, repeal, amendment or alteration in the opinion of the Trustee be to the detriment of the accrued benefits of the Members or their dependants without the consent of the Member concerned or a Responsible Authority.

#### 13.8 Employer not an Agent of the Trustee

An Employer is not the agent of the Trustee for any purpose.

#### 13.9 Special Arrangements

A person may agree with the Trustee that the participation of the person is subject to, or is varied in accordance with, the conditions contained in the agreement, including the amount of contributions to be made or benefits to be paid in respect of the person. Such agreement is binding on all interested persons without the need to amend this Deed.

#### 13.10 Associates

In an Employer Application, the Employer may nominate Associates to make contributions to the Plan.

## 14. RETIREMENT OF EMPLOYERS

### 14.1 Withdrawal of Employer

- (a) An Employer's participation in the Plan will cease on the date ("Cessation Date") determined as follows:
  - (i) the date any notice of withdrawal takes effect; or
  - (ii) if there is no date specified in the notice, the date the notice is received by the Trustee; and
  - (iii) where there is no notice, the date the Trustee determines that the employer has ceased to be an Employer.
- (b) All arrears of contributions and amounts advanced by the Trustee for the benefit of the Employer's Members, if any, together with interest on any amount not paid by the Employer on the due date at a reasonable rate as determined from time to time by the Trustee and collection costs shall be paid up to the Cessation Date.

### 14.2 Effect on Employee Members

- (a) In the event of the termination of the participation of an Employer in the Plan (other than a Sub-plan which provides for benefits determined by Part B of Division IV):
  - (i) no further persons who are employed only by that Employer shall be admitted as Employer-sponsored Members in relation to the Employer;
  - (ii) no further contributions shall be made by that Employer except contributions that were due on or before the Cessation Date;
  - (iii) any insurance cover shall be subject to the terms of the applicable insurance policy;
  - (iv) the Member may remain a Member of the Plan;
  - (v) the Member may contribute to the Fund unless the Plan is not a public offer superannuation fund; and
  - (vi) the Member may request:
    - (A) payment of any part of the Member's Benefits that may be paid in accordance with the payment rules; and
    - (B) transfer of the remaining part of the Member's Benefit in accordance with clause 18.
- (b) In the case of a Sub-plan which provides for benefits, some or all of which are determined by Part B of Division IV, clause 16A applies (unless clause 14.3 applies).
- (c) A Member may, instead of being paid or having his or her benefits transferred to another Complying Fund in accordance with clause 18, transfer his or her benefits to Division I or Division II as appropriate.

### 14.3 Replacement of Retiring Employer

If in the circumstances described in paragraphs (a), (b) or (c) of clause 14.2 a new company, organization, association or person (called the “Successor Employer”) takes the place of the Retiring Employer as the result of:

- (a) amalgamation or reconstruction of the Retiring Employer or otherwise for the purpose of the replacement of the Retiring Employer by a successor; or
- (b) the Retiring Employer ceasing to carry on business by reason of the disposal of its business undertaking to another company, organization, association or person;

then if the Successor Employer complies with the Trustee’s directions and completes a form in writing which is prescribed by the Trustee, it shall thereby be deemed to have agreed to be bound by the provisions of this Deed and the Rules with effect from the Cessation Date (or such other date as the Trustee and the Successor Employer shall determine) PROVIDED THAT if no such form is completed within ninety days of the Cessation Date (or within such greater period (if any) as may be determined by the Trustee) the provision of clause 14.2 shall apply.

## 15. TERMINATION OF THE PLAN

If at any time there are no Members in the Plan and in the opinion of the Trustee all benefits which are payable from the Plan to or in respect of any former Member or other person have been paid or transferred and all liabilities under the Plan in respect thereof fully discharged, then the Trustee may determine to terminate the Plan and in this event the Plan shall be dissolved and any moneys or other assets then remaining in the Plan after payment of any expenses incurred by the execution hereof shall be realized and the proceeds distributed to such former Members in such shares and proportions as the Trustee shall determine.

## 16. DISCONTINUANCE OF THE PLAN

### 16.1 Effect

If:

- (i) the Trustee determines that it has become impracticable or that it is not expedient to carry on the Plan;
- (ii) the Trustee determines that the Plan has failed in accomplishing the objects for which it was originally established; or
- (iii) all of the Employers terminate their contributions to the Plan pursuant to clause 17;

THEN the Trustee may resolve to discontinue the Plan and in respect of the circumstances described in paragraphs (i) and (ii) of this clause 16.1 the Trustee shall give one month’s written notice to each of the Employers and Members of its intention to discontinue the Plan;

AND:

- (a) the Plan shall be closed to new entrants from the expiration of the month’s notice or from the effective date of termination of contributions;

- (b) no further contributions shall be accepted by and in respect of the Members from the expiration of the month's notice PROVIDED THAT payments due on or before the date of expiration of the notice shall not be affected;
- (c) the Trustee shall cause a valuation to be made of the assets of the Plan;
- (d) the Trustee shall allocate the amount as ascertained by the valuation less any amount allowed for as expenses incurred as a result of winding up the Plan among the Members in such shares and proportions and in such manner as it shall determine to be fair and equitable after considering such advice as it may require;
- (e) the amounts so allocated shall be held in trust and invested by the Trustee as authorised by this Deed;
- (f) the amounts so allocated to a Member plus any accretion and minus any diminution, shall, subject to the other provisions of this Deed and the Rules, be paid to the Member only in the circumstances provided in the Rules for the payment of a benefit PROVIDED THAT before a benefit becomes payable the Trustee may in lieu of dealing with the benefits under the Plan relating to the Member transfer the whole or part of the benefit in respect of that Member to the trustee of a Complying Fund nominated by the Member and whose terms as to payment of benefits to its members or policy holders do not permit payment earlier than is permitted for a Complying Superannuation Fund.

#### 16.2 Trustee's Arrangements and Decisions

- (a) Any amounts paid to any person under clause 16.1 shall be in such form and shall be provided by such arrangements as the Trustee shall determine.
- (b) Each of the persons to whom such amounts are paid shall accept the same in full discharge of all claims whatsoever in respect of any rights or benefits under this Deed and the Rules.
- (c) All decisions of the Trustee under clauses 16.1 and 16.2 shall be final and binding upon all parties.

#### 16.3 Period of Trust

The Trustee will discontinue the Plan not later than twenty-one years or such further period as may be lawful after the death of the survivor of all the lineal descendants of His Late Majesty King George V who are living at the date of the execution of this Deed PROVIDED THAT this clause shall not apply if and as long as under the law by which this Deed and the Rules would be interpreted, this Deed would be fully valid in its absence.

## 16A.DISCONTINUANCE OF SUB-PLAN

#### 16A.1 Circumstances

The Trustee must terminate a Sub-plan if:

- (a) all Employers have ceased to be Employers of the relevant Sub-plan; or
- (b) all Employers have ceased to contribute to the relevant Sub-plan (but an Employer is not considered to have ceased contributions when it is on a contribution holiday).

#### 16A.2 Termination Date

The termination date for the sub-plan is the date determined by the Trustee.

#### 16A.3 Arrears of Contributions

On the Trustee determining to terminate a Sub-plan, each Employer and each Member governed by the relevant Sub-plan must immediately pay any arrears of contributions in respect of a Sub-plan up to the termination date.

#### 16A.4 Application of Assets

On termination of a Sub-plan, the Trustee must apply the assets of the relevant Sub-plan in the following order of priority:

- (a) all costs, expenses and liabilities which have been incurred or are likely to be incurred in respect of the relevant Sub-plan (including the termination of the relevant Sub-plan);
- (b) benefits being provided from the relevant Sub-plan which commenced payment or to which an entitlement arose before the termination date;
- (c) paying to or in respect of the Members governed by the relevant Sub-plan:
  - (i) where the Sub-plan provides accumulation benefits, the amount standing to the credit of the Members' Member Account (less any amount mentioned in paragraph (b));
  - (ii) where the Sub-plan provides defined benefits, the amount which the Actuary determines has accrued in respect of the Members under the relevant Sub-plan during the period up to the termination date (less any amount mentioned in paragraph (b)),but if the assets are not sufficient, the amount to be applied in respect of all Members under this rule must be proportionately reduced; and:
- (d) subject to any Employer Application, paying the balance to any of:
  - (i) one or more of the Reserve Accounts; and
  - (ii) the Members of the relevant Sub-plan by way of an increase in benefits.

## 17. TERMINATION, REDUCTION OR SUSPENSION OF CONTRIBUTIONS

#### 17.1 Withdrawal of Employer

- (a) An Employer may not terminate its contributions in respect of a Member employed by it unless it applies in writing to the Trustee giving reasons for the request to terminate its contributions and the Trustee gives its approval to the request.
- (b) The Trustee will not unreasonably withhold its approval to an Employer's application in terms of paragraph (a).
- (c) Where an Employer has valid reasons to terminate the contributions of a Member employed by it and those valid reasons apply or are likely to apply to other Members

employed by the Employer, the Trustee may give the one written approval allowing the termination of contributions for each Member employed by the Employer in respect of whom those valid reasons apply.

- (d) Permission to terminate contributions in terms of paragraph (a) will not be granted where to do so would to the Trustee's knowledge breach any legislation or Industrial Agreement.
- (e) An Employer's liability to cease paying contributions to the Plan will end on the date specified in the Trustee's written approval or if no date is specified the date of the Trustee's written approval.
- (f) An Employer will remain liable to pay to the Trustee all contributions due before the date the Employer's liability to cease paying contributions to the Plan took effect.

#### 17.2 Fund Choice

Subject to rule 20, where a Member chooses another superannuation fund or a retirement savings account to which the Employer is to contribute to meet its future obligations under the SG Act, the obligation to contribute by the Employer in respect of the Member, other than any arrears determined by the Trustee on the advice of the Actuary necessary to meet Benefits for the Member that have accrued but are not fully funded, will cease from the date such choice takes effect notwithstanding any requirements of an Employer Application by that Employer unless the Employer notifies the Trustee in writing otherwise.

## 18. TRANSFERS TO OR FROM OTHER PLANS

#### 18.1 Transfer at Member's Request

If a Member becomes a member of another Complying Fund and the trustee of that other fund permits then, subject to clause 18.3(a) hereof, the Trustee shall, unless the Trustee decides otherwise, at the request of the Member transfer all or part of the amount standing to the credit of that Member's Member Account to that other Complying Fund.

#### 18.2 Transfer to Successor Fund

Provided that any exercise of power under this clause 18.2 would not cause significant detriment to a Member being transferred or to any Member who remains in the Plan, the Trustee may, without the Member's consent, transfer a Member's Benefits to a superannuation fund that is a Successor Fund if the Trustee decides:

- (a) to terminate the Plan, including in order to merge the Plan into another regulated superannuation fund;
- (b) to terminate a Division, and the Member is a Member of the Division;
- (c) that it would be in the best interests of the Member to transfer the Member's Benefits to the Successor Fund because the Trustee is unable to provide competitive benefits to the Member at a competitive cost when compared with the benefits that are available in the Successor Fund; or
- (d) on request by a current or former Employer who is contributing to the Successor Fund for its employees or who proposes to commence contributing to the Successor Fund for its employees, that it would be in the best interests of the Members who

are employees of the Employer to transfer their benefits to the Successor Fund, and the Member is an employee of the Employer.

Before exercising its power under this clause 18.2, the Trustee must provide a notice to the Member at least 30 days before the proposed transfer date. The notice must include the following information:

- (e) the nature and effect of the Trustee's decision, including information about the Successor Fund to which it is proposed that the Member's Benefits will be transferred, how to obtain a product disclosure statement for that fund, the proposed date of the transfer and any conditions that must be satisfied in order for the transfer to occur;
- (f) the reasons for the Trustee's decision;
- (g) the actual and potential advantages and disadvantages of the transfer for the Member; and
- (h) the options available to the Member if the Member does not want the Member's benefits transferred to the Successor Fund.

#### 18.3 Effect and Conditions of a Transfer to Another Fund

- (a) Clause 18.1 hereof shall not apply where the rules of that other Complying Fund would permit payment of benefits to its members or policy holders earlier than is permitted for a Complying Superannuation Fund.
- (b) Upon the transfer to another fund of the whole of the amount standing to the credit of a Member's Member Account, that Member will cease to be a Member and the Trustee shall be thereupon released and discharged from all liability whatsoever to or in respect of that Member.
- (c) Upon the transfer to another fund of a portion of the amount standing to the credit of the Member's Member Account, the Trustee shall thereupon be discharged from all liability whatsoever in respect of the portion so transferred and may thereafter reduce or otherwise adjust any benefit to be provided for in respect of that Member under this Deed to such extent as it in its discretion considers to be appropriate having regard to the amount transferred.
- (d) The Trustee may with the approval of the trustees of the Complying Fund to which a transfer of moneys is to be made pursuant to clause 18.1 hereof impose such terms and conditions in relation to the moneys paid or other property transferred under clause 18.1 as it in its absolute discretion thinks fit.

#### 18.4 Transfer In

The Trustee may accept into the Plan in respect of a Member an amount transferred (with or, where permitted by the Applicable Requirements, without, the Member's consent) from another superannuation or similar plan or fund in which the Member has participated and the benefits under the Plan in respect of the Member shall be adjusted in such manner as is determined by the Trustee (after considering such advice as it may require) to take account of the amount so transferred and in the case of employer benefits, such benefits, subject to the Act, shall vest in the Member on such terms as are agreed between the Employer and Trustee and failing agreement shall fully vest in the Member.

## 19. AMENDMENTS TO THE DEED OR RULES OR REGULATIONS

### 19.1 Power to Amend

The Trustee may amend this Deed (including this clause) by executing a deed of amendment if, in the reasonable opinion of the Trustee, the amendment:

- (a) is in the interests of beneficiaries; and
- (b) would not result in one class of beneficiaries being unfairly advantaged to the prejudice of another class of beneficiaries.

The effective date of the amendment will be the date the deed is executed or the date specified in the deed, which may be before the date the deed is executed.

### 19.2 Limits on Power to Amend

Unless clause 19.3 applies, the Trustee may not amend this Deed under clause 19.1 if the amendment would, or would authorise the Trustee to:

- (a) reduce the amount standing to a Member's Member Account immediately prior to the effective date of the amendment or, if the effective date and the date of execution of the deed of amendment are different, immediately prior to either of those dates;
- (b) vary the method of calculating a Defined Benefit in any way that would reduce the value of the Defined Benefit;
- (c) utilise any amount payable under an insurance policy in relation to the happening of an insured event in respect of a Member for the general purposes of the Plan or for any other purpose apart from payment of the amount to the person or persons entitled in accordance with the terms of this Deed;
- (d) require a Member to contribute to the Plan;
- (e) extinguish any person's beneficial interest in the Plan except in circumstances permitted by the SIS Act;
- (f) increase the obligations of an Employer or detrimentally affect any of the rights of an Employer; or
- (g) reduce the amount of any Benefit which, on or prior to the effective date of the amendment, has become payable to a person pursuant to this Deed.

### 19.3 Exceptions to Limits on Power to Amend

The Trustee may amend the Deed in a way that would not be permitted by clause 19.2 if:

- (a) the only people or entities liable to be adversely affected by the amendment have consented to the amendment; or
- (b) each of the following conditions is met:
  - (i) the amendment is necessary for the Trustee to provide a payment, benefit or service to one or more beneficiaries that had not been permitted because of an Applicable Requirement but which has been made possible by a change in the Applicable Requirement; and

- (ii) the scope of the amendment does not exceed what is necessary for the Trustee to provide the payment, benefit or service; and
  - (iii) the Trustee obtains an opinion from an independent actuary that the amendment would be in the interests of beneficiaries and would not result in one class of beneficiaries being unfairly advantaged to the prejudice of another class of beneficiaries; or
- (c) both of the following conditions are met:
- (i) the amendment is necessary or desirable for the Trustee to:
    - (A) comply with its legal obligations; or
    - (B) secure or better secure relief from taxation in respect of any income of the Plan or any Benefits, and
  - (ii) the scope of the amendment does not exceed what is necessary or desirable for the Trustee to comply with its legal obligations or secure or better secure relief from taxation in respect of any income of the Plan or any Benefits.

#### 19.4 Terms used

For the purposes of this clause 19:

- (a) the amount standing to a Member's Member Account immediately prior to the effective date of an amendment and the date of execution of the deed of amendment is the amount determined under the Deed immediately prior to that date or, where the dates are different, immediately prior to each of those dates; and
- (b) a Defined Benefit is a benefit that is determined wholly or in part by reference to a formula or specified amount, but not where the formula or specified amount is used to calculate an insured benefit and a Defined Benefit does not include the amount standing to a Member's Member Account.

#### 19.5 Accrued Benefits

The Trustee must not make any amendment to the Deed that would cause the Trustee to be in breach of regulation 13.16 of the SIS Regulations.

#### 19.6 Payments to Employers

The Trustee must not make any amendment to the Deed that would authorise the Trustee to make any payment from the Plan to an Employer except:

- (a) to pay a Fund Expense; or
- (b) with the consent of at least two thirds of the Members.

#### 19.7 Binding Nature of Amendment

Each amendment to this Deed is binding on any person with an interest in the Plan or any rights or obligations under the Deed.

#### 19.8 Notification of Amendment

If the Trustee amends this Deed, the Trustee must notify members of the amendment and the nature and effect of the amendment by:

- (a) including this information on the Plan's website within seven days after the date of the amendment; and
- (b) including this information with the next annual report for the Plan, except to the extent that the Trustee has notified Members of the amendment under clause 19.9.

#### 19.9 Notification of Material Amendment

If an amendment to this Deed might reasonably be expected to affect steps taken or not taken by a Member, the Trustee must give the Member notice in writing about the nature and effect of the amendment as soon as practicable and in any event no later than 30 days after the date of the amendment.

#### 19.10 Validity of Amendment

A failure by the Trustee to comply with clause 19.8 or 19.9 will not affect the validity of the amendment.

## 20. MEMBERS' INTEREST

#### 20.1 Interests in Plan

- (a) A Member only has an interest in the Plan whilst the Member is alive.
- (b) Except where paragraph (c) applies, on the death of a Member the entitlement to the amount standing to the Member's Member Account shall be determined in accordance with the Rules applying on the death of a Member.
- (c) Where a Member becomes entitled to a Benefit but dies before all or part of the Benefit is paid, the Trustee must pay the balance of the Benefit as a death benefit in accordance with rule 8.
- (d) The interest in the Plan of a Member and those entitled to a benefit on the death of the Member is personal to that Member and the Trustee shall not recognise any assignment, claim or charge in respect of that interest unless that assignment, claim or charge is permitted expressly or by necessary implication by the Act.

#### 20.2 Payment

No Benefit or interest in a Benefit is payable to a person other than in accordance with the Rules.

## 21. REIMBURSEMENT OF UNPAID MEMBER CONTRIBUTIONS

If an Employer pays to or on behalf of the Trustee any sum which is to represent a contribution of a Member before that contribution is received by the Employer, and any benefit becomes payable to or in respect of the Member before that contribution is received by the Employer from the Member the Member Account shall, if required by the Employer, be debited with the amount of the contribution and such amount paid to the Employer.

## 22. EMPLOYER'S POWER TO DISMISS

Nothing in this Deed or in the Rules shall restrict the right of an Employer to dismiss an Employee or be used to increase damages in any action brought against an Employer in respect of an Employee's dismissal.

## 23. DAMAGES AND COMPENSATION

### 23.1 Right to Damages

Nothing in this Deed or in the Rules shall in any way affect the right of a Member, his or her Dependants or his or her Legal Personal Representative or any other person to claim damages or compensation at common law or under a Worker's Compensation Act or any other statute in force governing compensation to a Member injured or dying as a result of an accident arising out of or in the course of his or her employment with the Employer.

### 23.2 Payable Amount not Reduced

Except as may be provided in this Deed and in the Rules the amount payable in terms of this Deed and the Rules shall not be reduced by reason of any payment of damages or compensation as set out above.

## 23A. DEALINGS WITH FAMILY LAW SPOUSE AMOUNTS

Where a Family Law Spouse Amount is required to be dealt with in accordance with the Family Law Act 1975 and the Act, the Member's Account will be debited with the amount and the amount credited to the account of the Family Law Spouse or transferred in accordance with the directions of the Family Law Spouse to an acquiring fund.

## 24. FEES FOR PROVISION OF INFORMATION

### 24.1 Determining Costs

In determining the amount of the fees to be charged for the provision of information required to be provided in accordance with the Act, the Trustee shall be entitled to take into account all reasonable costs of providing the information including costs of utilising the Trustee's own employees, premises and equipment, the costs of engaging outside service providers, and the costs directly or indirectly attributable to searching for, obtaining, collating, copying and providing the information. The Trustee may use more than one means of providing the same type of information and may charge different fees depending on the means used.

### 24.2 Charges to Members

Members, their Dependants and sponsors of the Plan shall pay fees determined in accordance with clause 24.1 unless the Trustee decides to remit all or part of the fees payable.

### 24.3 Charges to Other Persons

The fees payable by persons other than Members, their Dependents and sponsors of the Plan shall be the amounts determined in accordance with clause 24.1 and unless prohibited by the Act may also include a profit element.

## 24A. FEES AND CHARGES – FAMILY LAW DEALINGS

The Trustee may recover from a person, including a Member (and reversionary beneficiary) and Family Law Spouse, such fees and costs in relation to any family law dealings, unless prohibited by law.

## 24B. FEES AND CHARGES – TRUSTEE FEE

### 24B.1 Trustee Fee

The Trustee is entitled to be paid a fee for acting as trustee of the Plan (“Trustee Fee”) and the Trustee may deduct that fee from the Plan at such times and in such manner as it determines. The amount of the fee must be an amount which the Trustee determines is fair and reasonable.

### 24B.2 Remuneration of Directors

The Trustee may apply some or all of the Trustee Fee to provide remuneration to the directors of the Trustee in respect of the performance of their obligations as directors of the Trustee or as members of committees of the Board of the Trustee.

### 24B.3 Determining the Trustee Fee

Subject to the Applicable Requirements, the Trustee and directors may determine the amount of the Trustee Fee notwithstanding that they have an interest in the result of that determination.

### 24B.4 Expense fee

The Trustee is entitled to charge fees to Members, directly or indirectly, to meet the Fund Expenses. In determining the amount of any fee, the basis on which it is charged and how fees are allocated between Members, the Trustee must consider:

- (a) the expenses incurred, and the expenses that are likely to be incurred, in relation to the different Divisions, products and Investment Options; and
- (b) the time at which expenses are incurred or are likely to be incurred and the time at which fees are charged,

to satisfy itself that Fund Expenses are allocated between Members on a fair and reasonable basis. The Trustee must review at least annually the amount of the fees and any differences between fees and, in doing so, must take into account the costs applicable to different Divisions, products and Investment Options. The Trustee must report to Members the results of its review in the Plan's annual report.

## 25. EXPENSES OF THE PLAN

### 25.1 Power of the Trustee

The Trustee shall have power:

- (a) to deduct, pay and otherwise make provision for all taxes, duties and levies in respect of the Plan, any contributions to the Plan and any Benefit paid or payable from the Plan;
- (b) to deduct, pay and otherwise make provision for all administration, management and other charges and expenses of and incidental to the conduct of the Plan or the exercise of any power, authority or discretion contained in this deed or in performing these trusts or relating to any contribution to the Plan or any Benefit paid or payable from the Plan;
- (c) to make provision or allowance for:
  - (i) any future taxation attributable to unrealised gains;
  - (ii) any future losses in respect of any investment for which market value cannot be fairly or accurately assessed;
  - (iii) any costs and expenses of realising investments of the Plan;
  - (iv) any averaging of earnings of the Plan whether on income or on capital account to take into account possible or actual periodic fluctuations in those earnings and any losses of the Fund not otherwise deducted;
- (d) prior to accounting to the appropriate body or person for any such moneys so deducted or for which provision has been made the Trustee may hold such amounts in such account or accounts as it considers appropriate. The Trustee or any Plan Administrator, Investment Manager or Custodian Trustee may establish a separate and distinct account for the purposes of holding such amounts so deducted for which provision has been made. Such portion of the amount so deducted which the Trustee considers to be surplus to the requirements of the Fund may be retained in the Fund and, unless to do so would prejudice the continued classification of the Plan as a Complying Superannuation Fund, such portion or part thereof may be distributed in accordance with the provisions of this Deed.

### 25.2 Relevant Considerations

In exercising any power under this clause 25, the Trustee must have regard to what is a fair and reasonable allocation of costs and expenses to groups of Members and individual Members and it must review, on an annual basis:

- (a) the costs and expenses it incurs in the management, investment and administration of the Plan including the costs and benefits of maintaining the Divisions, products and Investment Options;
- (b) the benefits to Members of maintaining the Divisions, products and Investment Options; and
- (c) the allocation of costs and expenses between Divisions, products and Investment Options,

to satisfy itself that the costs and expenses that are incurred are in the best interests of beneficiaries and that the allocation of costs and expenses is fair and reasonable. The Trustee must consider any changes that should be made to the structure of the Plan including the Divisions, products and Investment Options on an annual basis. The Trustee must provide a report to Members about its review under this clause 25.2 in the Plan's annual report.

## 26. ACCOUNTS, RECORDS AND AUDITS

- (a) The Trustee shall keep or cause to be kept such accounts, registers and records as are required for the proper operation of the Plan.
- (b) The Trustee shall at each Review Date prepare or arrange to have prepared a statement of income and expenditure and a balance sheet showing the state of the Plan which shall be audited in accordance with the Applicable Requirements. The appointment of the Auditor shall be on such terms as the Trustee may think fit and the Trustee may remove any such Auditor and appoint another in his or her stead.

## 27. REGISTER OF MEMBERS

The Trustee shall keep or cause to be kept a record of Members which shall record the name and residential address of each Member and all particulars relating to his or her employment and circumstances as are necessary to enable the Trustee to determine the benefits payable to or in respect of him or her and the contributions required to be paid in order to provide these benefits.

## 28. ADVICE TO MEMBERS

### 28.1 Notification to Members

The Trustee shall give or cause to be given to each Member all information, statements, certificates and notices required to be given pursuant to the Applicable Requirements.

### 28.2 Notification of Material Effect

In addition to any obligation imposed on the Trustee under clause 28.1, the Trustee must notify a Member of any exercise of power or decision of the Trustee which affects or would affect the Member's benefits in a material way. The Trustee must give the notice as soon as possible after determining to exercise the power or make the decision and subject to clause 33(b) may, where it is not cost effective to provide notice by other means, give the notice electronically, including by email or other electronic or digital messaging service or by publishing it on the Plan's website.

## 29. INSPECTION BY MEMBERS

A copy of this Deed and the Rules shall be kept by the Trustee at its registered office and such other offices that the Trustee may maintain and shall be open to inspection by any Member or Employer at all reasonable times.

## 30. DISCLOSURE

The Trustee is not bound to disclose to any person any of the following documents:

- (a) any deliberations of the Trustee as to the manner in which the Trustee should exercise any power or any discretion conferred on the Trustee by this Deed and the Rules or disclosing the reasons for any particular exercise or non-exercise of the power or the discretion or the material on which the reasons are or might have been based; and
- (b) any documents, information or advice relating to the exercise or proposed exercise of any power or discretion conferred on the Trustee by this Deed and the Rules.

## 31. EMPLOYER PROVIDING INFORMATION

When an Employee becomes eligible to join the Plan or after receiving notice of the death, disablement or retirement of any Member or of his or her otherwise ceasing to be in the Service of the Employer, the Employer shall promptly notify the Trustee of the event and provide all other information in its possession regarding the prospective Member or the Member of the Plan as may reasonably be required by the Trustee.

## 32. BENEFIT PAYMENTS

### 32.1 Conditions of Payment

The payment of any benefit from the Plan shall be subject to the production of such evidence, the performance of such acts and the execution of such documents and within such time as the Trustee or any insurer may reasonably require from time to time and satisfying the Applicable Requirements.

### 32.2 Payment by Cheque

Any benefit payment may be made by cheque by the Trustee or on behalf of the Trustee and may be mailed to the Member's address last known to the Trustee.

### 32.3 Australian Currency

All benefits shall be expressed and paid in Australian currency unless otherwise specifically agreed between the Member and the Trustee.

### 32.4 Otherwise than in Cash

Notwithstanding any other provisions contained in this Deed and in the Rules the Trustee may with the written agreement of the Member or a Dependant to whom a benefit is payable transfer assets of the Plan of equivalent value to the benefit of that Member or Dependant in lieu of paying the whole or part of the amount which would otherwise have been payable under this Deed and the Rules PROVIDED THAT such transfer would not prejudice the classification of the Plan as a Complying Superannuation Fund.

### 33. NOTICES

Notices may be given by the Trustee to a Member by mail or electronically to the address provided to the Trustee by the Member or by a representative of the Member for the purpose of providing information about the Plan to the Member. Alternatively, the Trustee may give a notice to a Member by making the notice available on the Plan's website if:

- (a) the Applicable Requirements permit the provision of the notice in this manner; and
- (b) the notice is not about:
  - (i) a decision to transfer the Member's benefit or a part of the Member's benefit to another Investment Option, Division or fund without the Member's consent; or
  - (ii) an amendment to the Deed to which clause 19.9 applies.

### 34. COMPLIANCE WITH APPLICABLE REQUIREMENTS

The Plan shall be managed and administered as a Complying Superannuation Fund as herein defined and as such, notwithstanding anything expressed or implied to the contrary in this Deed, shall satisfy all Applicable Requirements as herein defined which are thereby necessitated. To the extent that there is an inconsistency between the provisions of this Deed and the Applicable Requirements or that this Deed does not deal with any matter required by the Applicable Requirements to be dealt with, the Applicable Requirements shall be deemed to be included in this Deed and any inconsistent provision of this Deed shall be deemed to be amended or deleted to the extent necessary for the Plan to be classified as a Complying Superannuation Fund.

### 35. SPONSORS

#### 35.1 New Sponsors

The Trustee may (but shall not be bound to) appoint a new Sponsor where in the Trustee's opinion the person applying to become a Sponsor represents the interests of Employers or Members or a group of Employers or Members.

#### 35.2 Removal of Sponsors

The Trustee may (but shall not be bound to) remove a Sponsor where in its opinion the person has ceased:

- (a) in the case of an Employer Sponsor to represent the interests of Employers or any group of Employers;
- (b) in the case of a Member Sponsor to represent the interests of Members or any group of Members.

## 36. ALTERATION OF DECISIONS

Any Trustee decision as to the exercise of any discretion involving the payment of benefits shall be revocable until actual payment of the benefit is made.

# RULES FOR THE MANAGEMENT OF THE RETAIL EMPLOYEES SUPERANNUATION TRUST

## 1. DEFINITIONS

In this Deed and in the Rules the following words and expressions shall, unless the context otherwise requires, have the following meanings -

**“Account Based Pension”** means a pension that meets the requirements set out in rule 17.5.

**“Act”** means the SIS Act and where applicable the Corporations Act and regulations made under those Acts and any amending legislation or legislation passed in substitution for those Acts and the regulations promulgated thereunder.

**“Actuary”** has the same meaning as in the Act.

**“Adjustment Amounts”** mean:

- (a) estimated costs and expenses of realising the investments of the Plan;
- (b) allowances for future losses in respect of any investment for which the market value cannot be fairly or accurately assessed;
- (c) allowance for the averaging over time of the earnings of the Plan whether on income account or on capital account, to take into account possible or actual periodic fluctuations in those earnings and any losses of the Plan not otherwise deducted; and
- (d) allowances for any other purpose or purposes that the Trustee considers desirable or necessary.

**“Allocated Pension”** means a pension that meets the requirements set out in rule 17.4.

**“Applicable Requirements”** means requirements in the SIS Act, Corporations Act, any applicable income tax legislation, the SG Act, the Family Law Act 1975 and the Superannuation (Unclaimed Money and Lost Members) Act 1999 and the regulations made under those Acts, and other legislation relating to those Acts, or any amending legislation or legislation passed in substitution for those Acts and the regulations promulgated thereunder.

**“Employer Application”** means the application referred to in clause 13.1.

**“Associate”** means any person who from time to time is permitted by an Employer to contribute to the Plan in respect of Members employed by that Employer or any entity connected with that Employer.

**“Auditor”** means a person approved as an auditor for the purposes of the Applicable Requirements.

**“Benefit”** means any amount including a lump sum, an annuity, a pension and an allowance paid or payable (as the case requires) from the Plan pursuant to this Deed to or in respect of a Member.

**“Buy Price”** means the Unit Price that is to be applied to the issue of Units in an Investment Option, calculated by adding the Buy Spread to the Mid Price. The Trustee must calculate

the Buy Price of Units at the frequency and in accordance with any rules made pursuant to rule 4.7(b).

**“Buy Spread”** means an allowance for transaction costs incurred in purchasing assets allocated to an Investment Option.

**“Choice Product”** means a class of beneficial interest in the Plan that is not a MySuper Product.

**“Complaint”** means a complaint made to an External Dispute Resolution Scheme.

**“Complying Fund”** means a Complying Superannuation Fund, an approved deposit fund that is a complying approved deposit fund for the purposes of section 43 of the Act and where permitted by the Act a deferred annuity.

**“Complying Pension”** means a pension or annuity that meets the standards in:

- (a) regulation 1.05 of the SIS Regulations; or
- (b) regulation 1.06 of the SIS Regulations.

**“Complying Superannuation Fund”** means a superannuation fund that is a complying superannuation fund for the purposes of section 42 of the Act.

**“Condition of Release”** means a condition for release of payment of Benefits set out in schedule 1 of the SIS Regulations.

**“Corporations Act”** means the Corporations Act 2001 and includes any regulations made under that Act and any amending legislation or legislation passed in substitution for the Act and the regulations promulgated thereunder.

**“Crediting Rate”** means a net earnings rate determined in accordance with rule 4.6.

**“Date of Commencement”** means 1 January 1988 being the date on which the Plan is deemed to have commenced.

**“Deed”** means the Trust Deed (as amended from time to time) by which the Plan has been established and includes the Rules.

**“Deemed Member”** means:

- (a) an Employer-sponsored Member in respect of whom a contribution has been paid to the Trustee and from whom the Trustee has not received and/or accepted a valid Member Application; and
- (b) a Successor Fund Member in respect of whom an amount is transferred to the Plan from another superannuation fund and from whom the Trustee has not received and/or accepted a valid Member Application.

**“Dependant”** means any person who in the opinion of the Trustee is at the relevant date (or in the case of a deceased Member, was at the date of death of the deceased Member) a dependant within the meaning of the SIS Act.

**“Disability”** means a disability provided for in the insurance cover for Disability Income Benefit.

**“Disability Income Benefit”** means such monthly income benefit as the Trustee is satisfied:

- (a) is payable to the Member under the insurance cover for such benefit;

- (b) the Member has satisfied the insurer's evidentiary requirements as to eligibility for payment of the benefit; and
- (c) does not exceed Responsible Authority guidelines applying to such benefits.

**"Division I"** means that part of the Plan, also known as REST MySuper, to which rule 15 applies.

**"Division II"** means that part of the Plan, also known as REST Choice, to which rule 16 applies.

**"Division III"** means that part of the Plan, also known as REST Pension, to which rule 17 applies.

**"Division IV"** means that part of the Plan, also known as Acumen Corporate Superannuation, to which rules 18 to 22 apply.

**"Employee"** means a person who is in the Service of an Employer.

**"Employer"** means a corporation, firm, organisation or person who with the approval of the Trustee has been admitted as a participant in the Plan in accordance with the provisions of clause 13 and which has not ceased to be an Employer in accordance with the provisions herein.

Where the word **"Employer"** is used in relation to a Member it means the corporation, firm organisation or person by which the Member is for the time being employed.

An Employer which ceases to have any Employee as a Member shall thereupon cease to be an Employer for the purposes of the Plan.

**"Employer Sponsor"** means a Sponsor representing Employer interests.

**"Employer-sponsored Member"** means a person employed by an Employer and in respect of whom the Trustee has accepted a contribution.

**"External Dispute Resolution Scheme"** means the Superannuation Complaints Tribunal established under the Superannuation (Resolution of Complaints) Act 1993 (Cth), the AFCA Scheme authorised under the Corporations Act 2001 (Cth) or such other similar body or scheme authorised under Commonwealth law to consider and determine complaints relating to superannuation.

**"Family Law Spouse"** means a spouse entitled to a payment split under the Family Law Act 1975.

**"Family Law Spouse Amount"** means the amount of the payment split determined in accordance with a Family Court order, Superannuation Agreement or Flag Lifting Agreement provided that such amounts are calculated in accordance with the requirements of the Family Law Act 1975 and the Act.

**"Flag Lifting Agreement"** has the same meaning as in the Family Law Act 1975 and the Act.

**"Fund"** means the total of all moneys received by the Trustee in accordance with this Deed and includes all accounts, investments, policies of insurance and other assets in which those moneys are from time to time invested.

**"Fund Expenses"** means all amounts or costs incurred in operating the Plan including:

- (a) taxation of the Fund or its income;
- (b) administration costs, charges or expenses;
- (c) costs and expenses of investing and on securing custody of the assets of the Plan.

**“Gainfully Employed”** means employed or self-employed for gain or reward in any business, trade, profession, vocation, occupation or employment.

**“Growth Pension”** means a pension that meets the requirements set out in rule 17.6.

**“Guarantee Contribution”** means a contribution in respect of a Member that reduces the liability to a charge under the SG Act (but does not exceed the minimum amount required by that Act so that no charge is payable by the Employer).

**“Industrial Agreement”** means any award, Australian Workplace Agreement, Certified Agreement, or other agreement entered into between an employer and employees and/or a union which is registered or approved under the applicable industrial relations legislation.

**“In-house Asset”** has the meaning ascribed to it in the Act.

**“Insurance Benefit”** means the insured death benefit referred to in rule 7.1(b), the insured Terminal Illness benefit referred to in rule 9A.1, the insured Total and Permanent Disablement benefit referred to in rule 9.1(b), and the insured Disability Income Benefit referred to in rule 10.

**“Investment Option”** means a separate investment strategy for the investment of an amount of assets of the Plan.

**“Legal Personal Representative”** means the executor or administrator of the deceased Member’s estate.

**“Mandated Contributions”** means award and industrial agreement contributions, Guarantee Contributions and Shortfall Components.

**“Member”** means a person who has been admitted as a Member of Division I, II, III or IV of the Plan and whose membership has not ceased in accordance with rule 2.19.

**“Member Account”** means the account maintained in accordance with rule 4.1.

**“Member Application”** means the application made pursuant to rule 2.2(a), rule 2.2(b), rule 2.2(c) or rule 2.2(d).

**“Member Information”** means the Product Disclosure Statement and/or Member information booklets published by the Trustee from time to time.

**“Member Investment Choice”** means a direction by a Member in relation to the investment of the Member's Member Account referred to in rule 4.5.

**“Member Sponsor”** means a Sponsor representing Member interests.

**“Mid Price”**, in relation to Units in an Investment Option, means the net asset value of the assets and liabilities allocated to the Investment Option, divided by the total number of Units issued in relation to the Investment Option. The Trustee must calculate the Mid Price of Units at the frequency and in accordance with any rules made pursuant to rule 4.7(b).

**“Minimum Amount”** means \$500.00 or such other amount as is determined by the Trustee from time to time.

**“MySuper Product”** means each class of beneficial interest in the Plan which satisfies the requirements of rule 15.

**“Non-dependant Benefit”** means a benefit which may be paid in accordance with Regulation 6.22(3) of the SIS Regulations.

**“Normal Retirement Date”** means the sixty-fifth birthday of the Member concerned or such other date as is agreed between a Member and his Employer which is notified to the Trustee PROVIDED THAT such date is in conformity with the Applicable Requirements.

**“Operational Risk Financial Requirement Reserve Account”** means the account established pursuant to rule 14.1(b).

**“Payment Split”** has the same meaning as in the SIS Regulations.

**“Plan”** means the Retail Employees Superannuation Trust, a superannuation fund established by deed dated 2 December 1987.

**“Recovery Amount”** means an amount paid to the Plan representing contributions that should have been paid under an industrial award or agreement or other agreement or relevant legislation to a superannuation fund.

**“Regulator”** means the Australian Prudential Regulation Authority and the Australian Securities and Investments Commission.

**“Reserve Account”** means an account established pursuant to rule 14.1.

**“Responsible Authority”** means as the case may require any one or more of the Regulator, the Commissioner of Taxation or any other governmental authority responsible for administering Applicable Requirements, the laws, regulations or other rules governing the operation of or the availability of income tax concessions to superannuation funds and approved deposit funds.

**“Retirement”** means:

- (a) in the case of a Member who has attained his or her preservation age - if:
  - (i) an arrangement under which the Member was gainfully employed has come to an end; and
  - (ii) the Trustee is reasonably satisfied that the person intends never to again become gainfully employed, either on a full-time or a part-time basis; or
- (b) in the case of a person who has attained the age of 60 - an arrangement under which the member was gainfully employed has come to an end, and either of the following circumstances apply:
  - (i) the person attained that age on or before the ending of the employment; or
  - (ii) the Trustee is reasonably satisfied that the person intends never again to become gainfully employed, either on a full-time or a part-time basis.

**“Review Date”** means the first day of July in each year or such other date as may be determined by the Trustee from time to time.

**“Rules”** means these Rules as amended.

**“Salary”** means the ordinary earnings received, whether weekly or monthly or fortnightly for services rendered by the Member to the Employer or at which the Member is employed by the Employer but excludes any overtime or special or ex-gratia grant or allowance for residence, travelling or otherwise.

**“Sell Price”** means the Unit Price that is to be applied to the redemption of Units in an Investment Option, calculated by subtracting the Sell Spread from the Mid Price. The Trustee

must calculate the Sell Price of Units at the frequency and in accordance with any rules made pursuant to rule 4.7(b).

**“Sell Spread”** means an allowance for transaction costs incurred in selling assets allocated to an Investment Option.

**“Service”** means continuous service with the Employer. For the purposes of this definition an Employee’s service shall not cease to be continuous by reason only of the Employee’s temporary absence from the service of the Employer:

- (a) while the Employee is engaged in compulsory military service or in service in the armed forces of Australia or its allies in time of war; or
- (b) in any other circumstances which for the purposes of the Plan the Employer regards as not resulting in a break in the continuity of the Employee’s service,

and **“Service of the Employer”** shall have corresponding meaning.

**“SG Act”** means the Superannuation Guarantee (Administration) Act 1992.

**“Shortfall Component”** has the meaning given to it in the SG Act.

**“SIS Act”** means the Superannuation Industry (Supervision) Act 1993 as amended from time to time and any amending legislation or legislation passed in substitution for the Act and the regulations promulgated and prudential standards made thereunder.

**“SIS Regulations”** means the regulations made under the Superannuation Industry (Supervision) Act 1993.

**“Sponsors”** means each of the Australian Retail Council and the Shop Distributive and Allied Employees’ Association (as altered from time to time either by provision in a deed of amendment for the Plan or in accordance with the provisions of clause 35).

**“Spouse”** of a Member includes:

- (a) a widow or widower of the Member;
- (b) another person (whether of the same sex or a different sex) with whom the person is in a relationship (or in the case of a deceased Member, was in a relationship at the date of death of the Member) that is registered under a law of a State or Territory prescribed for the purposes of section 2E of the Acts Interpretation Act 1901 as a kind of relationship prescribed for the purposes of that section; and
- (c) another person who, although not legally married to the Member, lives (or in the case of a deceased Member, was at the date of death of the Member living) with the Member on a bona fide domestic basis in a relationship as a couple.

**“Sub-plan”** means a segment of the Plan established by the Trustee for a particular Employer or Employers;

**“Successor Fund”** has the meaning ascribed to it in the SIS Act.

**“Successor Fund Agreement”** means an agreement entered into between the Trustee and the trustee of another superannuation fund whereby it is agreed that the Plan is a successor fund to that other superannuation fund.

**“Successor Fund Member”** means a Member who has joined the Fund by virtue of the operation of a Successor Fund Agreement.

**“Superannuation Agreement”** has the same meaning as in the Family Law Act 1975 and the Act.

**“Temporary Resident”** has the same meaning as in the Act.

**“Terminal illness”** means in relation to a Member:

- (a) if insurance cover for terminal illness benefits applies to the Member, the same meaning as the corresponding term in the policy of insurance for that cover; and
- (b) where (a) does not apply to the benefit claimed, and at the time the Member has submitted a claim, the following circumstances exist:
  - (i) two registered medical practitioners have certified, jointly or separately, that the person suffers from an illness, or has incurred an injury, that is likely to result in the death of the person within a period (the certification period) that ends not more than 24 months after the date of the certification;
  - (ii) at least one of the registered medical practitioners is a specialist practicing in an area related to the illness or injury suffered by the person;
  - (iii) for each of the certificates, the certification period has not ended.

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

- (a) if insurance cover for total and permanent disablement benefits applies to the Member, the same meaning as the corresponding term in the policy of insurance for that cover; and
- (b) where (a) does not apply to the benefit claimed in relation to a Member, ill- health (whether physical or mental), where the Trustee is reasonably satisfied that the Member is unlikely, because of the ill-health, to engage in gainful employment for which the Member is reasonably qualified by education, training or experience.

**“Totally and Permanently Disabled”** means having suffered Total and Permanent Disablement.

**“Unit”** means a part or share of the portfolio of assets and liabilities of an Investment Option determined in accordance with rules made pursuant to rule 4.7(b).

**“Unit Price”** means the applicable price of a Unit as determined by the Trustee in accordance with rules made pursuant to rule 4.7(b).

## 2. MEMBERSHIP

### 2.1 Eligibility

- (a) An Employee is eligible to become a Member of the Plan if the Employee is eligible to become an Employer-sponsored Member, and a contribution is validly made in accordance with the Rules.
- (b) A person is eligible to become a Member of the Plan on receipt by the Trustee of an amount transferred to the Plan in respect of the Successor Fund Member from another superannuation fund.

- (c) A person is eligible to become a Member of the Plan if the person is not eligible to become an Employer-sponsored Member and applies in writing in such form as the Trustee from time to time determines.

## 2.2 Application for Membership

- (a) A person applying to become a Member of Division I may be required to submit an application for membership in a form approved by the Trustee.
- (b) A person applying to become a Member of Division II may be required to submit an application for membership in a form approved by the Trustee.
- (c) A person applying to become a Member of Division III may be required to submit an application for membership in a form approved by the Trustee.
- (d) A person applying to become a Member of Division IV may be required to submit an application for membership in a form approved by the Trustee.
- (e) A Member Application shall be in a form approved by the Trustee.
- (f) The Trustee may within 30 days of receipt of a Member Application:
  - (i) reject a Member Application without giving a reason for this rejection;
  - (ii) impose special conditions when accepting a Member Application;and a Member Application that is not so rejected is accepted.

## 2.3 Divisions and Classes of Membership

The Plan is divided into the following divisions:

- (a) Division I – REST MySuper;
- (b) Division II – REST Choice;
- (c) Division III – REST Pension; and
- (d) Division IV – Acumen Corporate Super.

The interests of the Members of a Division comprise a separate class of Membership from the interests of the Members of each other Division. The Trustee may create separate classes of interest within a Division.

## 2.4 Division 1 – REST MySuper

- (a) A person for whose benefit the Trustee first accepts a contribution or other payment in relation to which the Trustee does not hold a valid Member Investment Choice will be admitted as a Member of Division I – REST MySuper in relation to the contribution or other payment on the day the Trustee accepts the contribution or other payment if the contribution or other payment is not made in relation to an application for Division III or an employee's interest in Division IV.
- (b) If a person applies to become a Member of Division I – REST MySuper and the Trustee accepts the person's application, the person will be admitted as a Member of Division I – REST MySuper on the day the Trustee first accepts a contribution or other payment in relation to that application.
- (c) If a Member of another Division applies to become a Member of Division I – REST MySuper and the Trustee accepts the Member's application, the Member will be

admitted as a Member of Division I on the day the Trustee transfers the Member's Benefit or a part of the Benefit to Division I – REST MySuper.

## 2.5 Division II – REST Choice

- (a) A person for whose benefit the Trustee first accepts a contribution or other payment to which a valid Member Investment Choice applies will be admitted as a Member of Division II – REST Choice on the day the Trustee accepts the contribution or other payment if:
  - (i) the person has not become a Member of Division I – REST MySuper under rule 2.4(b) on the day the Trustee accepts that contribution or other payment;
  - (ii) the person has not applied to become a Member of Division III – REST Pension in relation to that contribution or other payment; and
  - (iii) the contribution or other payment is not made in relation to an employee's interest in Division IV – Acumen Corporate Super.
- (b) If a Member of another Division applies to the Trustee to become a Member of Division II – REST Choice and the Trustee accepts the Member's application, the Member will be admitted to Division II – REST Choice on the day the Trustee transfers the Member's Benefit or part of the Member's Benefit to Division II – REST Choice if the Trustee holds a valid Member Investment Choice for the Member on the day that the Trustee transfers the Member's Benefit or part of the Member's Benefit to Division II – REST Choice.

## 2.6 Division III – REST Pension

- (a) If a person applies to the Trustee to become a Member of Division III – REST Pension and the Trustee accepts the person's application, the person will be admitted as a Member of Division III – REST Pension on the day the Trustee accepts a contribution or rollover to the Plan to commence a pension from Division III – REST Pension.
- (b) If a Member of another Division applies to the Trustee to commence a pension and the Trustee accepts the Member's application, the Member will become a Member of Division III – REST Pension on the day the Trustee transfers the Member's Benefit or part of the Benefit to Division III – REST Pension.

## 2.7 Division IV – Acumen Corporate Super

A person for whose benefit the Trustee accepts a contribution or other payment is admitted as a Member of Division IV – Acumen Corporate Super on the day the Trustee accepts the contribution or other payment if the person is an employee of an Employer in Division IV - Acumen Corporate Super and the Employer has nominated the employee as a Member of the Division.

## 2.8 Classes of Membership

A Member may hold more than one class of beneficial interest in the Plan at a time.

## 2.9 Branding and Products

For the purposes of promoting interests in the Plan and administrative ease, the Trustee may adopt product names or branding to refer to a Division, part of a Division or parts of more than one Division provided that the Trustee does not, in doing so, affect any

substantive right or obligation of a Member or Employer under this Deed or breach any provision of this Deed.

#### 2.10 Commencement of Membership

- (a) An applicant becomes a Member on the date the Trustee first receives a contribution or credits another amount in respect of the Member or an amount is transferred to the Plan in respect of the Member from another superannuation fund. An applicant does not become a Member as a result of the Trustee accepting a Member Application from the applicant.
- (b) On receipt of the first contribution by the Trustee in respect of a Member, or upon the Trustee crediting the Member's Account with another amount, the Member shall have the benefit of the category of Membership whose criteria the Member satisfies.

#### 2.11 Variation in Categories of Membership and Intra-Fund Transfers

- (a) A Member who has not initially elected insurance cover but later submits an Application to Vary Insurance becomes entitled to insurance cover on the day this Application is accepted by the Plan's insurer.
- (b) Subject to rule 15, the Trustee may transfer a Member's benefits from Division I, Division II or Division IV to another Division, other than Division III, without the Member's consent in any of the following circumstances:
  - (i) the Trustee decides to close the Division;
  - (ii) the Member no longer meets or will no longer meet the ongoing eligibility requirements for the Division;
  - (iii) the transfer is necessary to comply with Applicable Requirements.
- (c) Before exercising its power under this rule 2.11(b), the Trustee must give the Member at least 30 days' notice in writing of its intention to transfer the Member's benefits to another Division. The notice must include:
  - (i) the nature and effect of the Trustee's decision, including details of the Division to which it is proposed that the Member's benefits will be transferred, how to obtain a product disclosure statement applying to that Division and the proposed date of the transfer;
  - (ii) the reasons for the Trustee's decision;
  - (iii) the actual and potential advantages and disadvantages of the transfer for the Member; and
  - (iv) the options available to the Member if the Member does not want the Member's benefits transferred to the proposed Division.

#### 2.12 Backdating of Benefits

- (a) A Deemed Member's Membership shall, except for the purpose of determining the Member's insurance cover, be deemed to have commenced on the first day of the period to which the initial contribution relates.
- (b) Any entitlement of a Member to insurance cover is subject to the Plan's contract of insurance and any terms set out or summarised in the Member Information available to the Member on joining the Plan.

- (c) No insurance cover is applicable until receipt by the Trustee of the first contribution on behalf of the Member and in the case of a Member, other than a Deemed Member, the acceptance by the Trustee of a valid Member Application and a contribution or acceptance by the Plan's Insurer of a valid Application to Vary Insurance, whichever is applicable.

2.13 Deleted

2.14 Arrangements for Employees

The Trustee may make any of the following arrangements with an Employer regarding the terms on which its Employees are to be admitted to membership of the Plan:

- (a) the contributions to be paid for Members by the Employer and the preservation requirements applying to such contributions;
- (b) the categories of membership to be offered to those Members;
- (c) the investment mix for each Member; and
- (d) the normal retirement age to apply to those Members.

2.15 Member Bound by the Deed

Each Member agrees to be bound by the Deed.

2.16 Authority to Deduct

A Member shall be deemed to have authorised the Employer to deduct from his or her Salary the contributions (if any) which the Member has agreed to make to the Plan.

2.17 Members to Provide Information

Every Member shall submit:

- (a) such evidence of age as required by the Trustee;
- (b) such evidence of health and complete and sign any documents required in connection with the insurance cover; and
- (c) all other information as may be reasonably required by the Trustee.

2.18 Notification of Right to Benefits

The Trustee shall ensure that each person who becomes a Member is notified in writing of the person's right and the right of his or her Dependants to receive benefits from the Plan, of where a copy of this Deed and the Rules may be inspected and details of the kind of benefits provided to Members by the Plan, the conditions relating to those benefits and the method determining entitlements of Members and such other matters as are required by the Act.

2.19 Cessation of Membership

- (a) A Member's membership of the Plan ceases on the last to occur of the following:
  - (i) when the Trustee has paid the benefits including any amount payable under any insurance cover to which the Trustee believes the Member is entitled; and
  - (ii) on any insurance cover as specified in the applicable insurance policy or in writing by the Trustee ceasing.

- (b) A person does not continue to be a Member nor does a person again become a Member of the Plan as a result of a dispute between that person and the Trustee as to that person's entitlement to a benefit(s) from the Plan whether or not the dispute is resolved in the person's favour. Nothing in this provision shall limit a former Member's entitlement to dispute any decision of the Trustee or remove any obligation of the Trustee to deal with such a dispute.

## 2.20 Transfer to Division III – REST Pension

Subject to rule 15, the Trustee may transfer all or part of the lump sum benefit payable under Division I, Division II or Division IV to Division III to commence a pension in accordance with the rules for Division III without the Member's consent where:

- (a) the Member has satisfied a condition of release; and
- (b) one of the following events occurs:
  - (i) the Member no longer meets or will no longer meet eligibility criteria for any of Division I, II or IV; or
  - (ii) the transfer is necessary to comply with the Applicable Requirements; or
  - (iii) the Trustee reasonably forms the opinion that, by reason of a change or reasonably anticipated change in law, the Member's interests would be significantly advantaged and not significantly disadvantaged by transfer to Division III – REST Pension; and
- (c) the transfer is permitted by the Applicable Requirements.

Before exercising its power under this rule 2.20, the Trustee must give the Member at least 30 days' notice in writing of its intention to transfer the Member's benefits to Division III – REST Pension. The notice must include:

- (d) the nature and effect of the Trustee's decision, including details of Division III – REST Pension to which it is proposed that the Member's benefits will be transferred, how to obtain a product disclosure statement applying to that Division and the proposed date of the transfer;
- (e) the reasons for the Trustee's decision;
- (f) the actual and potential advantages and disadvantages of the transfer for the Member; and
- (g) the options available to the Member if the Member does not want the Member's benefits transferred to Division III – REST Pension.

## 3. CONTRIBUTIONS

### 3.1 Member Contributions

- (a) Unless the Trustee otherwise advises a Member may contribute to the Plan or Sub-plan such amount as the Member decides, subject to any requirement of the Act.
- (b) Contributions by the Member shall cease when no longer permitted by clause 12 or on the Member ceasing prior to that date to be a Member, whichever is the earlier.

- (c) Where a Member chooses another superannuation fund or a retirement savings account to which the Employer is to contribute to meet its future obligations under the SG Act, contributions by the Member may cease from the date such choice takes effect.

### 3.2 Employer Contributions

- (a) By Employer

The Employer shall contribute to the Plan or Sub-plan in respect of each Member in the Service of the Employer at such rate, if any, as is set out in the Employer Application and otherwise such amount as is required by the applicable industrial agreement or award.

Where an Employer agrees in writing with the Trustee to pay an amount to the Fund, the Employer is bound by the terms of this Deed to pay that amount to the Fund on the date and other terms agreed.

- (b) Employer's Additional Voluntary Contributions

In addition to the contributions that the Employer makes in accordance with rule 3.2(a), the Employer may contribute to the Plan or Sub-plan such additional amounts in respect of such Members as the Employer shall from time to time determine.

- (c) Employer's Contribution During Leave without Pay.

Where a Member is absent on leave without pay, whether or not such leave is approved, no contribution from the Employer shall be due in respect of that Member during and in respect of the period of unpaid absence.

- (d) Successor Fund Employer

A Successor Fund Employer shall contribute to the Plan or Sub-plan in respect of each Successor Fund Member in its employ at such rate that is not less than the rate that it was contributing or was required to contribute in respect of the Member to the previous superannuation fund and otherwise as required by the applicable industrial instrument.

### 3.3 Acceptance of Other Contributions

Any person who is not an Employer or Member may contribute to the Plan or Sub-plan, in respect of a Member, Mandated Contributions and, if the Trustee determines to accept other types of contributions, those other types of contributions.

### 3.4 Controls on Acceptance of Contributions

An Employer, Member and any other person will only contribute to the Plan or Sub-plan and a Recovery Amount or Shortfall Component will only be paid to the Plan or Sub-plan where acceptance of the amount by the Trustee is able to be accepted in accordance with the Act.

### 3.5 Information as to Contributions

- (a) Each Employer shall give the Trustee sufficient details as to each amount of contributions remitted by it to enable the whole of the amount to be allocated to each respective Member entitled to an amount of that contribution.
- (b) Each Member shall give the Trustee sufficient details as to each amount of contribution remitted by him or her to enable the whole of the amount to be allocated to the Member.

### 3.6 Contributions splitting

Contributions may be split as follows:

- (a) a Member may apply to the Trustee to roll over, transfer or allot an amount of benefits, for the benefit of the Members' Spouse, up to the maximum amount that are splittable contributions;
- (b) the Trustee may accept the application where it is satisfied that it complies with the SIS Regulations and other conditions that it may impose and deal with the amount as directed by the Member, including crediting the amount to the account of the Member's Spouse or transferring or rolling over the amount to another Complying Fund.

## 4. ADMINISTRATION OF PLAN

### 4.1 Member Accounts

The Trustee will keep a Member Account for each Member showing such of the following amounts as may be required:

- (a) contributions by the Employer in respect of the Member;
- (b) contributions by the Member or on behalf of the Member (other than contributions by the Employer);
- (c) any amounts transferred to the Plan in accordance with clause 18 and showing as a separate amount any amount transferred to the Plan in accordance with clause 18.4 that is not fully vested in the Member;
- (d) insurance premiums paid;
- (e) any Insurance Benefit paid and credited to the account;
- (f) any Benefit paid or transferred to a Complying Fund;
- (g) amounts that are Family Law Spouse Amounts;
- (h) any other amount contributed in respect of the Member; and
- (i) sums credited or debited to such account pursuant to the provisions hereof.

If a Member is a Member of more than one Division at the same time, the Trustee must keep a separate Member Account for the Member in relation to the Member's interest in each Division.

### 4.2 Preservation and Cashing Restrictions

The Trustee shall record as required in the accounts of each Member:

- (a) the amount that is preserved;
- (b) the amount that is a restricted non-preserved benefit;
- (c) the amount that is the subject of a "Nil" cashing requirement for the purposes of the Act.

### 4.3 Establishment of Investment Options

- (a) The Trustee may establish and maintain separate Investment Options as the Trustee determines from time to time.
- (b) The Trustee will establish an investment strategy and investment objectives for each Investment Option and may, at any time, vary the investment strategy or the investment objective of an Investment Option. Information about the investment strategy and objectives for each Investment Option must be available to Members on the Plan's website.
- (c) Assets of the Plan may be allocated to each Investment Option.
- (d) Where permitted by the Applicable Requirements, the Trustee may from time to time without the approval of Members:
  - (i) close, terminate or suspend an Investment Option;
  - (ii) impose terms, conditions and restrictions in relation to the closure, termination or suspension of an Investment Option; and
  - (iii) where an Investment Option is terminated:
    - (A) transfer the amount of a Member's Account invested in the terminated Investment Option to one or more other Investment Options as determined by the Trustee; and
    - (B) transfer the assets of the Plan allocated to the terminated Investment Option to one or more other Investment Options by an in specie transfer of assets, by a transfer of cash or a combination of the two.
- (e) Before exercising its power to terminate an Investment Option under rule 4.3(d), the Trustee must provide a notice to each Member who has any part of the Member's Member Account invested in the Investment Option at least 30 days before closing the Investment Option. The notice must include the following information and invite the Member to choose another Investment Option:
  - (i) an explanation of the Trustee's reason for deciding to close the Investment Option;
  - (ii) the options available to the Member;
  - (iii) where the Member can obtain further information about the Investment Options available to the Member;
  - (iv) what the Trustee will do if the Member does not make another Investment Choice within the period specified by the Trustee; and
  - (v) information about the Investment Option to which the Trustee will transfer the proceeds of the terminating Investment Option and the proposed date of transfer if the Member does not direct the Trustee otherwise.

#### 4.4 Deleted

#### 4.5 Investment Options Requirements

- (a) Where permitted by the Act, the Trustee may (but is not obliged to) allow a Member or a class or group of Members to direct the Trustee, or vary such a direction, to invest his or her Member Account in accordance with an Investment Option or Investment Options and, if there is more than one Investment Option, the

proportion of the Member's Accounts that are to be invested in accordance with each Investment Option (such direction called a Member Investment Choice).

- (b) If the Trustee allows a Member to make a Member Investment Choice, the Trustee must include information about the circumstances in which the Member may do so and any conditions that apply on the Plan's website and take any other reasonable steps to make the Member aware of the choices the Member may make, where the Member can obtain information about the available Investment Options and any conditions that apply to making a Member Investment Choice. The Trustee:
  - (i) may set and may vary the minimum amount of a Member's Member Account that may be invested (initially or at any time) in any Investment Option;
  - (ii) may delay or place limits or restrictions on a Member Investment Choice to withdraw, transfer or switch from an Investment Option or withdraw, transfer or switch from an Investment Option by instalments in the circumstances set out in clause 7(s);
  - (iii) prior to carrying out the Member Investment Choice, must take reasonable steps to satisfy itself that the Member was aware of the choices available and the investment strategies and objectives for each Investment Options the Member selected;
  - (iv) may impose terms, conditions or restrictions on the manner in which a Member Investment Choice may be exercised, including in relation to:
    - (A) the maximum and minimum amount that may be invested in an Investment Option by a Member or a class or group of Members;
    - (B) the maximum and minimum amount that may be withdrawn from an Investment Option by a Member or a class or group of Members;
    - (C) the time or times at which, and the frequency with which, a Member Investment Choice may be made; and
    - (D) the fees that can be charged in relation to such a Member Investment Choice (including a fee for switching between Investment Options);
  - (v) at any time, may vary any term, condition or restriction without the approval of the Member, subject to the Act; and
  - (vi) if a Member who is allowed a Member Investment Choice fails to exercise his or her Member Investment Choice within the time or manner specified by the Trustee, must determine the default Investment Option or Investment Options into which the Member's Member Account is to be invested and, if there is more than one Investment Option, the proportion of the Member's Member Account that is to be invested in each Investment Option.
- (c) Subject to rules 4.3(d) and 4.5(b), a Member may elect to vary any selection of Investment Options at such times and in accordance with procedures as the Trustee determines from time to time.
- (d) Deleted

- (e) Where a notice of election of Investment Option by a Member is not in accordance with the Trustee's procedures, the whole of the balance of the Member Account will be allocated to the MySuper Product unless the Member is a Member of Division III or Division IV in which case the whole of the balance of the Member Account will be allocated to the default investment option selected by the Trustee.
- (f) Except to the extent expressly provided for in this Deed, an election of an Investment Option will take effect on the dates determined in accordance with the Investment Option procedures.
- (g) Deleted
- (h) Subject to rules 4.3(d) and 4.5(b), the Trustee shall be bound to act in accordance with a Member Investment Choice.
- (i) An investment by the Trustee to give effect to a Member Investment Choice is made for the sole benefit of and at the sole risk of the Member or the Members of the class or group such that any income or gains or losses or expenses incurred in respect of an Investment Option must be attributed to that Member or the Members of the class or group.
- (j) Notwithstanding rule 4.5(i), a beneficiary has no right or any interest in, and cannot exercise any right in, any particular asset of the Fund.
- (k) The Trustee is not liable for the acquisition, delay in acquiring, retention, failure to dispose of, the performance of, or for any liability attributable to, an Investment Option.

#### 4.6 Investment Option Crediting Rates

- (a) The Trustee will from time to time after having regard to the value of the assets of the Plan and after making such provision as the Trustee considers appropriate determine a Crediting Rate or unit price for each Investment Option. Crediting rates may be positive or negative and may be expressed as an annual rate or such other rate as the Trustee determines from time to time. Unit prices may increase or decrease.
- (b) The Trustee will cause the whole of the assets of the Plan to be valued from time to time and not less than once a financial year in such manner as the Trustee shall determine.
- (c) In valuing the assets the Trustee may adopt whatever assumptions, methodology and procedures the Trustee, in its absolute discretion, considers appropriate, including:
  - (i) making provision for such Adjustment Amounts and Fund Expenses as the Trustee thinks appropriate;
  - (ii) methodology and procedures concerning the method and basis of valuing particular property or the net income of an Investment Option;
  - (iii) the intervals at which valuations must be carried out; and
  - (iv) the reserving of returns, losses or expenses or the averaging of the investment performance of an Investment Option.
- (d) Any Crediting Rate may allow for the provision of reserves.

- (e) Subject to clause 7(zc), the balance of a Member Account allocated to each Investment Option shall be adjusted by the Crediting Rate or change in unit price (as the case may be) for that Investment Option.

#### 4.7 Unitisation

- (a) The Trustee may divide the portfolio of assets and liabilities in relation to each Investment Option into Units.
- (b) Subject to the other provisions of this Deed and the Applicable Requirements, the Trustee may adopt policies and procedures from time to time in relation to:
  - (i) whether parts of Units may be issued in relation to an Investment Option and, if so, the number of decimal places to which part Units may be issued;
  - (ii) the means by which actual or anticipated transaction costs in relation to the acquisition or disposal of the underlying assets in an Investment Option are recovered;
  - (iii) switching between the Units of one Investment Option and another;
  - (iv) the method, timing and frequency of valuing and determining the Buy Price, the Mid Price and Sell Price of Units in each Investment Option;
  - (v) the calculation of the Buy Spreads and Sell Spreads; and
- (c) If and to the extent that the Trustee administers the Plan's investments on a unitised basis the following shall apply:
  - (i) The Trustee may:
    - (A) credit any amount in respect of a Member by allocating an appropriate number of Units to that Member's Account in the Plan in the relevant Investment Option or Investment Options in which the amount is to be invested, at the relevant Buy Price of those Units or any other Unit Price determined by the Trustee at that time; and
    - (B) debit any amounts (including Fund Expenses and tax) in respect of a Member by redeeming an appropriate number of Units from that Member's Account in the Plan in the relevant Investment Option or Investment Options in which the amount is invested, at the relevant Sell Price of those Units or any other Unit Price determined by the Trustee at that time.
  - (ii) Where the Applicable Requirements require it, or the Trustee does not believe that the Buy Price or the Sell Price is fair and reasonable or can be calculated, the Trustee may apply such alternative Buy Price or Sell Price as the Trustee determines.
  - (iii) Where this Deed or the Rules refers to the balance, or the amount standing to the credit, of an Account, it will be taken as a reference to the amount or balance calculated by reference to the number of Units of each Investment Option in which the Account is invested and the relevant Sell Price of each of those Units at that time.
  - (iv) Notwithstanding rule 4.6, the investment performance attributable to a Member's Account shall be determined by reference to the number of Units

of each Investment Option in which the Member's Account is invested and any rise or fall in the Unit Price of those Units.

- (v) A Member has no right to claim any interest or exercise any right in any particular part, investment or asset of an Investment Option but only such interest in the relevant Investment Option as a whole as is conferred on a Unit in accordance with this Deed and the Rules.

#### 4.8 Fund Expenses

- (a) The Trustee from time to time is to determine the Fund Expenses that will be taken into account in determining the Crediting Rates or unit prices for each Investment Option.
- (b) Subject to rule 15, the Trustee must allocate to each Investment Option the Fund Expenses determined by the Trustee under paragraph (a) of this rule to be taken into account in determining the Crediting Rates or unit prices for each Investment Option in such proportions as it determines is fair and reasonable.
- (c) In making any decision under this rule 4.8 the Trustee must satisfy itself that the allocation of Fund Expenses is fair and reasonable as between the Members, taking into account their Membership Division and their Investment Option or Investment Options. The Trustee must review the allocation of expenses between Members at least annually to satisfy itself that the allocation is fair and reasonable and, in doing so, the Trustee must take into account:
  - (i) the allocation of direct and indirect costs as between the Investment Options and assets allocated to the Investment Options;
  - (ii) the extent to which any buy-sell spread applied to unit prices accurately reflects the transaction costs incurred in buying and selling assets attributed to the Investment Option;
  - (iii) the effect on Members or groups of Members of any buy or sell spread provided for in the unit prices for one or more Investment Options or lack thereof;
  - (iv) the effect on Members or groups of Members of any switching fee or other charges or lack thereof.
- (d) The Trustee must provide a report to Members about the review in the Plan's annual report.

#### 4.9 Adjusting Accounts and Reserves

- (a) For the purposes of adjusting accounts and reserves other than Member Account balances allocated to a particular investment in accordance with rule 4.5, the Trustee shall treat those accounts and reserves as being invested in such investment as may be considered appropriate by the Trustee;
- (b) Reserves may be used to make any compensation or adjustment that the Trustee considers necessary or appropriate in the operation of all of the Investment Options.

#### 4.10 Accounts

The Trustee shall keep such other accounts as may be necessary to record the financial transactions by the Trustee and to record the Members' entitlements and changes in the nature of entitlements.

#### 4.11 Deduction for Moneys Owing

If a Member at the time the Member becomes entitled to payment of any benefit under the Plan shall be indebted to the Plan for moneys provided in advance of a benefit or in lieu of a benefit, the amount of indebtedness shall, unless the Trustee decides to the contrary, be deducted from the benefit otherwise payable and shall be applied by the Trustee in making good the indebtedness.

## 5. INSURANCE BENEFITS

### 5.1 Insurance Benefit Conditions

- (a) A Member is only entitled to the benefit of insurance cover as is set out in the insurance policy, if any, held by the Trustee.
- (b) A Member is bound by the terms of the insurance policy.
- (c) The benefit of any insurance cover shall cease in accordance with the terms set out in the insurance policy or, if rule 5.2 applies, then the benefit of the insurance cover will cease in terms of rule 5.2.

### 5.2 Cessation of Insurance Cover

Any insurance cover shall cease:

- (a) in accordance with the terms contained in the policy of insurance with the insurer and set out in the Member Information attached to the Member Application;
- (b) on written notice to the Trustee given by the Member;
- (c) on the Trustee determining that it is not reasonably practicable to obtain or renew a policy of life insurance on terms acceptable to the Trustee;
- (d) on the insurer for any reason terminating a policy of life insurance, or terminating the cover for the Member; or
- (e) if the amount standing to the credit of a Member's Member Account is insufficient to pay the costs attributable to that Member of providing that cover.

### 5.3 Changes to Insurance Cover

Subject to the Applicable Law, insurance cover applying to a Member may change:

- (a) on transfer from one Division to another;
- (b) on transfer from one product to another product; or
- (c) upon an Employer-sponsored Member ceasing to be employed by an Employer, depending on the terms of the insurance policy or policies.

### 5.4 Trustee Review

The Trustee must review at least annually:

- (a) the terms, level of cover and cost of insurance policies;
- (b) the number of, and distinctions between, insurance policies;

- (c) whether the policies should be rationalised or diversified.

The Trustee must provide a report to Members about the review in the Plan's annual report.

## 6. RETIREMENT BENEFITS

### 6.1 Member Retirement

If a Member retires:

- (a) on or after attaining the Member's preservation age; and
- (b) upon tendering satisfactory evidence to the Trustee as to the Retirement of the Member,

the benefit payable shall be an amount equal to the amount standing to the credit of the Member's Member Account.

### 6.2 Payment Options

The benefit referred to in rule 6 shall be paid to the Member either as a capital sum or in such other manner as the Member may elect and without limiting the generality of the foregoing the Member may elect that the whole or part of the benefit payable be utilised by the Trustee to provide for payment of an annuity to the Member of such nature as the Trustee and the Member agree.

## 7. DEATH BENEFITS

On the death of a Member with a Member Account, the benefit payable shall be an amount equal to the aggregate of:

- (a) the amount standing to the credit of that Member's Member Account as at the date upon which payment is made or, where the payment is made in the form of a pension, as at the date the first payment is made and the date that each subsequent payment is made until the Member Account balance is zero; and
- (b) the amount, if any, payable in respect of the insurance cover applying to the Member if that amount has not already been credited to the Member's Member Account.

## 8. PAYMENT OF DEATH BENEFITS

### 8.1 Trustee may Invite Members to Nominate Death Benefit Beneficiaries

The Trustee may invite one or more Members or a person applying to be a Member to give the Trustee:

- (a) a binding nomination that can bind the Trustee because of section 59(1A) of the SIS Act and which complies with the requirements of sub-regulations 6.17A(4) – (7) of the SIS Regulations; or

- (b) a nomination that can bind the Trustee because of section 59(1)(a) of the SIS Act and which complies with the requirements of sub-regulations 6.17A(4)(a), (b) and (c) of the SIS Regulations.

The nomination must identify the person or persons to whom the Member or prospective Member wishes any benefit payable on his or her death to be paid and the proportions and forms in which it is to be paid. A Member or prospective Member may nominate one or more pension beneficiaries and one or more lump sum beneficiaries. Each person nominated must be a Dependant or the Legal Personal Representative of the Member.

A nomination made in accordance with rule 8.1(a) is referred to as a 'rule 8.1(a) nomination'. A nomination made in accordance with rule 8.1(b) is referred to as a 'rule 8.1(b) nomination'.

#### 8.2 Trustee may Invite Applicants for Membership of Division III to Nominate Death Benefit Beneficiaries

The Trustee may invite a person who applies to become a Member of Division III to apply for a pension under which:

- (a) a reversionary pension; or
- (b) a lump sum,

is payable on the death of the Member to the person or people nominated by the person in his or her application for a pension interest. A nomination under this rule is irrevocable.

A nomination made in accordance with this rule 8.2 is referred to as a 'rule 8.2 nomination'.

#### 8.3 Invitation to Members

An invitation to make a rule 8.1(a) nomination, a rule 8.1(b) nomination or a rule 8.2 nomination may be contained in a product disclosure statement or other notice to Members or prospective Members and the invitation must contain sufficient information for a Member or prospective Member to understand the choices available to them and the consequences of making a particular form of nomination. The Trustee may require the nomination to include an acknowledgement by the Member or prospective Member that they have read and understood the information.

#### 8.4 Revoking, Confirming and Amending a Nomination

- (a) A Member may only have a single rule 8.1(a), rule 8.1(b) or rule 8.2 nomination at any time in relation to the Member's interest in a Division. A Member who is a Member of more than one Division, may have a separate nomination (of the same kind or different kinds as between Divisions), in relation to the Member's interest in each Division.
- (b) If a Member gives the Trustee a rule 8.1(a) nomination or a rule 8.1(b) nomination, the Member may at any time by notice in writing to the Trustee revoke the nomination. The notice of revocation must comply with the requirements of sub-regulation 6.17A(6) of the SIS Regulations.
- (c) If a Member gives the Trustee a rule 8.1(a) nomination or a rule 8.1(b) nomination, the Member may at any time:
  - (i) confirm the nomination in accordance with the requirements of sub-regulation 6.17A(5)(a); or

- (ii) amend the nomination by notice in writing to the Trustee in accordance with the requirements of sub-regulation 6.17A(6).
- (d) A Member's rule 8.1(a) or rule 8.1(b) nomination in relation to the Member's interest in a Division does not cease to be valid because the Member transfers from that Division to another Division except if:
  - (i) the Member transfers into Division I and the nomination made by the Member is not a nomination of a kind that is available to all Members of Division I at the time; or
  - (ii) the Member already has a rule 8.1(a) or rule 8.1(b) nomination in relation to the Member's interest in the other Division,

in which case, the Member's nomination ceases to be a valid nomination when the Member's Benefit is transferred to the other Division.

A Member's rule 8.2 nomination ceases to be a valid nomination immediately on the termination of the Member's pension except on the death of the Member.

#### 8.5 Payment of a Death Benefit

- (a) Death benefit paid in the discretion of the Trustee

If a Member dies and a benefit is payable under rule 7 ("**Death Benefit**"), the Trustee must pay the Death Benefit:

- (i) to such one or more of the Member's Dependants and Legal Personal Representative as is determined by the Trustee; and
- (ii) in the proportions and form determined by the Trustee,

unless the Death Benefit is payable under rule 8.5(b), (c) or (d). In exercising its discretion under this rule 8.5(a), the Trustee must take into account any nomination made by the Member that is invalid or that is not binding on the Trustee, as well as the circumstances that have made the nomination invalid or non-binding. The Trustee must not pay a Death Benefit to a person who is not the Member's Legal Personal Representative or Dependant unless permitted by the Applicable Requirements.

- (b) Death benefit paid in accordance with a rule 8.1(a) nomination

If the Member has given the Trustee a rule 8.1(a) nomination that is valid at the Member's death, the Trustee must pay the Death Benefit:

- (i) to such one or more of the Member's Dependants and Legal Personal Representative as are nominated in the rule 8.1(a) nomination; and
- (ii) in the proportions and in the form nominated in the nomination.

- (c) Death benefit paid in accordance with a rule 8.1(b) nomination

If:

- (i) the Member has given the Trustee a rule 8.1(b) nomination and the Trustee has, in accordance with rule 8.9, given its consent to the Member thereby exercising the discretion the Trustee would otherwise be required to exercise under rule 8.5(a); and

- (ii) the rule 8.1(b) nomination is a valid nomination at the Member's death, the Trustee must pay the Death Benefit:
  - (iii) to such one or more of the Member's Dependants and the Legal Personal Representative as are nominated in the nomination; and
  - (iv) in the proportions and in the form nominated in the nomination.
- (d) Death Benefit paid in accordance with a rule 8.2 nomination
  - If:
    - (i) the Member is a Member of Division III at the time of their death;
    - (ii) the Member has given the Trustee a rule 8.2 nomination prior to commencing a pension in Division III (or the particular pension to which the nomination applies); and
    - (iii) the nomination is a valid rule 8.2 nomination at the Member's death, the Trustee must pay the Death Benefit:
      - (iv) to such one or more of the Member's Dependants and the Legal Personal Representative as are nominated in the rule 8.2 nomination; and
      - (v) in the proportions and in the form nominated in the nomination.

#### 8.6 Trustee's Power to Pay Benefit when Beneficiary cannot be Found

If, at the date of a Member's death, a person nominated in the Member's nomination:

- (a) is not a Dependant or the Legal Personal Representative of the Member;
- (b) cannot be identified or contacted after a reasonable period of time; or
- (c) the benefit cannot be paid to the person as nominated by the Member,

the Trustee must pay the benefit that would otherwise have been payable to that person, to such one or more of the Dependants and the Legal Personal Representative of the Member as the Trustee determines and in the proportions and in the form that the Trustee determines.

If the Trustee is unable to identify or contact a Dependant or Legal Personal Representative of the deceased Member, the Trustee may pay the benefit to any other person it determines if permitted by the Applicable Requirements.

#### 8.7 Validity of Rule 8.1(a) Nominations

A Member's rule 8.1(a) nomination is valid at the time of the Member's death if:

- (a) the nomination complied with rule 8.1(a) at the time it was made;
- (b) the nomination was given, confirmed or amended within three years of the Member's death;
- (c) subject to the operation of rule 8.6, the person or people nominated in the nomination are the Member's Dependants or Legal Personal Representative at the time of the Member's death; and
- (d) the Member has not revoked the rule 8.1(a) nomination.

## 8.8 Validity of Rule 8.1(b) Nominations

A Member's rule 8.1(b) nomination is valid at the time of the Member's death if:

- (a) the Trustee has given its consent to the exercise of discretion by the Member under rule 8.9;
- (b) subject to the operation of rule 8.6, the person or people nominated in the nomination are the Member's Dependants or Legal Personal Representative at the time of the Member's death; and
- (c) the Member has not revoked the rule 8.1(b) nomination.

## 8.9 Consenting to an Exercise of Discretion by a Member

If a Member gives the Trustee a nomination made in accordance with rule 8.1(b), the Trustee must decide whether to give its consent to the exercise of discretion by the Member in accordance with the rule 8.1(b) nomination as soon as reasonably practicable after it receives the nomination. The Trustee must notify the Member of its decision as soon as reasonably practicable after it makes a decision. If the Trustee decides not to consent to the exercise of discretion by the Member in accordance with the rule 8.1(b) nomination, the nomination will not be binding upon the Trustee nor will it be taken to be binding upon the Trustee for the purposes of this Deed.

## 8.10 Validity of Rule 8.2 Nominations

A Member's rule 8.2 nomination is valid at the time of the Member's death if:

- (a) the nomination complied with rule 8.2 at the time it was made;
- (b) subject to the operation of rule 8.6, the person or people nominated in the nomination are the Member's Dependants or Legal Personal Representative at the time of the Member's death.

# 9A. TERMINAL ILLNESS BENEFITS

## 9A.1 Amount

If the Member becomes Terminally Ill prior to attaining the Normal Retirement Date the benefit payable shall be an amount equal to the aggregate of:-

- (a) the amount standing to the credit of that Member's Member Account as at the date upon which payment is made; and
- (b) the amount if any, payable in respect of the insurance cover applying to the Member, if that amount has not already been credited to the Member's Member Account.

## 9A.2 Establishing Terminal Illness

A Member shall not be eligible for a Terminal Illness benefit unless and until the Member has supplied the Trustee with such medical and other evidence as the Trustee requires to satisfy itself that the Member is Terminally Ill. In the case of any claim for benefits payable under a policy of insurance the Member shall supply such medical and other evidence as the insurer requires to satisfy itself that the Member is Terminally Ill.

### 9A.3 Payment

On a Member becoming eligible for a Terminal Illness benefit, the Trustee shall pay the amount specified under this Deed and the Rules to the Member. In the event a Member dies before all or any part of the benefits payable on Terminal Illness have been paid or a Terminal Illness benefit only becomes payable on a Member's death, the Trustee shall pay or apply the balance of the Terminal Illness benefit as provided in rule 8 hereof.

### 9A.4 Insurance Claims Declined

The Trustee is not obliged to pay any amount to which a Member may be eligible under any insurance policy prior to receiving the amount payable from the insurer and in addition the Member shall not be eligible for payment of all or any part of a benefit under any insurance policy if the insurer declines to pay all or any of the amount of such benefit to the Trustee for whatever reason.

## 9. TOTAL AND PERMANENT DISABLEMENT BENEFITS

### 9.1 Amount

If the Member becomes Totally and Permanently Disabled prior to attaining the Normal Retirement Date the benefit payable shall be an amount equal to the aggregate of:

- (a) the amount standing to the credit of that Member's Member Account as at the date upon which payment is made; and
- (b) the amount if any payable in respect of the insurance cover applying to the Member, if that amount has not already been credited to the Member's Member Account.

### 9.2 Establishing Total and Permanent Disablement

A Member shall not be treated as Totally and Permanently Disabled unless and until the Member has supplied the Trustee with such medical and other evidence as the Trustee requires to satisfy itself that the Member is Totally and Permanently Disabled. In the case of any claim for benefits payable under a policy of insurance the Member shall supply such medical and other evidence as the insurer requires to satisfy itself that the Member is Totally and Permanently Disabled.

### 9.3 Payment

On a Member becoming Totally and Permanently Disabled, the Trustee shall pay the benefit payable under this Deed and the Rules to the Member. In the event a Member dies before any part of the benefits payable on Total and Permanent Disablement have been paid or a Total and Permanent Disablement benefit only becomes payable on a Member's death, the Trustee shall pay or apply this Total and Permanent Disablement benefit as provided in rule 8 hereof.

### 9.4 Insurance Claims Declined

The Trustee is not obliged to pay any benefit under any insurance policy prior to receiving payment from the insurer and in addition is not obliged to pay any part of any benefit under any insurance policy that the insurer declines to pay for whatever reason.

## 10. DISABILITY INCOME BENEFITS

If a Member suffers Disability prior to attaining the Normal Retirement Date and the Trustee is satisfied the Member is entitled to a Disability Income Benefit, then the Member shall be paid such benefit. The amount of such benefit and the period of time during which it is paid shall not exceed any guidelines determined by the Relevant Authority and shall reduce by any amounts required to be taken into account by the insurance policy.

## 11. DEFERRED WITHDRAWAL BENEFITS AND WITHDRAWAL BENEFITS

### 11.1 Preservation

Amounts standing to the Member's Member Account which are required to be preserved shall be preserved in accordance with the Applicable Requirements and subject to rule 5 shall become payable:

- (a) if the Member has reached age 65 years and has not retired from the workforce, on the request of the Member;
- (b) where the Member is a Temporary Resident and all other requirements of the Act have been satisfied;
- (c) in accordance with rules 6, 7 and 9;
- (d) in such other circumstances (if any) as are provided for in the Act or as the Regulator approves.

This rule does not apply to amounts less than the Minimum Amount where the sole condition of release specified in the Act that is satisfied by the Member is the termination of the Member's gainful employment, or to amounts where the claim is on the ground of severe financial hardship or on the compassionate ground and the Member does not meet the criteria determined by the Trustee, unless payment is required by the Regulator or the Act.

### 11.2 Preservation or Payment in other Circumstances

Where a Member ceases to be in the Service of an Employer or on acceptance by the Trustee of an application by the Member to leave the Plan and there is an amount standing to the Member's Member Account that is required to be preserved, such amounts shall if the Trustee and Member so agree;

- (i) be held in the Plan until the Member becomes entitled to immediate payment thereof in accordance with these Rules; or
- (ii) be paid by the Trustee to the trustee of a Complying Fund which the Member has joined that is required to preserve such benefits in accordance with the Applicable Requirements.

### 11.3 Payment

A Member, on satisfying the conditions of release applying to amounts standing to the Member's Member Account that are not required to be preserved, may apply to the Trustee for payment of such amounts. This rule does not apply to amounts under the Minimum Amount where the sole condition of release specified in the Act that is satisfied by the Member is the termination of the Member's gainful employment, or to amounts where the claim is on the ground of severe financial hardship or on the compassionate ground where the Member does not meet the criteria determined by the Trustee, unless payment is required by the Regulator or the Act.

#### 11.4 Amount Retained until Member Request

Where a Member satisfies a Condition of Release for payment of Benefits and there is an amount standing to the Member's Member Account and (if not already included in the Member's Member Account) any amount received by the Trustee in respect of the member under a policy of insurance applying to the Member that has not been dealt with in accordance with rules 6, 7, 9, 11.2 or 11.3, the Trustee may retain the amount standing to the Member's Member Account and (if not already included in the Member's Member Account) any amount received by the Trustee in respect of the member under a policy of insurance applying to the Member until the Member requests payment - when the amount shall be paid to the Member or, if deceased, to the person or persons entitled to payment on death of the Member.

#### 11.5 Method of Payment

The benefit referred to in this rule 11 shall be paid to the Member either as a lump sum or in such other manner as the Member may elect, or to the Member's Dependants or Legal Personal Representatives in the event of his or her death.

#### 11.6 Severe Financial Hardship

The Trustee is not required to approve applications for severe financial hardship nor is it required to establish a procedure to determine whether or not a Member is in severe financial hardship.

#### 11.7 Payment only after Conditions of Release Satisfied

Notwithstanding any other provision of this Deed, the Trustee shall not pay out any Benefits to Members, Dependants or beneficiaries or other persons where such payment would not satisfy a condition of release.

## 12A. REFUNDS AND TRANSFERS

#### 12A.1 Refund of Ineligible Payments

Any amount received in breach of rule 3.5 shall be refunded to the payer unless to do so would be a breach of the Act, or it is impracticable to comply with the Act's provisions applying to a refund of such amount, or the Trustee determines that to do so would have consequences that the Trustee does not wish to accept. The Trustee shall deal with any amount that is not to be refunded to the payer by:

- (a) paying the amount to another Complying Fund in accordance with clause 18.1; or
- (b) paying the amount to a fund that the Trustee is satisfied is a Successor Fund; or

- (c) otherwise dealing with the amount in a manner that the Trustee determines is appropriate.

#### 12A.2 Payment Good Discharge

No claim shall lie against the Trustee by the Member as a result of the Trustee paying such amount to a Successor Fund.

## 12. APPLICATION OF BENEFITS

### 12.1 Unclaimed Money

Where:

- (a) unclaimed moneys and/or lost members legislation applies, then the Trustee shall pay the benefit as required by that legislation. Payment in accordance with the legislation shall be a good discharge to the Trustee; or
- (b) the Trustee determines it is appropriate that a benefit be paid to an eligible roll-over fund, then the Trustee shall pay the benefit to the trustee of an eligible roll-over fund. Payment to the trustee of an eligible roll-over fund shall be a good discharge to the Trustee.

### 12.2 Application to General Purposes of Plan

A beneficiary of the Plan may disclaim any interest in the Plan or any benefit to which the beneficiary is entitled by giving notice to the Trustee in writing in such form as the Trustee determines. Any interest or benefit disclaimed shall be applied by the Trustee for the general purposes of the Plan in accordance with the Applicable Requirements.

## 13. INCAPACITY OF MEMBER OR DEPENDANT

Where a benefit is payable to a Member or Dependiant who is in the opinion of the Trustee incapable of managing his affairs due to his state of health or because he is an infant, the Trustee may in its discretion:

- (a) establish a Trust (whether or not it is the trustee of such Trust) for the benefit of such Member or Dependiant with power to invest the amount to which such Member or Dependiant would otherwise be entitled and to apply any part of the income or capital of the assets of such Trust at any time and in any way consistent with the purposes of such Trust; or
- (b) pay to a person who appears to the Trustee to be a trustee or is willing to act as trustee for or a parent or guardian of or acts in loco parentis or to have for the time being the care or custody of the Member or Dependiant or to have responsibility for the financial expense of the care or custody of the Member or Dependiant; or
- (c) pay to a legal personal representative of the Member or Dependiant.

Payment to the person in accordance with paragraphs (b) or (c) shall constitute a complete and effectual discharge and the Trustee shall not be bound to see to the application thereof.

## 14. RESERVE ACCOUNTS

### 14.1 Establishment

The Trustee shall establish and maintain as provided for in this rule:

- (a) one or more accounts herein referred to as the Reserve Account; and
- (b) an account herein referred to as the Operational Risk Financial Requirement Reserve Account.

### 14.2 Amounts Credited to Reserve Account

There shall be credited to the Reserve Account:

- (a) any benefit under any insurance policy paid to the Plan;
- (b) any amount to be credited thereto being Members' shares of the charge for management and administration expenses and for the costs of providing any cover under any insurance policy (if any);
- (c) any reserves pursuant to rule 4;
- (d) such other amount as the Deed and the Rules may require to be credited thereto or the Trustee may consider it equitable and desirable to be credited thereto from time to time; and
- (e) any balance remaining in a Member's Member Account after the benefit has been paid.

### 14.3 Amounts Debited to Reserve Account

There shall be debited to the Reserve Account:

- (a) the cost of any cover under any insurance policy;
- (b) any amounts applied pursuant to rule 4;
- (c) the cost of management and administration;
- (d) such other amount as the Deed and the Rules may require to be debited thereto or the Trustee may consider it equitable and desirable to be debited thereto from time to time; and
- (e) any amounts in respect of the benefit under any insurance policy payable in respect of a Member.

### 14.4 Amounts Credited to Operational Risk Financial Requirement Reserve Account

There shall be credited to the Operational Risk Financial Requirement Reserve Account such amounts (if any) as determined by the Trustee from time to time in accordance with a policy determined by the Trustee in relation to the operation of the Operational Risk Financial Requirement Reserve Account and the Applicable Requirements.

### 14.5 Amounts Debited to Operational Risk Financial Requirement Reserve Account

There shall be debited to the Operational Risk Financial Requirement Reserve Account such amounts (if any) as determined by the Trustee from time to time in accordance with a policy

determined by the Trustee in relation to the operation of the Operational Risk Financial Requirement Reserve Account and the Applicable Requirements.

#### 14.6 Sub-plan Reserve Account

The Trustee may establish a Reserve Account in respect of an Employer in a Sub-plan (**Sub-plan Reserve Account**).

#### 14.7 Amounts Credited to Sub-plan Reserve Account

These shall be credited to that Sub-plan Reserve Account:

- (a) any amount not required to meet current benefit liabilities for those Members who are Employees of that Employer;
- (b) any amount required or permitted to be credited to the Sub-plan Reserve Account under the Rules or an Employer Application; and
- (c) any other amounts the Trustee determines should be credited to the Sub-plan Reserve Account.

#### 14.8 Amounts Debited from Sub-plan Reserve Account

The Trustee may make debits from a Sub-plan Reserve Account in the following order of priority:

- (a) if required by the Employer, for contributions payable or allocations made by the relevant Employer;
- (b) for Fund Expenses relating to the relevant Employer including any tax (including surcharge) that would have been payable had the Employer actually paid contributions;
- (c) for any other purposes agreed between the Trustee and the Employer; or
- (d) for any amount required or permitted to be debited to a Sub-plan Reserve Account under the Rules or an Employer Application.

## 15. RULES FOR DIVISION I – REST MYSUPER

Notwithstanding any other provision of this Deed, the following rules apply to the MySuper Product and, if the Trustee is authorised to offer more than one MySuper Product, the following rules apply separately to each MySuper Product:

- (a) the assets of the Fund attributed to the MySuper Product must be invested in accordance with a single diversified investment strategy;
- (b) each Member who holds an interest in the MySuper Product must be entitled to the same options, benefits and facilities;
- (c) the Trustee must not attribute amounts to Members in relation to their interest in the MySuper Product in a way that streams gains or losses that relate to any assets attributed to the MySuper Product only to some of those Members, except to the extent permitted by the Applicable Requirements;
- (d) the Trustee may permit an Employer (**Subsidising Employer**) to subsidise the fees payable by Members in relation to the MySuper Product provided that subsidisation

does not favour one Member holding an interest in the MySuper Product employed by the Subsidising Employer over another such Member who is employed by that Subsidising Employer;

- (e) the only fees that can be charged by the Trustee in relation to the MySuper Product are as set out in the Applicable Requirements;
- (f) the insurance policies arranged by the Trustee in relation to the MySuper Product must comply with the Applicable Requirements;
- (g) no pension is payable to any person from the MySuper Product;
- (h) the Trustee cannot transfer a Member's interest in the MySuper Product to another MySuper Product or to a Choice Product without the Member's consent which must be given within any period that is specified by the Applicable Requirements; and
- (i) the Trustee cannot transfer a Member's interest in the MySuper Product to another fund without the Member's consent which must be given within any period that is specified by the Applicable Requirements unless permitted by the Applicable Requirements.

## 16. RULES FOR DIVISION II – REST CHOICE

There are no additional rules applying to Division II – REST Choice.

## 17. RULES FOR DIVISION III – REST PENSION

### 17.1 Types of Pension

- (a) Account Based Pensions may be issued from such date as the Trustee determines, being not earlier than 1 July 2007.

Allocated Pensions and Growth Pensions may be issued until such date as the Trustee determines, being not later than 20 September 2007.

- (b) Rule 17.1(a) does not apply to the issue of a Growth Pension to a Member who has rolled over or transferred from a Complying Pension issued by another Complying Superannuation Fund.

### 17.2 Form of Payment

The Trustee must pay to each Division III Member a pension:

- (a) commencing on the date specified in the Member Application, or such other date as the Trustee determines, which must be not later than necessary to comply with the SIS Act's requirements; and
- (b) terminating:
  - (i) when the balance in the Member's Account is nil; or
  - (ii) as determined by the Trustee subject to:
    - (A) agreement between the Trustee and Member;
    - (B) such actuarial certification as the Trustee obtains; and

(C) the SIS Act's requirements.

### 17.3 Frequency of Payment

- (a) The Trustee must pay the pension to a Member at the times set out in the Member Application.
- (b) A Member may change the frequency of the pension payments if the change:
  - (i) is approved by the Trustee;
  - (ii) is in a form approved by the Trustee; and
  - (iii) complies with the Act's requirements.

### 17.4 Allocated Pension Rules

- (a) Each financial year (except where the pension commences after 1 June in the year of commencement and the Member nominates no payment for that year), the Allocated Pension payments to the Member for that year (excluding payments by way of commutation but including payments made under a Payment Split) must not be:
  - (i) larger than the maximum limits; nor
  - (ii) smaller than the minimum limits,set out in the applicable Schedule of the SIS Regulations.
- (b) With effect as at the date a Member is issued an Allocated Pension and each 1 July, the Trustee must notify the Member of the minimum and maximum levels for pension payments for the financial year in which that date occurs.
- (c) At any time during a financial year a Member may select the level of Allocated Pension payments for that financial year within the limits of rule 17.4(a). The selection must be in a manner approved by the Trustee.
- (d) If at any time during a financial year no selection has been made for that year under rule 17.3 and an Allocated Pension was being paid in the previous financial year, the Trustee must either:
  - (i) pay an Allocated Pension for the current year calculated according to any previous agreement between the Trustee and Member; or
  - (ii) if the Member Application does not contain a direction for the current year, continue to pay an Allocated Pension at the level prevailing at the end of the previous financial year.

However, the Trustee may adjust the level up to the minimum or down to the maximum so as to comply with rule 17.4(a).

- (e) If, at the time of joining the Plan, a Member has not made a selection under these rules, the Trustee must pay a pension at the minimum level required under rule 17.4(a).
- (f) Commutation shall be in accordance with the SIS Act.
- (g) The Trustee may vary the terms of an Allocated Pension to comply with the SIS Act's requirements applying to Account Based Pensions.

#### 17.5 Account Based Pension Rules

- (a) Each financial year the Account Based Pension payments to the Member for that year must not be smaller than the minimum amount set out in the SIS Act.
- (b) The capital supporting the pension cannot be added to by way of contribution or rollover after the pension has commenced.
- (c) Commutation shall be in accordance with the SIS Act.

#### 17.6 Growth pension rules

- (a) A Member must at the time of applying for a Growth Pension nominate the term of the pension. Where the Growth Pension has a commencement day before 1 January 2006, the term of the pension must be:
  - (i) the life expectancy of the Member (and if not a whole year on the commencement date) rounded up to the next whole year or (if the Member chooses) the life expectancy as if the Member were up to five years younger; or
  - (ii) in the case where the Member's spouse has a greater life expectancy than the Member and the Spouse is to be the reversionary pensioner, the Member may nominate as the term of the pension the life expectancy of the Member's spouse (and if not a whole year on the commencement date) rounded up to the next whole year or (if the Member chooses) the life expectancy as if the Member's spouse were up to five years younger.
- (b) Where the Growth Pension has a commencement day on or after 1 January 2006, a Member must nominate a term which is either:
  - (i) a term being:
    - (A) not less than the life expectancy of the Member (and if not a whole year on the commencement date) rounded up to the next whole year; and
    - (B) not more than the greater of the following periods:
      - (a) the life expectancy as if the Member were up to five years younger;
      - (b) the period of years equal to the number that is the difference between the age attained by the primary beneficiary at his or her most recent birthday before the commencement day, and 100;

OR

- (ii) in the case where the Member's spouse has a greater life expectancy than the Member and the Spouse is to be the reversionary pensioner, a term being:
  - (A) not less than the life expectancy of the Member's Spouse (and if not a whole year on the commencement date) rounded up to the next whole year; and
  - (B) not more than the greater of the following periods:

- (a) the life expectancy as if the Member's Spouse were up to five years younger;
  - (b) the period of years equal to the number that is the difference between the age attained by the Spouse at his or her most recent birthday before the commencement day, and 100.
- (c) The pension shall be paid to the Member or if the Member dies and has nominated a reversionary pensioner to the reversionary pensioner.
- (d) Except where rule 17.6(a)(ii) or 17.6(b)(ii) applies the Member may nominate as the reversionary pensioner one of the Member's Dependants or Legal Personal Representative.
- (e) Each financial year (except where the pension commences after 1 June in the year of commencement and the Member nominates no payment for this first year), the Growth Pension payments for that year (excluding payments by way of commutation but including payments made under a Payment Split) shall be the amount calculated in accordance with Schedule 6 of the SIS Regulations.
- (f) The Growth Pension cannot be commuted except:
  - (i) to rollover to another Complying Pension; or
  - (ii) where commutation is made within six months of the commencement date of the pension (and the pension is not funded from the commutation of a Complying Pension); or
  - (iii) to pay a superannuation contributions surcharge; or
  - (iv) to give effect to an entitlement of a non-Member spouse under a Payment Split; or
  - (v) where the Member dies or the reversionary pensioner dies before the end of the term or, where the term is based on the life expectancy of the Spouse, both the Member and the Spouse die before the end of the term; or
  - (vi) in any other circumstances where commutation would not cause the Growth Pension to cease to satisfy the standards under SIS Regulation 1.06(8).
- (g) The amount commuted cannot exceed the Member's Account balance immediately before the commutation.
- (h) On the death of a Member:
  - (i) who has nominated a reversionary pensioner, the Trustee must continue to pay the pension under the terms of rule 17.6 to the reversionary pensioner if permitted by the Applicable Requirements and the reversionary pensioner shall become the Member of the Plan but only in relation to the reversionary pension; and
  - (ii) in any other case, the Trustee must commute the pension and pay the amount commuted to such one or more of the Member's Dependants and Legal Personal Representatives as it determines.

A Division III Member is not entitled to any benefit other than that determined under this rule 17 unless the Trustee in its absolute discretion allows a Member to also be a member of another Division, in which case the relevant Member is only entitled to an additional benefit attributable to the membership of that Division. On the death of a Member of Division III who is receiving an Account Based Pension or an Allocated Pension a death benefit is payable under rule 7.

17.8 Form of Benefit when Pensioner Dies

If:

- (a) a Member dies and the Member does not have a valid rule 8.1(a), rule 8.1(b) or rule 8.2 nomination, or if there is no surviving reversionary pensioner; or
- (b) a reversionary pensioner of a deceased Member dies before the term of the pension has expired or before the balance in the deceased Member's Account has reduced to nil,

the Trustee must pay the balance of the deceased Member's Member Account or the capital value of the pension (where there is no Member's Member Account) either as a death benefit under rule 7 or as a pension to any one or more of the Dependants of the Member or reversionary pensioner as determined by the Trustee. In making a decision under this rule 17.8, the Trustee may have regard to any preference expressed by the Member.

## **RULES FOR DIVISION IV – ACUMEN CORPORATE**

### **18. LIABILITIES OF SUB-PLAN**

#### **18.1 Satisfying Liabilities of Sub-plan**

Any liabilities of a Sub-plan in respect of this Division IV can only be satisfied out of the assets of that Sub-plan.

#### **18.2 Trustee to Maintain records, Employer's Special Accounts, and Member accounts**

The Trustee must maintain:

- (a) records which distinguish contributions to the Plan, Members' benefits and credits and debits to a Sub-plan in respect of defined benefit Members from contributions to the Plan, Members' benefits and credits and debits to a Sub-plan in respect of accumulation Members where both types of Member belong to the same Sub-plan;
- (b) in relation to a Member of a Sub-plan who is entitled to a defined benefit and an accumulation benefit, records which distinguish contributions to the Plan, the Member's defined benefits and credits and debits to a Sub-plan in respect of the Member's defined benefits from contributions to the Plan, Member's benefits and credits and debits to a Sub-plan in respect of the Member's accumulation benefit; and
- (c) a separate Employer's Special Account for each defined benefit Sub-plan and, within that account, a separate Member account for each defined benefit Member in accordance with rule 20.4.

#### **18.3 Requirements not Overridden**

The requirements in this Rule 18 cannot be overridden by the terms of an Employer Application.

### **19. DIVISION IV PART A – ACCUMULATION BENEFITS**

#### **19.1 Contributions, Accounts and Benefit Payments**

For Members of Part A Division IV, the requirements in respect of:

- (a) Employer and Member contributions;
- (b) Member Account keeping; and
- (c) the payment of Benefits,

are the same as those as set out in the Deed and Rules as they apply to Division I or II, as appropriate.

### **20. DIVISION IV PART B - DEFINED BENEFITS**

#### **20.1 Definitions**

For the purposes of this rule 20 and this Division, the following definitions have the following meanings and other terms are defined in the Employer Application:

**"Defined Benefits Member"** means a Member who is classified by the Employer as a Member who will receive benefits in accordance with rule 20.6 or rule 20.7.

**"Minimum SG Benefit"** of a member means the minimum benefit set out in any benefit certificate issued in respect of the relevant Sub-Plan under the SG legislation.

**"SG Legislation"** means the Superannuation Guarantee (Administration) Act 1992 and the Superannuation Guarantee Charge Act 1992.

**"Special Employer Account"** means an account established under rule 20.4.

20.2 Separate Sub-Plan

The Trustee must establish for each Employer participation in this Division IV Part B a separate Sub-Plan.

20.3 Employer to designate whether lump sum or pension benefit

In the case of a Defined Benefits Member the Employer must designate whether the member is to receive lump sum benefits under rule 20.6 or pension benefits under rule 20.7.

20.4 Special Employer Account

(a) The Trustee must establish in respect of each Employer participating in a Sub-plan an account to be called the Employer's Special Account and must allocate to that account:

- (i) those Members who are Employees of that Employer whose benefits the Trustee considers to be attributable to that account;
- (ii) the amount or value of the assets and liabilities of the Sub-plan which the Trustee after obtaining the advice of the Actuary, considers to be attributable to the benefits of Members allocated to that account on such basis as the Trustee considers appropriate;
- (iii) contributions paid into the Fund which the Trustee considers to be attributable to the benefits of Members allocated to that account on such basis as the Trustee considers appropriate; and
- (iv) any other amounts which the Employer Application requires to be allocated to that account,

and may debit to that account:

- (v) contributions payable or allocations made by an Employer in respect of its Employees who are Members governed by the Sub-plan;
- (vi) Fund Expenses which the Trustee determines are appropriate to allocate to that account (including any tax (including any surcharge) that would have been payable had an Employer actually paid contributions);
- (vii) amounts paid or transferred out of the Plan in respect of a Member allocated to the account;
- (viii) amounts paid or transferred out of the Plan in respect of the Employer pursuant to clause 18;

- (ix) amounts transferred to the Reserve Account or Sub-plan Reserve Account by agreement of the Trustee and the Employer; and
  - (x) any other amounts which the Employer Application requires to be debited to that account.
- (b) The Trustee may:
- (i) cause the Actuary to make actuarial investigations of each Employer Special Account and Sub-plan at times determined by the Trustee and to report to the Trustee and the Employer as to the state and sufficiency of that account having regard to the liabilities attributable to that account and any other matter the Actuary considers relevant;
  - (ii) determine the contributions payable by an Employer at any time in respect of Members allocated to that account solely by reference to the state and sufficiency of the Employer's Special Account and Sub-plan; and
  - (iii) provide to the Employer a copy of the actuarial valuations and certificates relevant to the Employer's Sub-plan.
- (c) The Trustee may establish sub-accounts within an Employer Special Account and maintain and operate any sub-account for any purpose and in any manner the Trustee considers appropriate.

## 20.5 Contributions

- (a) Employer contributions:
- (i) Subject to rule 20.5(d), the Employer must contribute in respect of Defined Benefit Members at the rate determined by the Trustee on the advice of the Actuary.
  - (ii) An Employer may make additional contributions in respect of some or all Members or make extra contributions to be used for the purposes of the relevant Sub-plan and may direct how any extra Employer contributions are to be applied.
  - (iii) Subject to rule 20.5(d), where an Employer agrees with the Trustee to pay an amount to the Trustee, the Employer is bound by the terms of this Deed to pay that amount to the Trustee.
- (b) Member contributions:
- (i) Any amount which Members are required to contribute is set out in the Employer Application.
  - (ii) A Member may make voluntary contributions to the Sub-plan on such terms, conditions and restrictions as the Employer and the Trustee agree and impose.
- (c) Release of Member contributions:
- (i) The Employer may release a Member from making required contributions and attach conditions to that release.
  - (ii) The Trustee must adjust the benefits payable in respect of a Member:

- (A) who is released from making required contributions unless the Employer and the Trustee agree to deem those contributions to have been made or the Employer pays any additional contributions which the Actuary advises are necessary as a result of the release to ensure the stability of the relevant Sub-plan; or
  - (B) who does not pay required Member contributions as required or agreed.
- (iii) Subject to rule 20.5(d), where a Member chooses another superannuation fund or a retirement savings account to which the Employer is to contribute to meet its future obligations under the SG Act ("Choice Member"), contributions made by the Choice Member to the Sub-Plan may cease from the date the Choice Member exercises such choice.
- (d) Termination, reduction or suspension of Employer contributions:
- (i) An Employer may terminate, reduce or suspend its contributions in respect of some or all Members by giving notice to the Trustee.
  - (ii) The termination, reduction or suspension takes effect from the date of receipt of the notice or any later date specified in the notice, even if the Employer is then on a contribution holiday.
  - (iii) Subject to rule 20.11, where a Choice Member chooses another superannuation fund or a retirement savings account to which the Employer is to contribute to meet its future obligations under the SG Act, all contributions, other than any arrears determined by the Trustee on the advice of the Actuary necessary to meet Benefits for that Choice Member that have accrued but are not fully funded, made by the Employer to the Sub-Plan in respect of that Choice Member will cease from the date the Choice Member exercises such choice.
  - (iv) The Trustee must adjust benefits in respect of the Members concerned to take account of the termination, reduction or suspension of an Employer's contribution or any failure by an Employer to contribute as required or agreed, after obtaining the advice of the Actuary.
  - (v) An Employer may revoke a notice given under this subrule. If a notice is revoked the Trustee may readjust benefits and contributions in respect of the Members concerned in a manner which the Trustee considers equitable.
  - (vi) The Members concerned must accept any adjusted benefits as their full entitlement. An adjustment cannot be challenged by any interested person.

## 20.6 Defined Benefits – Lump Sum

This rule applies to Defined Benefit Members who have been designated by the Employer to receive lump sum benefits under this rule 20.6, unless the circumstances of benefit entitlement are otherwise provided in the Employer Application.

- (a) Retirement benefits:
  - (i) If a Member:
    - (A) ceases to be an Employee on or after age 55 but before the Member's Normal Retirement Date; or

- (B) ceases to be an Employee on the Member's Normal Retirement Date; or
    - (C) requests payment of a benefit on the Member's Normal Retirement Date,
  - (ii) the Member is entitled to a lump sum benefit calculated as provided in the Employer Application.
  - (iii) If a Member ceases to be an Employee after the member's Normal Retirement Date, the Member is entitled to a lump sum benefit calculated as provided in the Employer Application.
- (b) Death benefits:
- (i) If a Member dies while an Employee on or before the Member's Normal Retirement Date, a lump sum benefit is payable in respect of the Member calculated as provided in the Employer Application.
  - (ii) If a Member dies while an Employee after the Member's Normal Retirement Date, a lump sum benefit is payable in respect of the Member calculated as provided in the Employer Application.
- (c) Total and Permanent Disablement benefits
- If a Member ceases to be an Employee before the Member's Normal Retirement Date because of Total and Permanent Disablement, the Member is entitled to a lump sum benefit calculated as provided in the Employer Application.
- (d) Temporary Disablement
- If a Member becomes temporarily disabled within the meaning of any insurance policy effected by the Trustee in respect of the Member with the consent of the Employer, the Trustee must pay the Member the policy proceeds.
- (e) Leaving Employment
- If a Member ceases to be an Employee in any other circumstances, the Member is entitled to a lump sum benefit calculated as provided in the Employer Application.
- (f) Benefit for Voluntary Contributions
- If:
- (i) a Member has paid voluntary contributions to the sub-Plan under rule 20.5(b)(ii); or
  - (ii) an Employer has paid additional contributions to the Sub-plan and directed them to be applied on behalf of the Member under rule 20.5(a)(ii),
- an additional lump sum benefit is payable to or in respect of the Member when the Member ceases to be an Employee for any reason (including death).
- The additional lump sum benefit is equal to the sum of:
- (i) the additional contributions referred to in rules 20.6(f)(i) and 20.6(f)(ii);
  - (ii) any allowance for tax which the Employer may have required under rule 20.5(a)(ii); and

- (iii) any net earnings compounded to the date of payment.

## 20.7 Defined Benefits – Pension

This rule applies to Defined Benefit Members who have been designated by the Employer to receive pension benefits under this rule 20.7, unless otherwise provided in the Employer Application.

### (a) Retirement Benefits

- (i) If a Member ceases to be an Employee on the Member's Normal Retirement Date, the Member is entitled to a Pension payable on the conditions and calculated as provided in the Employer Application.
- (ii) If a Member ceases to be an Employee after the Normal Retirement Date, the Member is entitled to a Pension payable on the conditions and calculated as provided in the Employer Application.
- (iii) If a Member ceases to be an Employee on or after the age of 55 but before the Member's Normal Retirement Date, the Member is entitled to a Pension payable on the conditions and calculated as provided in the Employer Application.

### (b) Death of Pensioner

If a Pensioner dies leaving a Spouse, the Pensioner's Spouse is entitled to a Pension only if and as provided in the Employer Application.

### (c) Death, Disablement and Leaving Employment

The amount, form and method of calculating the benefits payable on the death or disablement of a Member or upon the Member otherwise ceasing to be an Employee are as set out in the Employer Application.

## 20.8 Benefits – General Provisions

The following provisions have application for any benefits payable in respect of this rule 20:

### (a) Alternative form of benefits:

Instead of taking a benefit in its usual form, a Member (or a person entitled to receive a benefit in respect of the Member) may elect that all or part of the benefit is replaced with another benefit in a different form, subject to such terms and conditions as the Trustee and the Employer may agree upon.

### (b) Augmentation of benefits:

The Trustee must augment a Member's benefit entitlement as requested by the Employer, except to the extent that an Employer does not pay any additional contributions which the Actuary advises are necessary to ensure the stability of the relevant Sub-Plan.

### (c) Part-time or casual employment:

Any benefits based on Salary which apply to a Member who is not employed on a full-time or permanent basis shall be calculated using the Salary of an equivalent full-time permanent employee, but reduced in the proportion the number of part-time hours the Member usually works bears to the number of hours the Employer

considers an equivalent full-time employee would work, unless the Employer Application provides otherwise.

(d) Leave of absence:

A Member's period of absence from active employment must not be included for the purposes of calculating benefits or calculating contributions payable to the relevant Sub-Plan by or in respect of the Member, unless the Member, the Employer and the Trustee agree otherwise.

(e) Minimum SG Benefit:

Despite anything to the contrary, the amount of benefit payable from the Sub-Plan on termination of employment of any Member must not be less than the Member's Minimum SG Benefit.

(f) Adjustments:

(i) Insurance:

If:

- (A) insurance is not obtained in respect of a Member on the insurer's standard terms;
- (B) the level or scope of insurance obtained is restricted in respect of a Member; or
- (C) the insurer does not admit or pay all or part of a claim in respect of a Member,

the Trustee must reduce any benefits payable on the death or disablement of the Member as the Trustee considers appropriate, unless the Trustee and the Employer otherwise agree.

(ii) Tax:

If the Employer will not meet any additional associated cost as a result of changes in tax or tax arrangements (including any surcharge), the Trustee must adjust the amount of and conditions relating to any benefits and contributions payable in respect of the relevant Sub-plan.

(g) Double Counting:

The Trustee must adjust any benefit payable from the Plan or Sub-plan to take account of any amount which has already been included in the calculation, application or payment of another benefit from the Plan or Sub-plan.

For the purposes of this provision, an amount is deemed to have been included in the calculation of a benefit if any factor involved in the calculation of the benefit (whether it be the whole or part of a period of time, the whole or part of a monetary amount, contributions in respect of a Member or any other factor the Trustee considers relevant) has already been taken into account.

The Members concerned must accept any adjusted benefits as their full entitlement. An adjustment cannot be challenged by any interested person.

Where a Family Law Spouse Amount is required to be dealt with in accordance with the Family Law Act 1975 and the Act, the Member's Account will be debited with the amount and the amount credited to the account of the Family Law Spouse or transferred in accordance with the directions of the Family Law Spouse to an acquiring fund.

#### 20.10 Cessation of Sub-Plan membership

Where contributions in respect of a Choice Member cease pursuant to rule 20.5(c)(iii):

- (a) the amount the Choice Member is entitled to (unless the Employer and Trustee agree otherwise; in which case it is the agreed amount) will be the:
  - (i) lump sum equal to the sum of the account balance representing voluntary contributions (and earnings thereon) made by the Choice Member under rule 20.5(b)(ii); together with
  - (ii) Choice Member's equitable share of the Special Employer Account excluding any surplus as determined by the Trustee having regard to the advice of the Actuary;
- (b) if the Choice Member does not request a transfer of the amount determined in accordance with rule 20.10(a) to a Complying Fund, the amount will be transferred to Division I or Division II as appropriate; and
- (c) no further Defined Benefits will accrue to the Choice Member in the Sub-Plan.

#### 20.11 Reduced Participation

- (a) Where a Choice Member chooses another superannuation fund or a retirement savings account to which the Employer is to contribute to meet part of its future obligations under the SG Act and the Employer is agreeable to the Member continuing to accrue benefits as a Member of Division IV Part B, the Employer shall notify the Trustee in writing of this.
- (b) The amount of benefit the Choice Member is entitled to continue to accrue will be that amount agreed between the Employer and the Trustee.
- (c) The Trustee having regard to the advice of the Actuary with regard to the reduction in participation of the Choice Member shall determine the contribution rate required by the Employer.

#### 20.12 Overriding Effect of Employer Application

The provisions of this rule 20 are subject to any contrary intention expressed in the Employer Application. Any additional provisions contained in the Employer Application will take effect in respect of the relevant Sub-plan as if they were expressly included in this rule 20. However, nothing in the Employer Application shall prevent the Employer taking advantage of any election or waiver conferred upon the Employer elsewhere in this Deed or the Rules.

## 21. DIVISION IV PART C - DEFINED BENEFIT HYBRID ARRANGEMENTS

### 21.1 Definitions

For the purposes of this rule 21 and this Division, the following definitions have the following meanings and other terms are defined in the Application:

**"Accumulation Member"** means a Member who is classified by the employer as a Member who will receive benefits in accordance with rule 19 (Part A – Accumulation Benefits).

**"Defined Benefits Member"** means a Member who is classified by the Employer as a Member who will receive benefits in accordance with rule 20.6 or rule 20.7 (Part B – Defined Benefits).

#### 21.2 Accumulation Member and Defined Benefits Members

For a Member who is both an Accumulation Member and Defined Benefits Member, the requirements in respect of:

- (a) Employer and Member contributions;
- (b) Member Account keeping; and
- (c) the payment of Benefits,

are the same as those as set out in the Deed and Rules as they apply to Division IV Part A and B as applicable unless expressly dealt with in an Application.

#### 21.3 Double Counting

The Trustee must adjust any benefit payable from the Plan or Sub-plan to take account of any amount which has already been included in the calculation, application or payment of another benefit from the Plan or Sub-plan.

For the purposes of this provision, an amount is deemed to have been included in the calculation of a benefit if any factor involved in the calculation of the benefit (whether it be the whole or part of a period of time, the whole or part of a monetary amount, contributions in respect of a Member or any other factor the Trustee considers relevant) has already been taken into account.

The Members concerned must accept any adjusted benefits as their full entitlement. An adjustment cannot be challenged by any interested person.

## 22. DIVISION IV PART D – TARGET BENEFIT AND OTHER ARRANGEMENTS

#### 22.1 Target Benefit

The Trustee may give effect to certain arrangements for Members whose benefit entitlements are recorded outside an Employer Application and the Trust Deed and Rules in an individual agreement between the Employer and Member.

#### 22.2 Member Details

The name of each Member together with the date of the Member's individual agreement are to be recorded in an Application.

#### 22.3 Inconsistency

In the event of any inconsistency between an individual agreement referred to in this Part D and the Deed and Rules, the individual agreement will prevail.