

## LABOUR UNION CO-OPERATIVE RETIREMENT FUND

### THE TRUST DEED

#### GENERAL PROVISIONS

##### Clause 1 – Overriding Provision

###### 1.1 Relevant Requirements

The Rules and clauses in this Deed are to be read and construed on the basis that the Relevant Requirements are incorporated into this Deed to the extent that they apply to the Fund.

###### 1.2 Conflict between Relevant Requirements and this Deed

Despite any other provision in this Deed, if there is a conflict between a provision of this Deed and any of the Relevant Requirements, the Relevant Requirements will prevail.

###### 1.3 Nature of Members' interests

Nothing in this Deed or the Rules entitles any Member or Beneficiary to any specific asset of the Fund and the Trustee has an absolute discretion as to which part of the Fund is applied to provide funds to enable the payment of any Benefit which becomes payable from the Fund.

##### Clause 2 – Definitions and Interpretation

###### 2.1 Definitions

The following definitions apply for the purposes of this Deed and the Rules unless the contrary intention appears:

“**Accounts**” means, in relation to a Member, the accounts maintained for that Member;

“**Acting Trustee**” means a trustee appointed by the Regulator under Section 134 of the SIS Act;

“**Approved Benefit Arrangement**” means a KiwiSaver Scheme, fund or benefit arrangement, other than the Fund (including without limitation another superannuation fund, an approved deposit fund, an eligible rollover fund and a deferred annuity), to which money or property may be paid or transferred from the Fund, or from which a payment may be received into the fund, without causing the fund to be in breach of or to fail to comply with any applicable requirement under the Relevant Requirements;

“**APRA**” means the Australian Prudential Regulation Authority;

“**ASIC**” means the Australian Securities and Investments Commission established under section 7 of the *Australian Securities and Investments Commission Act 1989*;

“**Beneficiary**” means a natural person beneficially entitled to receive a Benefit from the Fund in accordance with this Deed;

“**Benefit**” means any amount paid or payable by the Trustee out of the Fund under this Deed or the Relevant Requirements as a superannuation benefit and includes a pension and an allowance;

“**Business Day**” means a day that is not a Saturday, Sunday or public holiday in Victoria, Australia;

“**Child**” has the meaning given to it in section 10 of the SIS Act;

“**Committee**” means a committee of directors established under clause 24 of the Deed;

“**Constitutional Corporation**” means a body corporate that is:

- (a) a trading corporation; or
- (b) a financial corporation,

formed within the limits of the Commonwealth and within the meaning of paragraph 51(xx) of the Australian Constitution;

“**Deed**” means this deed, including the declaration of trust, the Rules and any schedules and appendices as amended from time to time;

“**Dependant**” concerning a Member or former Member means:

- (a) the Spouse of the Member or former Member;
- (b) a Child of the Member or former Member;
- (c) any person who, whether or not related to the Member or former Member by blood or marriage, who in the opinion of the Trustee, is or was at the relevant date wholly or partially dependent on the Member or former Member at the time of the Member’s death or of any other event for which an entitlement to a Benefit may arise, or who had a legal right to look to the Member for support;
- (d) any person who, in the opinion of the Trustee, is or was a “dependant” of the Member or former Member at the date of the Member’s death within the meaning of that term in section 10 of the SIS Act;

“**Employee**” means a person who is employed by an Employer Sponsor and includes an executive or non-executive director of a body corporate or any person defined as an “employee” under the *Superannuation Guarantee (Administration) Act 1992*;

“**Employer Sponsor**” has the same meaning as in section 16(1) of the SIS Act, and includes a Standard Employer Sponsor and an employer that is not a Standard Employer Sponsor;

“**Employer Sponsored Member**” means an Employee who is a Member of the Fund by operation of Rule 2.1(a);

**“Executive”** means for executives of the Union its National Executive Committee, for executives of the Trustee and any corporate Employer their board of directors and for executives of any non corporate Employer its executive body however named;

**“Fund”** means the Labour Union Co-operative Retirement Fund;

**“Insurance Company”** means an insurance company with which the Trustee has taken out insurance under a Policy;

**“Insured Benefit”** means the proceeds of any policy of insurance taken out by the Trustee on the life of a Member or for Terminal Illness, Total and Permanent Disablement or for Total and Temporary Disablement of a Member whether a group policy or individual policy;

**“KiwiSaver Scheme”** has the meaning given by the *KiwiSaver Act 2006* of New Zealand.

**“Low Income Superannuation Contribution”** has the meaning given to it by section 56 of the *Superannuation (Government Co-Contribution for Low Income Earners) Act 2003*;

**“Member”** means a person who has been admitted as a member of the Fund by the Trustee and has not ceased to be a Member in accordance with Rule 3;

**“Member’s Account”** means an Account maintained for the Member in accordance with this Deed for the purpose of determining the Benefits to be provided for that Member under this Deed;

**“Minimum Benefits”** means the minimum benefits of a Member within the meaning of the Benefit Protection Standards contained in Part 5 of the SIS Regulations;

**“Policy”** means a term or other policy or contract of insurance;

**“Public Offer Arrangements”** means the arrangements for membership of the Fund established by the Trustee in compliance with the Relevant Requirements consequent on the approval of the Fund as a Public Offer Fund by the Regulator and without limiting the generality thereof, the arrangements referred to in sub-Rule 2.6;

**“Regulator”** means APRA or ASIC or the Australian Taxation Office or the Australian Transaction Reports and Analysis Centre or the Chief Executive Medicare or any other governmental authority responsible for administering the laws governing the Fund as the case requires;

**“Relevant Requirements”** means any provision of or any standard, prudential standard, covenant, direction or other requirement, under the SIS Act, the Tax Act, the *Corporations Act 2001*, the *Family Law Act 1975*, the *Bankruptcy Act 1966* or the regulations under those Acts or any other law, regulation or requirement of a Regulator:

- (a) applying to or imposed on the Trustee; or
- (b) applying to or imposed concerning the Fund; or
- (c) which the Fund must satisfy to qualify for the most favourable taxation treatment available to the Fund; or

- (d) which the Trustee or the Fund must satisfy to avoid any penalty, detriment or disadvantage which is or may become payable in connection with the Fund or anything done or to be done under this Deed or the Rules; or
- (e) with which the Trustee or the Fund must comply to ensure that the Trustee remains an approved Trustee for the Fund and or continues to hold an RSE licence,

and includes any proposed requirement which the Trustee believes would have retrospective effect, but if the provision, standard, prudential standard, covenant, direction or other requirements ceases to be enforced or the Regulator or responsible authority does not require it to be complied with either generally or in relation to the Fund, then that provision, standard, prudential standard, covenant, direction or requirements ceases to be a Relevant Requirement to that extent;

“**RSE Licence**” has the same meaning as given to that term in section 10 of the SIS Act;

“**Rules**” means the Rules set out in Schedule 2 of this Deed as they may at any time and from time to time be amended in the manner permitted in this Deed;

“**SIS Act**” means the *Superannuation Industry (Supervision) Act 1993* as amended from time to time;

“**SIS Regulations**” means the *Superannuation Industry (Supervision) Regulations 1994* as amended from time to time;

“**Standard Employer Sponsor**” has the same meaning as in section 16(2) of the SIS Act;

“**Successor Fund Transfer**” means a transfer to a successor fund within the meaning of the SIS Regulations;

“**Tax Act**” means the *Income Tax Assessment Act 1936* and the *Income Tax Assessment Act 1997* (as the case may be);

“**Union**” means the National Union of Workers or its successors as provided in clause 4 of the Deed.

## 2.2 Interpretation

In this Deed, unless the contrary intention appears:

### (a) **Statutory enactments**

A reference to a statute, regulation or provision of a statute or regulation (“Statutory Provision”) includes:

- (i) subordinate legislation, determinations, rulings or guidelines made by any person under the authority of such a Statutory Provision;
- (ii) that Statutory Provision as amended or re-enacted from time to time; and
- (iii) a statute, regulation or provision enacted in replacement of that Statutory Provision;

(b) **Powers exercisable by a delegate**

Wherever a power is conferred on the Trustee, an Employer Sponsor, or any other person or persons, that power is exercisable by a delegate of that person at any time and from time to time unless the provision conferring the power provides otherwise;

(c) **Contributions**

References to contributions and liability to contribute will be read as references to contributions (if any) and liability (if any) to contribute;

(d) **Singular, plural and gender**

Each gender includes each other gender and the singular includes the plural and vice versa;

(e) **Headings, underlining and indexes**

Headings, underlining's and indexes are for convenience only and do not affect the interpretation of this Deed;

(f) **Defined terms**

Where for convenience particular words or groups of words defined in sub-clause 2.1 and Rule 1.1 commence with capital or lower case letters, failure to use capital or lower case letters in those words or groups of words elsewhere in this Deed does not of itself mean that those words or groups of words bear meanings different from the meanings assigned to them respectively in sub-clause 2.1 and Rule 1.1;

(g) **Rules and clause**

A reference to a:

(i) Rule is a reference to a provision in Schedule 1 to this Deed; and

(ii) clause is a reference to a provision in this Deed;

(h) **Grammatical forms**

When a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning;

(i) **Words of limitation**

“including” and similar expressions are not words of limitation;

(j) **Person**

Reference to a “**person**” and words importing a natural person include a body corporate and a partnership or any other group of persons;

(k) **Trustee Acts**

To the extent legally possible and unless the Trustee otherwise determines, this Deed is not subject to the *Trustee Act 1958 (Vic)* or any of its equivalents in any of the States or Territories of Australia;

(l) **Disputes**

If any dispute or doubt as to the interpretation of any of the provisions of this Deed or the Rules or as to the rights of Members or Beneficiaries claiming through Members arises it will be dealt with in accordance with clause 19, but subject to that, the decision of the Trustee will be final and binding.

**Clause 3 – Administration**

For the purpose of facilitating the operation and administration of the Fund, it is declared that all powers, rights, decisions, discretions, appointments and other authorities of whatever kind granted or conferred on the Trustee, the Union or any Employer Sponsor by, under or for any purposes of the Deed or the Rules, may be fully and effectively exercised, made, done or performed for the Trustee or the Union or that Employer Sponsor by resolution of its Executive, and a certificate signed by the Secretary of the Trustee or the Union or that Employer Sponsor will be conclusive evidence of the passing of that resolution and of its contents.

**Clause 4 – The Union**

**4.1 Cancellation of NUW registration**

If the National Union of Workers or any of its successors as defined in this clause for any reason has its registration as an organisation cancelled under the *Fair Work (Registered Organisations) Act 2009*(Commonwealth) resulting in the loss of its corporate status and becoming an unincorporated association, the unincorporated association will still be competent to fulfil all the roles obligations and duties entrusted to the Union in this Deed which will continue to be exercisable by resolution of its Executive as provided in clause 19 of this Deed.

**4.1 Amalgamation**

If at any time after the execution of this Deed the Union amalgamates with any other trade union the new body so formed, whether corporate or unincorporate, will be deemed to be the successor of the Union for the purposes of the Fund.

**4.3 Dissolution**

If at any time after the execution of this Deed the National Union of Workers or any successor of that Union under the preceding clause is dissolved whether for the purpose of being reconstituted into several other bodies or otherwise the Executive of the Union will have the power immediately before the dissolution to nominate the successor of the Union for the purposes of the Fund except if the Executive cannot agree on or does not nominate the successor the Trustee must apply to the Supreme Court of Victoria to determine the successor of the Union.

## Clause 5 – The Fund

### 5.1 Fund vests in Trustee

The Fund will be vested in, controlled and administered by the Trustee in accordance with this Deed the Rules and the Relevant Requirements.

### 5.2 Assets of the Fund

So long as the Trustee remains an approved trustee or holds an RSE Licence in accordance with the Relevant Requirements, the Fund is a public offer fund and comprises all moneys, policies and other assets and investments held by the Trustee in accordance with this Deed.

## Clause 6 – The Trustee

### 6.1 Trustee must be a Constitutional Corporation

The Trustee must at all times be a Constitutional Corporation within the meaning of the SIS Act and must do all things reasonable to ensure that it is qualified as a body corporate to act as trustee of a superannuation entity within the meaning of the SIS Act.

### 6.2 Ceasing to be a Trustee

#### (a) Cessation

The Trustee will cease to be the Trustee of the Fund when:

- (i) the Trustee retires after appointing another Constitutional Corporation as its replacement;
- (ii) required under the Relevant Requirements; or
- (iii) it is disqualified or removed from the office of Trustee by operation of law.

#### (b) Power to appoint new Trustee

If the Fund does not have a Trustee at any time (except in the circumstances referred to in sub-clause 6.2(a)(iii)), then the Union may appoint any approved Constitutional Corporation as the new Trustee. The appointment must be made in writing.

#### (c) Suspension

During any period when the Trustee is suspended from office under the Relevant Requirements, the trustee of the Fund for the time being will be the Acting Trustee appointed under the SIS Act for that period of suspension.

#### (d) Appointment or retirement

The appointment or retirement of a Trustee must:

- (i) be by notice in writing to the Employer Sponsors; and
- (ii) comply with the Relevant Requirements.

(e) **Transfer of assets**

A retiring Trustee must transfer all assets of the Fund to the new Trustee or its nominee.

### 6.3 Compliance with the Relevant Requirements

The Trustee must:

(a) **Trustee complies with Relevant Requirements**

The Trustee must take all actions necessary to ensure that the Trustee is constituted and governed in compliance with the Relevant Requirements regarding the trusteeship of superannuation funds, including without limitation appropriate action concerning the constitution or other constituent or governing document of the Trustee and the appointment and composition of the directors or other governing body of the Trustee; and

(b) **Election under SIS Act**

The Trustee must elect that the SIS Act is to apply concerning the Fund to the intent that the Fund becomes a regulated fund under SIS and must not revoke that election.

### 6.4 Appointment of Directors

On and from 1 April 2006 or earlier date as the Trustee may declare the rules and procedures for the appointment of member representatives, employer representatives and independent directors to the board of directors of the Trustee and for their removal and the qualifications for office will be the rules set out in the Schedule 1 applicable to the relevant class of director. Schedule 1 and any alteration thereto must be published by the Trustee in a manner that ensures that Members and Employer Sponsors will be aware of the procedure for the appointment and removal of directors.

### 6.5 Trustee discretion

Subject to sub-clauses 1.1 and 1.2 the Trustee in the exercise of the authorities powers duties and discretions vested in the Trustee by the Deed and the Rules will have an absolute and uncontrolled discretion and may exercise or enforce all or any of those authorities powers and discretions from time to time and at any time or may refrain from exercising or enforcing all or any of those authorities powers or discretions for the time being or at all.

### 6.6 Trustee not to act under direction

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

- (a) subjects the Trustee to direction by another person; or
- (b) permits a person to exercise a discretion without the consent of the Trustee,



then the Trustee's consent is required for the giving of the direction or the exercise of the discretion.

## **6.7 Trustee Powers**

### **(a) Management and control of Fund**

Except to the extent expressly provided elsewhere in this Deed, the Trustee has complete management and control of all proceedings, matters and things in connection with the Fund and may do all acts and things the Trustee considers necessary, desirable or expedient for the proper administration, maintenance and preservation of the Fund and in the exercise of the powers and the performance of duties of the Trustee, including without limitation the following specific powers set out in this sub-clause 6.7.

### **(b) Compliance with the Relevant Requirements**

The Trustee has all of the powers necessary to comply with a Relevant Requirement or to do anything authorised by a Relevant Requirement and the Trustee must:

- (i) do, or cause to be done, any matter or thing necessary in order to satisfy any applicable requirement of a Relevant Requirement, including the provision of required information and reports to any Regulator and compliance with any lawful direction of a Regulator; and
- (ii) refrain from doing any matter or thing which would cause a breach of or non-compliance with any applicable Relevant Requirement,

but the Trustee is not liable for doing or failing to do anything contemplated by this clause if and to the extent that, under the Relevant Requirements, the Trustee is relieved from a liability to which the Trustee would otherwise be subject or that might otherwise be imposed on the Trustee under the Relevant Requirements because of that action or failure or where the breach or failure to comply is consented to or permitted by the Regulator.

### **(c) Power to enter into contracts and agreements**

The Trustee may enter into and execute all contracts, agreements, deeds and documents and do all acts matters and things it deems expedient for the purpose of securing the Benefits to be provided by the Fund and for otherwise executing and carrying out the trusts and authorities duties powers and discretions conferred on the Trustee by the Deed and Rules.

### **(d) Power to delegate**

- (i) The Trustee may delegate to any corporation, Committee, person or people on the terms the Trustee thinks fit for the performance of any of the Trustee powers and duties and the exercise of any of the authorities and discretions conferred on it under this Deed or the Rules as long as the delegation is for the purpose of better facilitating the operation and administration of the Fund and that no discretion so delegated will be validly exercised in any given case unless the Trustee has

consented to the exercise, or unless the subject matter of the discretion is one where the delegation of the discretion is permitted by the SIS Act.

- (ii) The Trustee may for the purposes of the delegation deliver to the corporation, Committee, person or people any assets comprised in the Fund and may at any time revoke or vary the delegation and exercise a power or perform a duty in conjunction with or to the temporary or permanent exclusion of a delegate.

(e) **No disqualification from membership**

No director or officer of the Union or of any Employer Sponsor or of the Trustee will because of his office or of powers being delegated by the Trustee to him be disqualified from being a Member or from exercising any rights or deriving any Benefits as a Member and a director of the Trustee who is or is about to become a Member may be counted in a quorum and may vote at any meeting of the directors of the Trustee when the directors are exercising powers according to this Deed or the Rules and may subject to the Relevant Requirements attest the affixing of the common seal of the Trustee despite that he or she is interested in the matter.

(f) **Trustee Expenses**

- (i) All costs and expenses of and incidental to the operation, management, administration and investment of the Fund (including all costs and expenses incurred by the Trustee in and about the provision to the Fund of its services as Trustee) incurred by the Trustee in the administration of the Fund including remuneration of and expenses incurred by employees, officers, delegates, agents or nominees of the Trustee will be paid out of the Fund;
- (ii) All expenses incurred by the Trustee solely for the purpose of enabling the Trustee to determine whether a particular Benefit is payable to or for a particular Member or Beneficiary and to what person or people the Benefit should be paid may be paid out of that Benefit.

(g) **Acting on advice**

In connection with the carrying out of all or any of the trusts and powers in the Deed and the Rules the Trustee may employ or avail itself of the services of professionally qualified people and specialists (including actuaries, stockbrokers, investment consultants, bankers, auditors, accountants and solicitors) and act on their advice and opinion (whether or not that advice or opinion is obtained by the Trustee) or any information obtained from a person on whom it is reasonable to rely concerning any matter or question without being liable in connection with anything done or omitted to be done by the Trustee or a delegate or representative of the Trustee in good faith based on that advice or opinion or information.

(h) **Servants, agents and representatives**

The Trustee may appoint, remove and suspend employees, managers, administrators, agents, representatives, advisers, nominees and custodians and other third parties to

perform such services (whether permanent or temporary) as the Trustee considers appropriate, and in connection with any such appointment, to determine an appointee's duties and conditions of appointment in its absolute discretion, and may remunerate them, so incurring expenses which will be deemed expenses incurred according to sub-clause 6.7(f) above and may revoke or vary an appointment.

(i) **Remuneration of directors**

Subject to the Relevant Requirements the Trustee may employ or avail itself of the services of and may remunerate any director of the Trustee or any firm or corporation in or with which that director is a partner or is otherwise connected in like manner as if he had not been a director. The Trustee may pay from the fund reasonable expenses of a director of the Trustee in connection with that office.

(j) **Payments receipts releases and discharges out of the Fund**

(i) Subject to the Relevant Requirements, the Trustee may pay and advance out of the Fund:

- (A) all fees, costs and expenses and outgoings (including taxation) of and incidental to the management and administration of the Fund;
- (B) its professional fees (if any) for the provision of its services as Trustee of the Fund as determined by the Trustee;
- (C) its fees for the provision of administration services to the Fund as determined by the Trustee; and
- (D) the amount for capital or security as is required and permitted under the Relevant Requirements for the Fund and Trustee.

(ii) The Trustee may make or give receipts, releases and other discharges for moneys payable to the Fund and for the claims and demands of the Fund.

(k) **Bank Accounts**

The Trustee may open bank accounts and make procedures for the operation of bank accounts, including without limitation the signing and endorsing of cheques, giving receipts, releases and other discharges for money payable to the Fund and for the claims and demands of the Fund.

(l) **Undertakings and indemnities**

The Trustee may give an undertaking or indemnity concerning an obligation assumed or undertaken by the Trustee in accordance with this Deed or by a delegate of the Trustee in accordance with the terms and conditions of the delegate's appointment.

(m) **Administrative Flexibility**

The Trustee may subject to the Relevant Requirements make rules and adopt processes, procedures and policies concerning but without limitation, the calculation and rounding-off of contributions, Benefits and earnings, to the determination of periods of time and to any other matters the Trustee may consider appropriate for the convenient administration of the Fund.

(n) **Marketing**

The Trustee may subject to the Relevant Requirements market, promote and advertise the Fund as the Trustee sees fit including but without limitation enter into sponsorship agreements or arrangements.

(o) **Legal Proceedings**

The Trustee has the power to:

- (i) institute, conduct, defend, compound, settle or abandon legal proceedings by or against the Fund or otherwise concerning the Fund or this Deed and also to compound and allow time for payment or satisfaction of a debt due to the Fund and of a claim or demand by or against the Fund (including, without limitation, by making an ex-gratia payment); and
- (ii) refer any dispute involving the Trustee or the Fund, or any claim or demand by or against the Trustee or the Fund, to arbitration, conciliation or mediation and observe and perform any award, determination or recommendation of the arbitrator, conciliator or mediator

(p) **Incidental powers**

The Trustee has the power to do all such other things as may be necessary or incidental to the exercise or performance of the powers or trusts of this Deed or to satisfy its obligations under the Relevant Requirements or give any notices required by the Relevant Requirements.

(q) **Indemnities and protections**

(i) **Trustee's Liability**

Subject to the Relevant Requirements, the Trustee will not be liable for any loss which may be sustained by the Fund or by any Member or former Member or person claiming for any Member or former Member or other Beneficiary except in circumstances where the Trustee cannot be exempted from personal liability under the Relevant Requirements, and is not required to make any payment concerning a Benefit or otherwise except out of the Fund and cannot be liable to any greater extent than the moneys and property comprising the Fund.

(ii) **Indemnification of Trustee and directors**

The Trustee, each director of the Trustee, each former director of the Trustee are exempted from liability subject to the Relevant Requirements and are to be indemnified out of the assets of the Fund for any liability (including without limitation any cost, loss, damage or claim) caused or incurred in any manner (including without limitation negligence) in connection with the office of Trustee or director, as the case may be, to the maximum extent permissible under the Relevant Requirements and to the extent (if any) that they are not indemnified for

liability under any policy of insurance but will not be indemnified for liability in circumstances prohibited under the SIS Act including for a monetary penalty under a civil penalty order made under the SIS Act.

## **Clause 7 – Insurance**

### **7.1 General power to effect insurance**

In accordance with the Relevant Requirements the Trustee may obtain, at the expense of the Fund, one or more Policies concerning the management of the Fund and/or in regard to the provision of Insured Benefits and continue, renew, vary or modify any such Policies for such period as the Trustee thinks fit. A Policy must be on terms and conditions approved by the Trustee and the Trustee must pay all premiums, and be entitled to receive from the Insurance Company all payments, refunds and other moneys concerning the Policy and must dispose of all moneys so received in accordance with this Deed.

### **7.2 Limitations imposed by Insurer**

If at any time:

- (a) the Trustee is of the opinion that it is not reasonably practicable to obtain life Insurance and/or insurance to provide for the death and disablement or other Benefits or to obtain an increase in Insurance or to maintain Insurance in respect of a Member under an Policy on terms acceptable to the Trustee; or
- (b) the Insurance Company for any reason fails to provide or increase, or reduces, terminates or withholds insurance for a Member or refuses to admit a claim for the whole or part of the insurance effected for a Member, or if the Trustee does not receive from the Insurance Company all or part of any Insurance proceeds payable in respect of a Member,

any Benefit payable to or for the Member under this Deed calculated on the assumption that the insurance has been obtained, increased, maintained, provided, not reduced or not terminated and that the claim is admitted and that the insurance is not withheld or that insurance proceeds payable are received by the Trustee from the Insurance Company, must be reduced to the extent that insurance is not obtained or maintained or is not provided or is reduced or terminated or that claim is not admitted for the Member, as the case may be, or where insurance is withheld or insurance proceeds payable are not received by the Trustee from the Insurance Company, will be adjusted accordingly.

### **7.3 Alternative insurance**

If an event provided for in sub-clause 7.2 occurs the Trustee is not bound to seek alternative insurance with the same or another Insurance Company. If the Trustee decides to seek alternative insurance, the Trustee may limit that search to the Insurance Company or Insurance Companies determined by the Trustee.

### **7.4 Conditions of payment of insurance proceeds**

In any case, unless otherwise determined by the Trustee, the amount, time for and basis of payment of all or part of a Benefit in respect of which insurance has been effected must be adjusted in the manner and to the extent necessary to take account of the terms and conditions upon which insurance proceeds are payable.

## **Clause 8 – Investment of Fund**

### **8.1 Investment Strategy**

The Trustee must formulate, give effect to and review an investment strategy for the whole of the Fund in accordance with the Relevant Requirements, and may review or change the investment strategy at any other time.

### **8.2 Investment Options**

The Trustee may subject to the Relevant Requirements:

- (a) establish any number of investment options, each with distinct investment strategies;
- (b) merge or close investment options, or change the investment strategy for an investment option from time to time;
- (c) allow a Member to select the amount of the Member’s Account balance in the Fund to be invested in one or more investment options made available by the Trustee;
- (d) make rules concerning when and how a Member may give the Trustee directions concerning the selection and investment in investment options;
- (e) determine whether and how particular costs and expenses of the fund are to be charged against amounts attributed to a particular investment; and
- (f) so far as practicable, invest amounts attributed to each investment option in accordance with the investment strategy determined by the Trustee for the time being for that investment option.

### **8.3 Default Investment Option**

The Trustee:

- (a) Must determine an investment option to be the investment option in which a Member’s Account balance will be invested to the extent the Member does not make a valid investment option selection under sub-clause 8.2(c) concerning that Account; and
- (b) May change the investment strategy for the investment option determined under this sub-clause 8.3 from time to time.

### **8.4 Investment Option during claims process for Insured Benefits**

If the Trustee has received an application for an Insured Benefit the Trustee may, pending payment of the Insured Benefit (if any) and despite sub-clause 8.2(c) (subject to the Relevant Requirements),

switch the investment option in which the Member's Account was invested at the date the application for the Insured Benefit was received to an investment option that the Trustee selects.



## 8.5 Authorised Investments

Subject to compliance with the Relevant Requirements all moneys of the Fund which are not directly required for any other purpose must as soon as practicable be invested in such investments or property, whether involving liability or not and whether producing income or not, or upon such personal credit with or without security as the Trustee thinks fit and without in any way limiting the generality of the foregoing:

- (a) in any investment authorised by the laws of the Commonwealth of Australia or of any of its States or Territories for the investment of trust moneys;
- (b) deposit with any trading or savings bank in Australia or with any dealer authorised or approved by the Reserve Bank of Australia to operate in the official short term money market, or with any company;
- (c) in debentures of or preference or ordinary shares or stock in or registered notes (secured or unsecured) issued by any company whether quoted on the official list of the Australian Stock Exchange Limited or not;
- (d) in the units, sub-units or other fractional interests howsoever called and whether divided or undivided in any unit trust or other fund in the nature of a unit trust;
- (e) in or upon policies of assurance or insurance on the life of any person;
- (f) in making, drawing, accepting, endorsing, discounting and issuing promissory notes bills of exchange and other negotiable or transferable instruments without any qualification as to bank acceptance or otherwise;
- (g) in the acquisition or upon the security of real estate;
- (h) in the acquisition of options to purchase or other limited interests in any real or personal property;
- (i) in hedging contracts, futures contracts and other financial instruments;
- (j) in share price index futures contracts or options on share price index futures contracts;
- (k) in currency futures contracts or options in currency futures contracts, spot and forward foreign exchange agreements;
- (l) in swap agreements relating to income streams from physical or derivative investments, including (without limitation) interest rate or currency swaps;
- (m) in the hedging of any agreements contracts or options;
- (n) in bonds or securities;
- (o) in the lending of securities to a bank as defined in the *Banking Act 1959 (Commonwealth)*; or

(p) in any other investment which the Trustee may from time to time think appropriate.

## **8.6 Sale, acquisitions and other dealings with investments**

The Trustee may from time to time:

- (a) sell or get in any such investments or property and vary or transpose them for other investments or property of any of the classes specified in sub-clause 8.5; and
- (b) enter into and perform agreements in connection with the acquisition of, management of, rights and obligations of ownership of, disposal of, and otherwise concerning any such investments or property.

## **8.7 Underwriting**

The Trustee may underwrite or sub-underwrite, or join with others in underwriting or sub-underwriting, the subscription of any of the authorised investments under this Deed and may, in exercise of the Trustee's powers of delegation under sub-clause 6.7(d), give to any investment manager appointed under sub-clauses 6.7(c) or (h) (as the case may be) general authority to enter into and carry out underwriting or sub-underwriting agreements and the like whether for the Fund alone or for the Fund in conjunction with other funds and institutions.

## **8.8 Investments subject to restrictions under Relevant Requirements**

To the extent permitted by the Relevant Requirements the Trustee:

- (a) may mix investments with investment of other people or trusts as if it were dealing with its own property;
- (b) may make a loan or give financial assistance to a person; and
- (c) may borrow or raise money up to any amount and may secure payment or repayment in a manner which it thinks fit.

## **Clause 9 – Reserves**

### **9.1 Establishment of Reserve Account**

The Trustee may (and must if required by the Relevant Requirements) establish in connection with the Fund one or more accounts as reserve accounts (each, a **Reserve Account**).

### **9.2 Purpose of Reserve Account**

Subject to the Relevant Requirements, the Trustee may determine the purposes for which a Reserve Account established under sub-clause 9.1 may be used, and the credits, debits or other adjustments that may be made to that Reserve Account.

### **9.3 Closure or merger**

Subject to the Relevant Requirements the Trustee may close or merge any one or more of the Reserve Accounts established under sub-clause 9.1 as the Trustee considers appropriate. If the Trustee closes a Reserve Account the Trustee may apply the balance in any way which, in the Trustee's opinion, enables the Fund to be more conveniently, advantageously, efficiently or economically administered, promoted or invested.

## **Clause 10 – Accounts and Audit**

### **10.1 Appointment of Auditor**

The Trustee must appoint an Auditor of the Fund. The Trustee may remove the Auditor and appoint another person as Auditor. Each appointment of Auditor will be on terms determined by the Trustee and in accordance with the Relevant Requirements.

### **10.2 Accounts and audit records**

#### **(a) Proper records and account**

The Trustee must cause proper books of record and account to be kept showing all dealings with the assets of the Fund. The Trustee must maintain the accounting records in such manner as will enable the preparation of financial statements.

#### **(b) Records**

The Trustee must keep records for the Fund:

- (i) of the matters;
- (ii) for the period; and
- (iii) in the manner,

prescribed by the Relevant Requirements.

#### **(c) Financial statements**

For each financial year the Trustee must prepare financial statements for the Fund which comply with any Relevant Requirements and must lodge statements with APRA within the time required under the Relevant Requirements.

#### **(d) Appointment of Auditor**

The Trustee must appoint an Auditor to provide audit services concerning the Fund and promptly fill any vacancy in the position of Auditor.

#### **(e) Removal of Auditor**

The Auditor may be removed by the Trustee.

#### **(f) Duties of Auditor**

The Trustee must ensure that, for each financial year, the Auditor:

(i) audits the accounts and records of the Fund in accordance with the Australian Auditing Standards and the Relevant Requirements; and

(ii) reports in writing in the approved form to the Trustee,

within the time required under the Relevant Requirements.

(g) **Trustee obligations**

The Trustee must subject to the Relevant Requirements concerning the keeping and retention of records maintain any records and accounts specified in this Deed and may maintain any other records and accounts as the Trustee considers necessary or desirable.

(h) **Retention of records and accounts**

The Trustee must retain the records, accounts and statements referred to in this clause for at least 7 years (or such greater period as may be required under the Relevant Requirements) after the end of the year of income to which they relate.

**Clause 11 – Notices and Information**

**11.1 Giving of Notice**

A Notice given for the purpose of this Deed will be deemed to have been validly given if it is:

(a) given personally to the person to be served; or

(b) posted by prepaid ordinary mail addressed to the last known address and, if so posted, will be deemed to have been given three (3) days after the date of posting;

(c) sent by facsimile to the facsimile number of the addressee and, if so sent, will be deemed to be received on the day it is sent (if sent before 5pm on a Business Day) and otherwise on the next Business Day at the place of receipt;

(d) sent by email to the email address of the addressee and, if so sent, will be deemed to be received on the day it is sent (if sent before 5pm on a Business Day) and otherwise on the next Business Day at the place of receipt; or

(e) in the case of a notice or information required to be given under the Relevant Requirements, given in a manner permitted by the Relevant Requirements.

**11.2 Trustee to give information**

The Trustee must give:

(a) each Member;

(b) each Employer Sponsor;

- (c) each Regulator;
- (d) the trustee of, or any other person responsible for, any Approved Benefit Arrangement to which a Member's Benefits have been transferred; and
- (e) any other person;

information which is required to be given under the Relevant Requirements at a particular time.

### **11.3 Trustee duty to keep Members informed**

Sub-clause 11.2 does not limit the Trustee's duty and powers to keep Members informed.

### **11.4 Validity**

No accidental failure or omission to give information will affect the validity of any Act or proceedings.

## **Clause 12 – Employers Sponsors**

### **12.1 Admission by agreement with Trustee**

The Trustee may enter into an agreement in such form acceptable to the Trustee with any person the Trustee deems desirable and convenient to include in the Fund as an Employer Sponsor. Subject to the terms of an agreement, any Employee of an Employer Sponsor is eligible to join the Fund subject to the terms of this Deed.

### **12.2 Acceptance and rejection of applications**

#### **(a) Date becomes a participating Employer Sponsor**

An Employer Sponsor will become a participating Employer Sponsor on the day the Trustee accepts its application or on such other earlier or later date as may be notified by the Trustee.

#### **(b) Trustee may accept or reject**

The Trustee may accept or reject an application in its absolute discretion and is not required to give reasons for its decision or non-decision to any person.

### **12.3 Admission without Application or Agreement with Trustee**

In circumstances permissible under the Relevant Requirements the Trustee may admit a person to participate in the Fund as an Employer Sponsor without requiring an application or agreement by that person with the Trustee and may admit Employees of that Employer Sponsor as Members of the Fund and accept contributions from that Employer Sponsor for such Members.

### **12.4 Employer Sponsors bound by Deed**

An Employer Sponsor will be deemed to have consented to be bound by this Deed.

**Clause 13 – Membership**

**13.1 Eligibility for membership**

A person becomes eligible to apply for membership in the circumstances provided in Rule 2.

## **13.2 Application for Membership**

Application for membership will be made in a form acceptable to the Trustee and in accordance with the Relevant Requirements, but the Trustee may dispense with an application:

### **(a) Successor Fund Transfer**

in the case of a person whose benefits will be transferred to the Fund with the approval of the Trustee and in accordance with the requirements of regulation 6.29(1)(c) of the *SIS Regulations*; and

### **(b) Membership without application**

in relation to any other person or class of persons if it so determines (whether subject to other conditions or not), unless that is contrary to the Relevant Requirements.

## **13.3 Trustee not bound to accept Member**

The Trustee is not bound to admit a person as a Member merely because the applicant is eligible for membership.

## **13.4 Trustee determines date of acceptance**

If the Trustee accepts an application for membership, whether made by an intending Member or by an Employer Sponsor on his or her behalf, the applicant will be admitted as a Member from a date determined by the Trustee.

## **13.5 Failure of Member to provide information**

If a Member fails to provide information or evidence as and when required by the Trustee and to its satisfaction, the Trustee may refuse to accept any further contributions from the Member or from any person in respect of that Member.

## **13.6 Member to provide information**

Every applicant, every Member and every person in receipt of or claiming a Benefit from the Fund must give to the Trustee such information and produce such documents as the Trustee requires.

## **13.7 Member Accounts**

The Trustee must establish and maintain within the Fund a separate Member's Account for each Member. The Trustee may maintain sub-accounts within a Member's Account for any purpose, for any period and upon any conditions the Trustee considers appropriate.

## **13.8 Member Records**

Each Member of the Fund must be identified in the books and records relating to the Fund as a Member.

### **13.9 Members bound by this Deed and the Rules**

Each person, on admission as a Member, is deemed to have approved of and becomes bound by this Deed and the Rules.

## **Clause 14 – Amendments**

### **14.1 Power to amend**

Subject to the Relevant Requirements and this clause 14 the Trustee may with the approval of the Union by deed amend, add to or revoke or replace (collectively “vary”) all or any of the provisions of this Deed and the Rules including this clause, with effect from such date (whether before, on or after the date on which the amending deed is executed) as may be specified in the amending deed, as the Trustee sees fit.

### **14.2 Variations binding on Employer Sponsors and Members**

Subject to this clause 14 each variation made under sub-clause 14.1 is binding on each Employer Sponsor, each Member and any other person claiming under or bound by this Deed.

### **14.3 No variation allowing payment to Employer Sponsor**

Despite sub-clause 14.1 a variation may not authorise the making of any payment to an Employer Sponsor out of the Fund except as permitted by the Relevant Requirements.

### **14.4 Variations not permitted**

Despite sub-clause 14.1, unless the Relevant Requirements permit, no variation will be made:

- (a) to alter adversely the amount of or the right or claim of any Member or Members to, accrued Benefits; or
- (b) which has the direct effect of increasing the contributions required to be made by an Employer Sponsor and is not required to ensure this Deed complies with the Relevant Requirements, is not effective against that Employer Sponsor until the Trustee has obtained the consent of the Employer Sponsor; or

Unless:

- (c) the Benefits so affected by the amendment are not Minimum Benefits and either all Members affected by the amendment or the Regulator have consented thereto in writing; or
- (d) the amendment is necessary to comply with the Relevant Requirements; or
- (e) so that an individual person would be eligible to be appointed as trustee either in addition to, or in substitution for, a Constitutional Corporation.



## **Clause 15 – Winding Up of Union or Employer Sponsor**

### **15.1 Ceasing to carry on business**

If the Union or any Employer ceases to carry on business from any cause whatever or an order is made or an effective resolution passed for its winding up (unless for the purpose of reconstruction or amalgamation and the new entity then formed has the power to, and agrees with the Trustee to, take the place of the Union or that Employer Sponsor in the Fund) and if as a result the employment of any Employer Sponsored Member or Employer Sponsored Members is terminated and the Employer Sponsored Member does not transfer to the employment of another Employer Sponsor or maintain membership under Public Offer Arrangements, Rule 9 will apply.

### **15.2 Transfer of Members between Employer Sponsors**

If on the termination of the employment of any Employer Sponsored Member in the circumstances described in sub-clause 15.1 and the Employer Sponsored Member transfers to the employment of another Employer Sponsor within the time provided in that Rule, sub-Rule 24.1 will apply.

## **Clause 16 – National Scheme**

If in Australia there comes into operation any compulsory scheme for national insurance or any other scheme under which any Member or Employer is required to pay an amount either directly or indirectly to secure for or concerning that Member any benefits similar to any provided under the Deed and the Rules then the Trustee may at any time determine that the Employer and the Member will be relieved of the obligation to pay their respective contributions under the Deed and the Rules to the extent determined by the Trustee but not exceeding the amount to be paid by the contributors respectively under that scheme to provide those benefits and thereupon the Benefits payable to or concerning that Member under the Deed and the Rules will be reduced or modified as the Trustee determines.

## **Clause 17 – Minors and Infirm Persons**

### **17.1 Definition of “beneficiary”**

In this clause “beneficiary” means:

- (a) a minor who becomes entitled to a Benefit; or
- (b) any other person who becomes entitled to a Benefit if the Trustee considers, for any reason whatsoever, that it is in the Member's interests that this clause 17 should apply.

### **17.2 Reasons include mental or physical infirmity**

Without limiting the generality of sub-clause 17.1(b), the reasons referred to in that clause include, but are not limited to, mental or physical infirmity.

### **17.3 Trustee under no duty**

The Trustee is not under any duty to have recourse to sub-clause 17.1(b) or to consider whether recourse should be had to that clause, although the Trustee may have actual notice of any such infirmity or other reason.

**17.4 Application of Benefit to maintenance or education of beneficiary**

Subject to the Relevant Requirements, the Trustee may apply the Benefit to which a beneficiary is entitled, or any part of the Benefit of the beneficiary towards the maintenance, education or advancement or otherwise for the benefit of the beneficiary.

**17.5 Payment to Trustee**

Subject to the Relevant Requirements, for the purposes of applying a Benefit under sub-clause 17.4 the Trustee may, at such time and in such manner and amount as the Trustee determines, pay any moneys or transfer any property to any person who, in the Trustee's opinion, is a trustee for, or has the custody or control for the time being of, the beneficiary. The receipt of such a person is a sufficient discharge to the Trustee and the Trustee is not bound to see to the application of any sums paid to that person.

**17.6 Investment of residual Benefit**

Where only part of the Benefit to which a beneficiary is entitled is applied pursuant to sub-clause 17.4 the trustee must invest the remainder of that Benefit in accordance with this Deed and must treat the income from that investment as an accrual to the Benefit to which the beneficiary is entitled.

**Clause 18 – Incapacity and Bankruptcy**

**18.1 Forfeiture of Benefit**

Where, in the opinion of the Trustee, a Member becomes insane or incapable for any reason of managing the Member's affairs, the Member's interest in the Fund or any Benefit that is, or becomes, payable to or in respect of the Member may be determined and forfeited to the Fund and neither the Member nor any person claiming under or through the Member will have any further claim or right concerning that interest or Benefit. This clause 18 does not apply to a Member to whom it might otherwise apply on the grounds that the Member is less than 18 years of age.

**18.2 Bankruptcy**

Where a Beneficiary becomes bankrupt or commits an act of bankruptcy, then all Benefits that become payable, or have become payable but have not been paid or applied, may be determined and forfeited to the Fund.

**18.3 No further claim on forfeited Benefit**

No Beneficiary whose Benefit is determined and forfeited under sub-clause 18.2 and no person claiming under or through the Member will have any further claim or right concerning that Benefit against the Trustee.

**18.4 Application of forfeited Benefit**

The Trustee may, subject to the Relevant Requirements, apply all or part of the forfeited interest or Benefit for the benefit of:

- (a) the former Member; or
- (b) the former Member's Dependants; or
- (c) a combination of the former Member and one or more of the former Member's Dependants,

in each case to the exclusion of the other or others and in such manner and proportions as the Trustee determines but it will not be incumbent upon the Trustee to do so.

#### **18.5 Forfeited Benefit remains in the Fund**

The forfeited Benefit may remain in the Fund and be applied by the Trustee in accordance with Rule 20, and if so it must be applied by the Trustee within any period prescribed by the Relevant Requirements.

#### **18.6 Forfeiture subject to Relevant Requirements**

An amount may only be forfeited under sub-clauses 18.1 or 18.2 to the extent permitted by the Relevant Requirements and the *Bankruptcy Act* 1966 and any other Law.

### **Clause 19 – Enquiries and Complaints**

#### **19.1 Procedures**

The Trustee must establish and maintain a procedure to facilitate the processing of inquiries and complaints made in accordance Section 101 of the SIS Act.

#### **19.2 Alteration or amendment of procedures**

The Trustee may alter or amend the said procedures at any time as the particular case may require to better facilitate a response to an inquiry or the resolution of a complaint made in accordance with sub-clause 19.1.

#### **19.3 Reconsider a decision**

The Trustee may reconsider any decision made by which such Member or person is affected having regard to any inquiry or complaint and to the procedures referred to in sub-clause 19.1 and may in its absolute discretion reaffirm alter or set aside such decision and in the latter case may substitute a new decision.

### **Clause 20 – Availability of Deed**

A copy of the Deed and Rules must be kept at the registered office of the Trustee and the Union and at each office of the Trustee and the office of each Branch of the Union and must be made available to every officer and delegate within the Union and to every Member, Employer Sponsor or other person entitled under the Relevant Requirements.

## Clause 21 – Applicable Law

This Deed and the Rules must be governed and construed and must take effect in accordance with the laws of the State of Victoria. The Employer Sponsors, Trustee, Members and Beneficiaries must accept the jurisdiction of the Courts of the State of Victoria.

## Clause 22 – Closure of Fund

### 22.1 Resolution to close the Fund

Despite any other provision of this Deed or the Rules if:

- (a) every Employer Sponsor ceases to participate in the Fund; or
- (b) the Trustee determines that it has become impracticable or that it is not expedient to continue the operation of the Fund,

then subject to the Relevant Requirements the Trustee may resolve to close the Fund with effect from the date (being on or after the date on which the Trustee resolves to close the Fund (“**the closure date**”)) as it determines and must give each Member, the Union and each Employer Sponsor notice in writing to that effect.

### 22.2 Provisions to apply from closure date

On and from the closure date the following provisions will apply:

- (a) no further Employer Sponsors will be admitted to participate in the Fund;
- (b) no further Members will be accepted;
- (c) no further contributions will become payable to or be accepted by the Fund other than those due up to the closure date; and
- (d) all arrears of contributions will be called in.

### 22.3 Provisions to apply after closure date

#### (a) Application of residual assets

As soon as practicable after the closure date, and after allowance as the Trustee considers appropriate for costs, expenses and taxation liabilities incurred or which the Trustee reasonably expects are likely to be incurred in terminating the Fund or which are incidental to termination, and all remaining assets must be applied for the benefit of the then remaining Members and/or their Dependents or other Beneficiaries in such manner as the Trustee considers equitable and appropriate in accordance with the Relevant Requirements:

- (i) there shall be no claim on the Fund or the Trustee by or in respect of any Member otherwise than as provided for in this clause; and

- (ii) if the Trustee considers it appropriate to transfer the Benefits to which the Members are entitled to another Approved Benefit Arrangement then it will be empowered to do so without consent of the Members, on a Successor Fund Transfer basis in accordance with the Relevant Requirements.

(b) **Non-receipt of notice**

The non-receipt by an Employer Sponsor or a Member of a notice of closure or termination will not in any circumstances render that notice void, voidable or unenforceable or render the Trustee liable in any way.

(c) **Release of Trustee**

On the payment, rollover or transfer (whether by successor fund transfer or with member consent) to another Approved Benefit Arrangement of the whole of a Member's Benefits in the Fund then that Member will cease to be a Member and the Trustee will be released and discharged from all liability to or for that Member or any Beneficiary.

**Clause 23 – Policy Committee**

**23.1 Establishing Policy Committee**

If the Relevant Requirements require it or the Trustee thinks it desirable the Trustee will take reasonable steps to establish a Policy Committee consisting of representatives of Employers or of the interests of Employers and of the Union.

**23.2 Equal representation**

Any Policy Committee must consist of equal numbers of Employee and Employer Sponsor representatives.

**23.3 Functions**

The functions of each Policy Committee will be those provided for in the Relevant Requirement and the other functions as may be determined by the Trustee.

**23.4 Withdrawal or termination of Policy Committee**

The Trustee may, by written instrument in writing, withdraw or terminate the appointment of a Policy Committee member.

**23.5 No power to give directions**

A Policy Committee is not permitted to give directions to the Trustee or limit in any way the functions or responsibilities of the Trustee.

**Clause 24 – Committees**

**24.1 Establishing Committee**

The Trustee must if required by the Relevant Requirements, and otherwise may from time to time, establish one or more other committees for any particular purpose or purposes.

**24.2 Particular purpose**

If the Trustee is required by the Relevant Requirements to establish a Committee for a particular purpose, the Committee must be constituted and given the powers as required by the Relevant Requirements.

**24.3 Equal representation**

Committees must have equal numbers of Employer Sponsor and Employee director representatives and comply with the Relevant Requirements and the terms and conditions determined by the Trustee to apply to the powers and operation of the Committee.

## SCHEDULE 1 – THE RULES

28/06/94  
03/12/98  
26/10/05

### Rule 1 – Definitions and Interpretation

#### 1.1 Definitions

The following definitions apply for the purposes of the Deed and these Rules unless the contrary intention appears:

“**Account Based Pension**” has the meaning given to it in the SIS Act and is the pension payable under Rule 7;

“**Binding Death Benefit Nomination**” means a notice given in accordance with sub-regulation 6.17A(4) of the SIS Regulations;

“**Class**” means, concerning membership in the Fund, a class of Member referred to under sub-Rule 2.1;

“**Eligible Spouse**” means a person who is the spouse of another person for the purposes of Subdivision 290D of Division 290 of Part 3-30 of the Tax Act;

“**Eligible Spouse Contributions**” has the same meaning as in regulation 1.03(1) of the SIS Regulations;

“**Government Co-contribution**” has the meaning given to it under the *Superannuation (Government Co-Contribution for Low Income Earners) Act 2003*;

“**Legal Personal Representative**” has the same meaning as in the SIS Act;

“**Mandated Employer Contributions**” has the same meaning as regulation 5.01(1) of the SIS Regulations;

“**MySuper Product**” has the same meaning given to that term in section 10(1) of the SIS Act;

“**Non-member spouse**” will have the same meaning as in section 90MD of the *Family Law Act 1985*;

“**Normal Retirement Date**” means the Member's Preservation Age;

“**Payment Split**” means a payment split under Part VIII B of the *Family Law Act 1975*;

“**Payment Splitting Standard**” means the standard applicable to satisfying payment splits, as set out in Part 7A of the SIS Regulations;

“**Pension**” includes an annuity;

“**Pension Account**” means an account established by the Trustee under Rule 7;



**“Pension Members”** means a person in receipt of an Account Based Pension or a Transition to Retirement Pension;

**“Preservation Age”** concerning a Member has the meaning given to that term in the SIS Regulations;

**“Release Authority”** means a release authority given to the Trustee under section 292-410 of the Tax Act;

**“Salary Continuance Benefit”** means the Insured Benefit payable on Total and Temporary Incapacity under Rule 13;

**“Splittable Contribution”** has the same meaning as given to that term in regulation 6.40 of the SIS Regulations;

**“Spouse”** has the meaning given to that term in section 10 of the SIS Act;

**“Spouse Contribution-Splitting Amount”** has the same meaning given to that term in sub-Rule 5.3A;

**“Total and Temporary Incapacity”** has the same meaning given to that term in sub-Rule 13.1;

**“Terminal Illness”** has the same meaning given to that term or similar terms including terminal medical condition in any policy of insurance held by the Trustee for, or that extends to, the terminal illness of Members whether a group policy or individual policy at the time of the incidence of the terminal nature of the illness, or in the absence of such a Policy will have the same meaning as “terminal medical condition” in the SIS Regulations;

**“Total and Permanent Disablement”** will have the same meaning given to that term in the SIS Regulations except where at any time all or part of the Benefit payable in the event of Total and Permanent Disablement is insured with an Insurance Company, the term “Total and Permanent Disablement” will have the meaning given to it in the relevant Policy in lieu of the above definition unless the Trustee in its absolute discretion otherwise determines;

**“Transition to Retirement Pension”** has the same meaning as the definition of transition to retirement income stream in regulation 6.02(2) of the SIS Regulations and is the pension payable under sub-Rule 7.5.

## 1.2 Interpretation

- (a) A reference to Member includes a Spouse Member regardless of whether the Spouse Member is an Employee.
- (b) A Member may be a member of more than one Membership Class at the same time if the Rules permit.

## Rule 2 – Membership

### 2.1 Classes

The Fund consists of the following Classes of Membership:

- (a) Employer Sponsored Members;
- (b) Public Offer Members which include Spouse Members.

## 2.2 Transfers

A Member may be transferred from one class of membership to another Class for which the Member is eligible with the consent of the Member or at the discretion of the Trustee on becoming aware that a Member is no longer eligible to remain in their current Membership Class.

## 2.3 Transfer to Public Offer

An Employer Sponsored Member must become a Public Offer Member if he or she gives notice to the Trustee indicating he or she intends claiming a personal tax deduction in respect of a contribution made to the Fund.

## 2.4 Employer Sponsored Members

### (a) Application for Membership

The Trustee will determine the manner and form of an application for Membership and the date on which Membership commences in accordance with sub-clause 13.4.

## 2.5 Spouse Members

### (a) Application for Membership

Spouse Members are those persons for whom the Trustee has accepted an application by his or her Spouse (at a time when the Spouse is a Member of the Fund) for that person's admission to the Fund as a Spouse Member in a form approved by the Trustee. The application must be in such form and accompanied by such declarations as the Trustee prescribes or accepts and upon acceptance of such application by the Trustee the Membership of the Spouse Member will be deemed to have commenced from that date.

### (b) Spouse Member Accounts

- (i) The Trustee must establish and maintain a separate Spouse Members' Account for each Spouse Member;
- (ii) For all purposes of the Deed and these Rules, a Spouse Member's Benefits must be preserved within the meaning of the SIS Act;
- (iii) A Spouse Member's preserved Benefits in his or her account in the Fund adjusted in accordance with Rule 6.3 must be paid by the Trustee subject to the Relevant Requirements:
  - (A) on the death of the Spouse Member as provided for in Rule 7;
  - (B) in the case of a Spouse Member who has not at any time been gainfully employed on Normal Retirement Date;
  - (C) in the case of a Spouse Member who has, at any time, been gainfully employed on retirement and Normal Retirement Date;

- (D) on the Spouse Member satisfying any other condition of release or entitlement to receipt of the Benefits provided for under the Relevant Requirements.

(c) **Contributions**

(i) **Contributions by Spouse Member's Spouse**

Contributions may be made for a Spouse Member:

- (A) by his or her Spouse; or
- (B) as directed by his or her Spouse;

Subject to:

- (C) where applicable, consideration of the Relevant Requirements concerning Eligible Spouse Contributions as the Trustee determines; or
- (D) where applicable, consideration of the Relevant Requirements concerning Spouse Contribution-Splitting Amounts as the Trustee determines; or
- (E) the Spouse Member's Spouse having certified that he or she is or was the Spouse of the Spouse Member at the time the Eligible Spouse Contributions or Spouse Contribution-Splitting Amounts are or were made; or
- (F) such other conditions as the Trustee determines.

(ii) **Contributions by the Spouse Member**

Subject to the approval of the Trustee and such conditions as the Trustee determines contributions may be made by or for the Spouse Member in accordance with the Relevant Requirements.

(d) **Cessation of Spouse Membership**

In addition to the circumstances referred to in Rule 3 a Spouse Membership will also cease if a Spouse Member is neither an Eligible Spouse nor a Spouse of another Member, and no further Eligible Spouse Contributions or Spouse Contribution-Splitting Amounts will be accepted by the Trustee for the Spouse Member and the Spouse's Membership in the Fund will be reclassified by the Trustee to another Membership Category within the Fund for which the Spouse Member is eligible.

(e) **Benefit payments in accordance with the Relevant Requirements**

The Trustee must make payments from a Spouse Member's Account subject to and in accordance with the Relevant Requirements.

## 2.6 Public Offer Members

Despite any other provision of this Deed and these Rules:

(a) **Eligibility**

For the purposes of Public Offer Membership, a person is eligible for admission as a Public Offer Member if they are eligible under the SIS Act to be a member of a regulated superannuation fund but are not eligible for any other class of membership referred to in Rule 2.1, except Spouse Members who are also Public Offer Members.

(b) **Applications**

Subject to clause 13.4, the Trustee may require a person to complete an application in a form approved by the Trustee before becoming a Public Offer Member, but may admit a person as a Public Offer Member without an application form if permitted by the Relevant Requirements.

(c) **Contributions by or for Public Offer Members**

Each Public Offer Member may make contributions in such manner as the Member determines and the Trustee accepts from time to time. The Trustee accepts all the contributions made in accordance with this Deed and which are consistent with the Relevant Requirements.

(d) **Benefits**

Public Offer Member Benefits may be paid by the Trustee subject to the Relevant Requirements and as permitted by this Deed.

(e) **Payment of commission and brokerage**

The Trustee must comply with the Relevant Requirements in relation to the payment of commission and brokerage or application or Public Offer Membership and applications to become an Employer Sponsor.

(f) **Application of Deed**

This Deed and Rules will apply to Public Offer Members so far as the context so admits and to the extent practicable, subject to the provisions of this Rule.

## 2.7 Pension Members

(a) **Eligibility**

Subject to Rule 7 the Trustee may admit any natural person as a Pension Member of the Fund as long as this is permitted by the Relevant Requirements.

(b) **Application**

The Trustee may require a person to complete an application in a form approved by the Trustee, before becoming a Pension Member.

**2.8 Medical Examination**

The Trustee may from time to time require any Member or any person who has applied to become a Member of the Fund to be medically examined and may require proof to its satisfaction of his or her age and of any statement by an applicant in his or her application for admission.

**2.9 Members bound by Deed and Rules**

Every person being or becoming a Member will be deemed to have approved of and be bound by the Deed and the Rules.

**Rule 3 – Cessation of Membership**

A person ceases to be a Member on:

- (a) the Member's Benefits under this Deed and the Rules being paid in full;
- (b) the transfer or rollover of the whole of the Member's Benefits out of the Fund under this Deed and the Rules or the Relevant Requirements;
- (c) the Member's entitlement to Benefits being terminated; or
- (d) there being insufficient funds in the Member's account for the payment of fees or insurance premiums which are due and payable in accordance with this Deed,

whichever occurs first but provided a Member remains a Member of the Fund until such time as any claim for an Insured Benefit has been finalised.

**Rule 4 – MySuper Products**

Despite any other provision in this Deed and the Rules:

(a) **One or more MySuper Products**

The Trustee may seek authority to offer one or more classes of beneficial interest in the Fund as one or more MySuper Products.

(b) **Trustee's Powers**

Subject to the Relevant Requirements, the Trustee may do all acts, matters and things as in the opinion of the Trustee are necessary or desirable to maintain an authorisation to offer a class of beneficial interest in the Fund as a MySuper Product.

(c) **Compliance with the Relevant Requirements**

Without limiting clause 1.1, if the Trustee offers a MySuper Product in the Fund, the Trustee must do all things necessary to comply with Relevant Requirements applicable to that MySuper Product.

**(d) Compliance with specific MySuper obligations**

Without limiting the generality of sub-Rule 4(c), if necessary to comply with the Relevant Requirements, the Trustee must:

- (i) adopt a single diversified investment strategy in relation to assets of the Fund to the extent those assets are attributed to the MySuper Product;
- (ii) provide all Members who hold the MySuper Product with access to the same options, Benefits and facilities;
- (iii) attribute amounts in relation to Members who hold that MySuper Product in a way that does not stream gains or losses that relate to any assets of the Fund to only some of those Members, provided that where consistent with the Relevant Requirements gains and losses may be streamed to different subclasses of Members who hold the MySuper Product:
  - (A) on the basis, and only on the basis, of the age of those Members;
  - (B) on the basis of the age of those Members and other factors prescribed under SIS; or
  - (C) on the basis of the age of those Members and other factors prescribed under SIS in circumstances prescribed under SIS,
- (iv) use the same process to attribute amounts to Members who hold the MySuper Product, except where a different process is permitted under the Relevant Requirements;
- (v) not limit the source of kind of contributions that may be made by or on behalf of a Member who holds the MySuper Product, other than as required or permitted by the Relevant Requirements;
- (vi) comply with any applicable requirement under the Relevant Requirements about the charging of fees in relation to the MySuper Product;
- (vii) not replace a Member's interest in the MySuper Product with a beneficial interest of another class in the Fund, unless:
  - (A) the replacement is with an interest in another MySuper Product within the Fund;
  - (B) the Member who holds the MySuper Product consents in writing to that replacement;

- (C) the Member who held the interest has died and the interest is replaced with a beneficial interest of another class in the Fund of a kind, and in the circumstances, permitted by the Relevant Requirements; or
  - (D) the replacement is otherwise permitted, or is required, by the Relevant Requirements,
- (viii) not replace a Member's interest in that MySuper Product with a beneficial interest in another superannuation entity unless:
- (A) the interest in that other superannuation entity is a MySuper Product and the replacement is permitted under a law of the Commonwealth;
  - (B) the Member who holds that MySuper Product consents in writing to the replacement and the replacement is permitted under the Relevant Requirements; or
  - (C) the replacement is otherwise permitted, or is required, under a law of the Commonwealth, and
- (ix) not pay a pension out of any assets of the Fund to the extent the assets are attributable to the MySuper Product, unless permitted or required under the Relevant Requirements.

## **Rule 5 – Contributions**

### **5.1 Employer Contributions**

An Employer may, with the agreement of the Trustee, contribute to the Fund in respect of a Member such amount as determined from time to time by the Employer Sponsor. Contributions by an Employer Sponsor may be paid to the Trustee in such manner and at such times as agreed between the Trustee and the Employer or the Trustee and Member as appropriate.

### **5.2 Member Contributions**

Each Member must pay to the Trustee contributions as the Member may agree on; the contributions if any may be paid directly by the Member or may be deducted from the wages of an Employer Sponsored Member by the Union or Employer Sponsor and be paid to the Trustee on the Member's behalf or will be paid by the Union, any Employer Sponsor or the Member or on the Member's behalf in any other manner as the Member and the Trustee may agree.

### **5.3 Eligible Spouse Contributions**

An Employer Sponsored Member may pay for his or her Eligible Spouse to the Trustee Eligible Spouse Contributions as the Employer Sponsored Member from time to time agrees with the Trustee to pay for his or her Eligible Spouse. A Member may pay and the Trustee may accept the Eligible Spouse Contributions as are permitted by the Relevant Requirements. The Trustee may also accept the Eligible Spouse Contributions for the Employer Sponsored Member or Spouse Member as may from time to time be permitted by the SIS Act and be agreed by the Trustee.



### 5.3A Spouse Contribution-Splitting Amount

A Member may apply to the Trustee to roll over, transfer or allot to their Spouse's Member Account, for the benefit of their Spouse, an amount of benefits that is equal to an amount of the Splittable Contributions made to the Fund by, for, or on behalf of the Member pursuant to Division 6.7 of the SIS Regulation (**Spouse Contribution-Splitting Amount**). The Trustee may accept and give effect to the application where this is permitted by the Relevant Requirements.

### 5.4 Other Contributions

The Trustee may accept for a Member a Government Co-contribution or Low Income Superannuation Contribution made under the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003* and any other contributions or amounts as are permitted by the Relevant Requirements for a Member.

## Rule 6 – Accounts of Members

### 6.1 Establishment of Member Accounts

For the purposes of determining the Benefits to which a Member may become entitled, the Trustee must establish and maintain or cause to be established and maintained a Member Account for each Member. The Trustee must allocate the contributions to and for the benefit of the Member for whom the contributions are made. A separate Account should be kept by the Trustee in the books of the Fund for each Member for whom contributions will be allocated or made. Amounts credited, allocated or contributed by or for any Member may be invested by the Trustee separately or as a common fund along with amounts credited allocated or contributed by or for any or all other Members.

### 6.2 Credits to Members Accounts

Subject to this Deed and the Relevant Requirements there will be credited to each Member's Account the following:

- (a) all contributions to the Fund made by or for a Member including without limitation Eligible Spouse Contributions, Government Co-contributions and Low Income Superannuation Contributions after deduction of such tax, duty or other impost (if any) as the Trustee determines to be or that may become payable concerning those contributions;
- (b) the amounts allocated to the Member's Account for investment earnings (if positive) in accordance with sub-Rules 8.2 and 8.3;
- (c) the amount received of insurance proceeds (if any) under any policy of assurance or insurance on the Member's life or disability received by the Trustee;
- (d) any amount transferred from an Approved Benefit Arrangement for a Member in accordance with this Deed and which the Trustee determines to credit to the Member's Account;

- (e) any amounts received for a Member according to the *Superannuation Guarantee Charge Act 1992*;
- (f) any Spouse Contribution-Splitting Amounts for the benefit of a Member which the Trustee has accepted pursuant to sub-Rule 5.3A; and
- (g) subject to the Relevant Requirements, any other amounts that the Trustee determines to so credit, including without limitation an amount debited from a Reserve Account established under clause 9.

### **6.3 Adjustment for amounts invested in a common fund**

To the extent contributions to the Fund by or for the Member will have been invested as part of a common fund from year to year:

- (a) The Member's Account subject to Rule 4 will be adjusted by the Trustee according to the proportion of the net gain or net loss of or for the Fund (or the proportion therefore invested as the common fund) ascertained in manner as in the opinion of the Trustee is fairly attributable to the amount credited to the Member's account in the books of the Fund so invested.
- (b) To the extent that contributions to the Fund by or for a Member will have been invested separately for him or her, these will, subject to Rule 4, be adjusted by the Trustee according to the separate net gains or losses on investments and the capital variation (if any) arising from realisation of the investments except that the Trustee may treat the separate net gain or loss or capital variation as if the relevant separate investment had been made as part of a common fund, to the extent that in the opinion of the Trustee it would be appropriate and equitable to do so.

### **6.4 Debits to Members Accounts**

Subject to this Deed there will be debited from each Member's account:

- (a) premiums payable under a group insurance arrangement held by the Trustee;
- (b) any expenses for the administration of the separate investments which in the opinion of the Trustee are, subject to Rule 4, fairly attributable to the Member's account;
- (c) any expenses and fees which in the opinion of the Trustee are fairly attributable to the Member's Account concerning the collection of contributions and general administration of that Account and of the Fund;
- (d) any tax, duty or impost payable for contributions and investment earnings or otherwise as the Trustee may determine;
- (e) the amount (if any) as allocated to the Member's Account for earnings (if negative) (if any) in accordance with sub-Rules 8.2 and 8.3;
- (f) all or any part of any Benefit paid to or for a Member;

- (g) any amounts transferred to a Member's Pension Account under clause 7.9;
- (h) any amount transferred to an Approved Benefit Arrangement for the Member in accordance with this Deed and which the Trustee determines to debit to the Account;
- (i) any amounts required to be paid out of the Fund for the Member according to the *Bankruptcy Act 1966*;
- (j) any amount for which a valid Release Authority has been issued under the Tax Act;
- (k) any amount which the Trustee may decide to debit under a valid family law arrangement; and
- (l) subject to the Relevant Requirements, any other amounts that the Trustee determines to so debit, including without limitation an amount to be credited to a Reserve Account established under clause 9.

## **Rule 7 – Account Based Pensions and Transition to Retirement Income Streams**

### **7.1 Members entitled to Account Based Pension**

#### **(a) Members**

Subject to sub-Rules 2.7, 4(d)(ix) and 7.5 and the Relevant Requirements where a Member becomes entitled to a Benefit under this Deed they may apply for an Account Based Pension in accordance with this Rule 7.

#### **(b) Other persons**

The Trustee may accept any other person as a Pension Member who is eligible under sub-sub-Rule 2.7(a).

### **7.2 Transition to Retirement Income Stream**

Subject to sub-Rule 4(d)(ix), where a Member has reached their Preservation Age they may be paid a Transition to Retirement Income Stream in accordance with sub-Rule 7.5.

### **7.3 Establishing a Pension Account**

Before the Trustee commences to pay an Account Based Pension or Transition to Retirement Pension to a Member under sub-Rules 7.1 or 7.2 the Trustee must establish a Pension Account in respect of the Member into which all or part of the Benefit will be paid and from which the Pension will be paid.

### **7.4 Conditions for Account Based Pensions**

Where an Account Based Pension is payable from the Fund the following conditions will apply to the payment of the pension:

#### **(c) Minimum payment**

The total of any pension payments in any year must be at least the amount required by the Relevant Requirements; and

(d) **Limits on transfer**

The Account Based Pension is transferable to another person only on the death of the Pension Member or if there is a Reversionary Pension on the death of the Reversionary Member any Pensioner; and

(e) **Borrowing**

The capital value of the Account Based Pension and the income from it cannot be used as security for a borrowing; and

(f) **No pension payments to Child**

Unless the Relevant Requirements permit otherwise, upon the death of the Pensioner the Account Based Pension must not continue to be paid as a pension to:

- (i) a Child between the ages of 18 and 24 who was not financially dependent on the Member or is not disabled; or
- (ii) a Child at least 25 years of age unless they are disabled; or
- (iii) the legal personal representative of the estate of the Member; and

(g) **Non-Commutable**

The Account Based Pension cannot be commuted in whole or in part except in the following circumstances:

- (i) where the Member has died; or
- (ii) where the sole purpose of the commutation is to:
  - (A) pay a superannuation contributions surcharge; or
  - (B) give effect to an entitlement of a Non-member Spouse under a family law payment split; or
  - (C) meet the rights of a person to return a financial product under the Relevant Requirements; or
- (iii) where there is a partial commutation the account balance of the Account Based Pension after the commutation is equal to or greater than the minimum balance required by the Relevant Requirements after the commutation; or
- (iv) the minimum amount required to be paid under the Relevant Requirements has been paid in the financial year in which the commutation takes place; and

(h) **Pension commences after 1 June**

No minimum payment of the Account Based Pension will be required in a financial year where that Account Based Pension commences after 1 June in that financial year unless the Relevant Requirements otherwise require;

(i) **No further payments to Pension Account**

No payment by way of contribution or rollover of superannuation benefit can be added to the Pension Account; and

(j) **Deemed amendments**

Where the Relevant Requirements require additional or differing conditions to those stipulated in this Rule 7 for the payment of an Account Based Pension this Rule 7 will be deemed to incorporate those additional or differing conditions which will be deemed to override this Rule 7 to the extent of any inconsistency but only for such period that those additional or differing conditions are required by the Relevant Requirements.

**7.5 Transition to Retirement Pensions**

(a) **Conditions**

Where a Member attains his or her Preservation Age the Trustee may offer a Transition to Retirement Pension on the terms specified in this Rule 7 except that:

- (i) The pension cannot be commuted to a superannuation lump sum unless:
  - (A) the purpose of the commutation is:
    - (aa) to pay a superannuation contributions surcharge; or
    - (bb) to cash an unrestricted non-preserved Benefit; or
    - (cc) to give effect to an entitlement of a non member spouse under a family law payment split; or
  - (ii) before the commutation the Member has satisfied a condition of release in respect of which the cashing restriction for preserved Benefits and restricted non-preserved Benefits is “nil”; and

(b) **Maximum payments**

The total pension payments made in a financial year to a Member may be no more than the amount permitted by the Relevant Requirements; and

(c) **Deemed amendments**

Where the Relevant Requirements require additional or differing conditions to those stipulated in this Rule 7 for the payment of a non-commutable form of an Account Based Pension this sub-Rule 7.5 will be deemed to incorporate those additional or differing conditions which will be deemed to override this sub-Rule 7.5 to the extent of any inconsistency but only for such period that those additional or differing conditions are required by the Relevant Requirements.

(d) **Cessation**

An Account Based Pension to which this sub-Rule 7.5 applies will cease to be a Transition to Retirement Pension to which the provisions of this sub-Rule 7.5 apply (but will continue to

remain an Account Based Pension, including under the SIS Act and the other provisions of this Rule 7) upon the Member:

- (i) satisfying one of the following conditions of release specified in any of the following items of the table in Schedule 1 to the SIS Regulations and notifying the Trustee of that fact:
  - (A) 101 (retirement);
  - (B) 102A (terminal medical condition); or
  - (C) 103 (permanent incapacity); or
- (ii) satisfying the condition of release specified in item 106 of the table in Schedule 1 to the SIS Regulations (attaining age 65).<sup>1</sup>

## **7.6 Reversionary Pensioners**

A Member may, before commencing an Account Based Pension or Transition to Retirement Pension, or at such other times as the Trustee may allow, nominate a Dependant as a Reversionary Beneficiary in respect of the Account Based Pension or Transition to Retirement Pension.

## **7.7 Nomination of a Reversionary Pensioner**

A nomination referred to in sub-Rule 7.6:

- (a) must be made in a manner approved by the Trustee and in accordance with the Relevant Requirements; and
- (b) is irrevocable unless the Trustee determines or the Relevant Requirements provide otherwise.

## **7.8 Death of Member**

On the death of a Pension Member:

- (a) if the Pension Member has nominated a Reversionary Beneficiary in respect of the Account Based Pension or Transition to Retirement Pension (as applicable), and that Reversionary Beneficiary has survived the Pension Member, the Trustee must transfer the Account Based Pension or Transition to Retirement Pension to the Reversionary Beneficiary if the Relevant Requirements permit it to do so; and
- (b) otherwise, the Trustee must pay the Pension Account balance in accordance with Rule 11.

## **7.9 Transfer of Benefits between Accounts**

Members may transfer all or part of their Member Account balance to a Pension Account for the purpose of receiving an Account Based Pension or a Transition to Retirement Pension.

## **7.10 Dual Membership**

A Member may be a Pension Member and continue contributing to their Member Account if permitted to do so by the Relevant Requirements and this Deed.

## **Rule 8 – Annual Valuation**

### **8.1 Obligation to value annually**

The Trustee will in accordance with the Relevant Requirements and for the purposes, amongst other things, of allocation of investment earnings to the individual accounts cause to be made an annual valuation on the basis as will appear to be equitable of all assets of the Fund as at the end of each financial year (excluding life assurance policies on the life of any Member) to be prepared for and audited by the Auditor. In making the valuation, from the aggregate value there will be deducted:

- (a) sums owing on any account or any charges or expenses accrued or unpaid; and
- (b) the estimated costs and expenses (including brokerage and stamp duty) of realising investments as at the end of each financial year; and
- (c) the sum representing the provision (if any) as the Trustee considers prudent for taxation depreciation or losses of the Fund.

### **8.2 Determining investment earnings**

For the purpose of determining under the Rules the investment earnings for any year or for any part of the Fund invested as a common fund (the investments for the time being representing which are hereinafter referred to as 'the common investments') the Trustee will take into account as gain the gross income earned during the year from the common investments and gains arising from realisation during the year of any of the common investments. The Trustee will take into account as losses the expenses of administering that part of the Fund comprising the common investments including the general expenses of administering the contributions referable to the common fund, and losses incurred on the realisation during the year of any of the common investments.

### **8.3 Interim investment earnings**

For the purpose of determining under the Rules investment earnings for any part of a year for which investment earnings have not been determined for the purposes of sub-Rule 8.2, the Trustee will fix the interim earnings as it deems equitable.

## **Rule 9 – Benefits on Termination of Employment**

### **9.1 Ceasing employment prior to Normal Retirement Date**

Subject to the Relevant Requirements, an Employer Sponsored Member who ceases to be employed by the Union or an Employer Sponsor at any time before Normal Retirement Date may apply to the Trustee for payment of that part of the Member's Account comprising the Member's unrestricted non preserved Benefits, if any, adjusted in accordance with Rule 6 which Benefit will be paid on the Member applying and the Member's preserved Benefits will remain preserved in the manner required by the SIS Act.



## **9.2 Ceasing employment at or after Normal Retirement Date**

An Employer Sponsored Member who ceases to be employed by the Union or an Employer Sponsor at or after Normal Retirement Date will subject to the Relevant Requirements be entitled to payment of the amount of the Member's Account in the Fund adjusted in accordance with Rule 6.

## **9.3 Preserved and non-preserved Benefits**

For all purposes of the Deed and these Rules a Member's preserved Benefits will be those Benefits which are prescribed as preserved Benefits by the SIS Act at the relevant time and a Member's non-preserved Benefits will be all the Member's Benefits in the Fund other than preserved Benefits.

## **Rule 10 – Cashing of Benefits**

Despite Rule 9 a Member's Benefits:

- (a) cannot be cashed unless permitted by the Relevant Requirements;
- (b) may be cashed as permitted by the Relevant Requirements; and
- (c) must be cashed if required by the Relevant Requirements.

## **Rule 11 – Benefits on Death**

### **11.1 Death Benefit**

On the death of a Member there will be payable a Benefit equal to the sum of the following:

- (a) the amount standing to the credit of the Member's Account in the Fund adjusted in accordance with Rule 6;
- (b) the Insured Benefit if any on the life of the Member received by the Trustee on the death of the Member.

### **11.2 Insured Benefits**

For the purposes of sub-Rule 11.1 an Insured Benefit will be payable on the death of a Member only if the Trustee holds a relevant Policy, the Member is covered by that Policy and the Insurance Company has accepted the claim made for the death of the Member and has paid the amount of the Insured Benefit to the Trustee.

### **11.3 Payment of Death Benefit**

The Benefits payable must be paid to any one or more of the following people to the exclusion of the other or others of them and in the shares and proportions and in the manner as the Trustee in its absolute discretion thinks fit:

- (a) all or any of the Dependants of the deceased Member;
- (b) the Legal Personal Representative of the deceased Member; and

if after making reasonable enquiries the Trustee has not found either a Dependent or a Legal Personal Representative of the deceased Member and having been unable to pay the Benefits the Trustee may in its absolute discretion pay to such individual as it determines all or part of the Benefit and any Benefits then not paid and remaining will be dealt with in accordance with the *Superannuation (Unclaimed Money and Lost Members) Act 1999* or as otherwise permitted by the Relevant Requirements.

#### **11.4 Binding Death Benefit Nominations**

Despite sub-Rule 11.3 the Trustee must give effect to a Binding Death Benefit Nomination given by a Member in favour of a Dependant or Dependents and/or the Member's Legal Personal Representative provided the Trustee has given the Member the relevant information required by the Relevant Requirements and the Binding Death Benefit Nomination is in effect and complies with the Relevant Requirements.

#### **11.5 Beneficiaries with legal disability**

If any person to whom any payment under this Rule is about to be paid is under any legal physical mental or other disability of any kind or is in the opinion of the Trustee unable properly and competently to manage his or her financial affairs the Trustee may in its sole and absolute discretion make that payment for that person's benefit in accordance with clauses 17 or 18 (as the case requires) of this Deed.

### **Rule 12 – Total and Permanent Disablement**

#### **12.1 Amount of Benefit**

On the Total and Permanent Disablement of a Member there will be payable a Benefit equal to the sum of the following:

- (a) the amount standing to the credit of the Member's Account adjusted in accordance with Rule 6;
- (b) the Insured Benefit (if any) received by the Trustee for the Total and Permanent Disablement of the Member.

#### **12.2 Insured Benefit**

For the purposes of sub-Rule 12.1 an Insured Benefit will be payable for the Total and Permanent Disablement of a Member only if the Trustee has effected a relevant Policy of insurance, the Member is covered by that Policy, and the Insurance Company has accepted the claim made for the Total and Permanent Disablement of the Member and has paid the amount of the Insured Benefit to the Trustee.

#### **12.3 Beneficiaries with legal disability**

The provisions of sub-Rule 11.5 will apply equally for the payment of Total and Permanent Disablement Benefit as for a death Benefit.

## **Rule 13 – Total and Temporary Incapacity – Salary Continuance Benefit**

### **13.1 Amount of Benefit**

#### **(a) Total and Temporary Incapacity**

On the Total and Temporary Incapacity of a Member there will be payable an Insured Benefit (if any) in the form of a Salary Continuance Benefit of a non-commutable income stream of the amount received by the Trustee from the Insurance Company for the Total and Temporary Incapacity of that Member.

#### **(b) Meaning of Total and Temporary Incapacity**

For the purpose of this Rule:

- (i) an insured Salary Continuance Benefit will be payable for the Total and Temporary Incapacity of a Member only if the Trustee has made a relevant Policy of insurance, the Member is covered by that Policy, and the insurer has accepted the claim made for the Total and Temporary Incapacity of the Member and has paid the amount of the insured Salary Continuance Benefit to the Trustee;
- (ii) Total and Temporary Incapacity will have the same meaning as is ascribed to Total and Temporary Incapacity (or equivalent term) in any Policy of insurance made by the Trustee for the Member concerned whether the group Policy or an individual Policy at the time of the commencement of the incapacity or alleged incapacity;
- (iii) if for any reason there is no Policy as described in sub-Rule 13.1(b)(ii) or a Member is not covered by such a Policy, Total and Temporary Incapacity (or equivalent term) will have the same meaning as “temporary incapacity” in regulation 6.01(2) of the SIS Regulations;
- (iv) non-commutable income stream has the same meaning as in regulation 6.01(2) of the SIS Regulations;
- (v) the payment of any Benefit is subject to the Relevant Requirements.

#### **(c) Cessation of Total and Temporarily Incapacitated**

A Member will cease to be Totally and Temporarily Incapacitated and an insured Salary Continuance Benefit will no longer be payable if:

- (i) the Member is no longer Totally and Temporarily Incapacitated;
- (ii) under the terms of the Policy of insurance the Benefit is no longer payable;
- (iii) the Trustee is no longer in receipt of the Benefits; or
- (iv) a Total and Permanent Disability or Death Benefit is payable.

## **Rule 14 – Terminal Illness**

#### **14.1 Terminal Illness Benefit**

On the Terminal Illness of a Member there will be payable a Benefit equal to the sum of the following:

- (a) the amount standing to the credit of the Member's Account adjusted in accordance with Rule 6; and
- (b) the Insured Benefit if any received by the Trustee for the Terminal Illness of the Member.

#### **14.2 Benefit subject to payment by Insurance Company**

For the purposes of sub-Rule 14.1 an Insured Benefit will be payable for the Terminal Illness of a Member only if the Trustee has effected a relevant Policy of insurance, the Member is covered by that Policy and the insurer has accepted the claim made for the Terminal Illness of the Member and has paid the amount of the Insured Benefit to the Trustee.

#### **14.3 Beneficiaries with a legal disability**

The provision of sub-Rule 11.5 will apply equally for the payment of Terminal Illness Benefit as for death Benefit.

### **Rule 15 – Payment to Other Funds**

#### **15.1 Transfer on request**

Subject to Rule 4 and the Relevant Requirements where a Member becomes a participant in an Approved Benefit Arrangement the Trustee may where requested by the Member and must if required under the Relevant Requirements pay transfer or rollover to the Trustee or other person responsible to another Approved Benefit Arrangement the whole or a part of any Benefit attributable to the Member according to the Rules. The Trustee may impose such conditions as it thinks fit concerning the Member's request and will comply with the Relevant Requirements.

#### **15.2 Benefit has become payable**

In the case of a person who is presently entitled to a Benefit but who has not made application to the Trustee for an immediate Benefit from the Fund or there remains payable from the Fund after the Member has left the employ of the Employer Sponsor a preserved Benefit then in lieu of providing all or part of that Benefit from the Fund the Trustee may at the request of the Member pay or rollover to any Approved Benefit Arrangement an amount representing the value of the Benefit determined by the Trustee.

#### **15.3 Receipt full discharge**

The receipt of the trustee or other person responsible for that Approved Benefit Arrangement will be sufficient discharge to the Trustee and neither the Trustee, the Union, nor any Employer Sponsor will be in any way responsible for the payment or disposal by the trustee or other person responsible for that Approved Benefit Arrangement of the Benefits so paid, transferred or rolled over.

### **Rule 16 – Compulsory Transfers**

Where required by the Relevant Requirements, the Trustee must transfer such part of the Benefits of a Member to another Approved Benefit Arrangement for application by the trustee or other person responsible for that Approved Benefit Arrangement.

#### **Rule 17 – Successor Fund Transfer**

The Trustee may transfer the whole or part of the Benefits, held on behalf of a Member, to an Approved Benefit Arrangement without the request or consent of the Member where the Approved Benefit Arrangement is a successor fund within the meaning of the Relevant Law. The Trustee may transfer the Member's Benefits to such an Approved Benefit Arrangement whether or not the Member is at the time of the transfer a participant in that Approved Benefit Arrangement.

#### **Rule 18 – Transfer to Eligible Rollover Fund**

The Trustee may, in accordance with the Relevant Law, transfer a Member's Benefits to an eligible rollover fund and will provide any information to the trustee of the eligible rollover fund at such time and in such manner as required by the Relevant Law.

#### **Rule 19 – Receipt of Benefits from Other Funds**

##### **19.1 Transfer from an Approved Benefit Arrangement**

Subject to this Deed, and on such terms as the Trustee determines, the Trustee may receive, from any Approved Benefit Arrangement, moneys or assets representing moneys for a Member's interest in that Approved Benefit Arrangement and will apply the same to the Fund and for the purpose of providing Benefits for or in respect of that Member on a basis determined by the Trustee. The moneys so received in respect of a Member must be credited to the Member's Account and the Trustee must advise the Member in writing. Any arrangement under this Rule must comply with the Relevant Requirements.

##### **19.2 Transfer from a MySuper product**

Any amount transferred to the Fund under sub-Rule 19.1 which is from a MySuper Product in another Approved Benefit Arrangement must be paid into a MySuper Product in the Fund, unless the Relevant Requirements permit otherwise.

##### **19.3 Receipt of spouse contributions splitting amounts**

Subject to this Deed, and on such terms as the Trustee determines, the Trustee may receive, from any Approved Benefit Arrangement, moneys or assets representing an amount which a Member's Spouse has directed the trustee of that Approved Benefit Arrangement to roll over, transfer or allot to the Fund for the benefit of the Member, pursuant to Regulation 6.44 of the SIS Regulations, and if the Trustee agrees to receive such amount, will apply the same to the Fund and for the purpose of providing Benefits for or in respect of that Member on a basis determined by the Trustee. The moneys so received in respect of a Member must be credited to the Member's Member Account and the Trustee must advise the Member in writing. Any arrangement under this Rule must comply with the Relevant Requirements

#### **Rule 20 – Forfeited Benefits**

If under the Deed or Rules, a Member's Benefit (or any part thereof) is forfeited, other than as described in clause 18, or the rights of any Member or of his Dependants to receive any Benefits from the Fund has ceased then subject to clause 18 the Benefit the right to which has been forfeited or ceased will be applied for all or any of the following purposes:

- (a) increasing the Benefit rights of other Members or their Dependants on a basis that is reasonable;
- (b) paying the administration expenses of the Fund;
- (c) relieving hardship experienced by the Member or his or her Dependants or any other purposes permitted under the Relevant Requirements.

#### **Rule 21 – Adjustment Period**

For the purpose of facilitating the administration of the Fund it is declared that despite anything in the Rules the Trustee may postpone the commencement of the payment of any Benefit for so long as is reasonable and necessary to ensure the observance and performance of these Rules and of the purposes of the Fund, and may either make the payment itself or cause or arrange for the same to be made for and on its behalf.

#### **Rule 22 – Proofs**

##### **22.1 Claims**

Any person appearing, purporting or claiming to be qualified or entitled to any Benefit under the Fund will on request produce to the Trustee the evidence and do the acts and execute the documents as the Trustee may reasonably require.

##### **22.2 Questions of fact**

Whenever it is necessary for the Trustee to decide questions of fact it may act on the proof or presumption as it may deem satisfactory whether the same be strictly legal proof or legal presumption or not.

#### **Rule 23 – No Personal Claim**

No Member or person claiming through him or on his behalf or as his Dependant will be entitled to require payment of an interest in the Fund except as may be provided in this Deed and the Rules.

#### **Rule 24 – Transfer between Employer Sponsors or temporary Cessation of Employment**

##### **24.1 Transfers between Employer Sponsors**

If any Employee of the Union, or of any Employer Sponsor, who is a Member is transferred to the employment of any other of them he or she will despite anything in this Deed or the Rules remain a Member and that transfer of employment will not be deemed to be retirement from the employment of the Union or the Employer Sponsor for the purposes of the Deed or the Rules.

## 24.2 Temporary cessation of employment

If any Employer Sponsored Member ceases to be in the employ of the Union or of any Employer Sponsor in circumstances in which it is reasonable to expect that the cessation will only be of a temporary nature and that he or she will rejoin the employ of the Union or of any Employer Sponsor the Trustee will have the right with the consent of the Member to continue his or her membership in the Fund subject to the conditions as may be agreed on by the Trustee and the Member.

## 24.3 No limit on membership of Public Offer Arrangements

The provisions of sub-Rules 24.1 and 24.2 will not limit the right of a Member to membership by means of Public Offer Arrangements.

## Rule 25 – Early Release of Benefits

Subject to the Relevant Requirements the Trustee may at its discretion release to a Member an amount of the Member's preserved Benefits, or restricted non-preserved Benefits:

- (a) on a compassionate ground in accordance with a determination of the Regulator under the Relevant Requirements; or
- (b) on grounds of severe financial hardship in accordance with the Relevant Requirements; or
- (c) any other basis permitted by, and in accordance with the Relevant Requirements.

04/06/03

## Rule 26 – Family Law Superannuation Interests

### 26.1 Compliance

The Trustee may do anything that it is permitted or is required to do under Part VIII B of the *Family Law Act 1975 (Cth)*.

### 26.2 Family Law Fees

The Trustee may charge reasonable fees for any matter contemplated by Part VIII B of the Family Law Act, if it is permitted to do so under that Act.

### 26.3 Satisfying a payment split

If a Member's interest becomes subject to a payment split, the Trustee may satisfy the payment split in any of the ways permitted by the Relevant Requirements, including:

- (a) creating a new interest in the Fund for the Non-member Spouse;
- (b) transferring or rolling over from the Fund an amount in favour of the Non-Member Spouse; or
- (c) paying a lump sum to the Non-Member Spouse (if he or she satisfies a relevant condition of release under the SIS Regulations).

## Clause 27 – Lost Members and Unclaimed Benefits

### 27.1 Lost Members

- (a) If the Trustee is unable to locate a person to whom a Benefit is payable from the Fund then, if the Relevant Requirements permit, the Trustee may pay all or part of that Benefit to another Approved Benefit Arrangement or as required by the Relevant Requirements without the consent of the person entitled to it.
- (b) The Trustee should comply with the Relevant Requirements concerning Benefits which the Relevant Requirements treat as unclaimed money and in relation to Members which the Relevant Requirements treat as lost members.

## SCHEDULE 2

### PART A

#### Appointment, Removal and Qualification of Member Representatives

Rules for the appointment removal and qualifications of member representatives to the board of directors of the Trustee (**Board**) in accordance with sub-clause 6.4 are as follows:

1. The Union will nominate for appointment to the Board the number of people as member representatives as is necessary from time to time to ensure that on the appointment of those people the Board will have equal numbers of member representatives and employer representatives.
2. The nomination of member representative directors will be in writing and signed by the General Secretary of the Union under the authority of a resolution of the National Executive Committee of the Union.
3. Any person so nominated as a member representative will be appointed as a director in accordance with the Constitution of the Trustee subject to being a Member of the Fund and satisfying the conditions for appointment required by the SIS Act and will not be removed other than in accordance with paragraph 4 of this Part and the Relevant Requirements.
4. The office of director of any member representative on the Board of the Trustee will be vacated in the following circumstances:
  - (a) on his or her death;
  - (b) on him or her being removed by the Trustee on the advice of the Board if in the opinion of the Board after considering appropriate medical evidence, the director is mentally or physically incapable of performing the duties of a director;
  - (c) on his or her resignation from office in accordance with the Constitution of the Trustee;



- (d) if he or she is employed by an Employer Sponsor other than the Union, on the termination of his or her employment;
- (e) on him or her:
  - (i) being convicted of an offence for dishonest conduct under any law;
  - (ii) being a person against whom a civil penalty order is made under SIS;
  - (iii) being insolvent under administration within the meaning of SIS;
  - (iv) being disqualified from holding the office; or
- (h) no longer meeting one or more of the criteria for fitness and propriety relevant to him or her and set out in the Relevant Requirements;
- (f) on the Trustee being removed as trustee of the Fund under the SIS Act;
- (g) if he or she ceased to be a Member of the Fund;
- (h) on the expiry of his or her term of office;
- (i) on his or her removal by the same procedure, including the withdrawal of nomination of the Union, as that by which he or she was appointed.

## SCHEDULE 2

### PART B

#### Appointment, Removal and Qualification of Employer Representatives

Rules for the appointment, removal and qualification of employer representatives to the Board of directors of the Trustee in accordance with sub-clause 6.4 are as follows:

1. An Employer Nomination Committee comprised of the employer representative directors will nominate for appointment to the Board the number of people as employer representatives as is necessary from time to time to ensure that on the appointment of the people the Board will have equal numbers of member representatives and employer representatives.
2. The nomination of employer representative directors will be in writing and signed by the Chair of the Employer Nomination Committee under the authority of a resolution of that Committee.
3. Any person so nominated as an employer representative will be appointed as a director in accordance with the Constitution of the Trustee subject to satisfying the conditions for appointment required under the SIS Act and will not be removed other than in accordance with paragraph 4 of this Part and the Relevant Requirements.
4. The office of director of any employer representative on the Board of the Trustee will be vacated in the following circumstances:
  - (a) on his or her death;
  - (b) on him or her being removed by the company on the advice of the Board if in the opinion of the Board after considering appropriate medical evidence, the director is mentally or physically incapable of performing the duties of a director;
  - (c) on his or her resignation from office in accordance with the Constitution of the Trustee;
  - (d) if he or she is employed by an Employer Sponsor, on the expiry of ninety days after the termination of the employment (although he or she will be eligible for re-appointment following the termination);
  - (e) on him or her:
    - (i) being convicted of an offence for dishonest conduct under any law;
    - (ii) being a person against whom a civil penalty order is made under SIS;
    - (iii) being insolvent under administration within the meaning of SIS;
    - (iv) being disqualified from holding the office; or
    - (v) no longer meeting one or more of the criteria for fitness and propriety relevant to him or her and set out in the Relevant Requirements;

- (f) on the Trustee being removed as trustee of the Fund under SIS.
- (g) on the expiry of his of her term of office;
- (h) on his of her removal by the same procedure, including the withdrawal of the nomination of the Employer Nomination Committee, as that by which he or she was appointed.

## SCHEDULE 2

### PART C

#### **Appointment, Removal and Qualification of Independent Directors**

Rules for the appointment and removal and qualifications of independent directors to the Board of directors of the Trustee in accordance with sub-clause 6.4 are as follows:

1. An Independent Director Nomination Committee of the Board comprising equal numbers of employer representative and member representative directors will submit to the Board recommendations for appointment to the Board of the number of people as independent directors as may be necessary to ensure that there are the number of independent director members of the Board required by the Trustee's Constitution subject to the Relevant Requirements.
2. The Board will nominate for appointment to the Board the number of people as independent directors as is necessary from time to time to ensure that on their appointment the Board will have the number of independent directors required by the Trustee's Constitution and if applicable the Relevant Requirements.
3. The nomination of independent directors will be in writing and signed by the Chairman under the authority of a unanimous resolution of the Board.
4. Any person so nominated as an independent director will be appointed by the Board as a director in accordance with the Constitution of the Trustee subject to satisfying the qualification for office in paragraph 6 and conditions for appointment required by SIS and will not be removed other than in accordance with paragraph 5.
5. The office of director of independent director on the Board of the Trustee will be vacated in the following circumstances:
  - (a) on his or her death;
  - (b) on him or her being removed by the company on the advice of the Board if in the opinion of the Board after considering appropriate medical evidence, the director is mentally or physically incapable of performing the duties of a director;
  - (c) on his or her resignation from office in accordance with the Constitution of the Trustee;
  - (d) on him or her:
    - (i) being convicted of an offence for dishonest conduct under any law;
    - (ii) being a person against whom a civil penalty order is made under SIS;
    - (iii) being insolvent under administration within the meaning of SIS;
    - (iv) being qualified from holding the office; or

- (v) no longer meeting one or more of the criteria for fitness and propriety relevant to him or her and set out in the Relevant Requirements;
  - (e) on the Trustee being removed as trustee of the Fund under SIS;
  - (f) on the expiry of his or her term of office.
  - (g) on ceasing to hold the qualifications for appointment as an independent director;
  - (h) on ceasing to be an independent director as defined in SIS;
  - (i) on his or her removal by the same procedure, including the withdrawal of the nomination of the Board, as that by which he or she was appointed.
6. A person to be qualified for appointment as an independent Director must:
- (a) not be a Member of the Fund;
  - (b) not be an Employer-sponsor of the Fund nor an associate of an Employer-sponsor of the Fund;
  - (c) not be an employee of an Employer-sponsor of the Fund nor an employee of an associate of an Employer-sponsor of the Fund;
  - (d) not be, in any capacity, a representative of a Trade Union, or other organisation, representing the interests of one or more Members of the Fund;
  - (e) not be, in any capacity, a representative of an organisation representing the interests of one or more Employer-sponsors of the Fund; and
  - (f) not be, or have in the three years immediately preceding the date of appointment been:
    - (i) an officer, employee or a member of the management of the Trustee or any associate of the Trustee;
    - (ii) the principal or an employee of a professional adviser to the Trustee;
    - (iii) an officer or employee of any shareholder of the Trustee; or
    - (iv) an employer representative director or member representative director of the Trustee; or
    - (v) fail to meet any other requirement imposed on an independent director under the Relevant Requirements from time to time.
  - (g) not have any significant contractual relationship with the Trustee or any associate of the Trustee other than in the capacity of Director of the Trustee; or
  - (h) not be a significant supplier or service provider to the Trustee or any associate of the Trustee.

**LABOUR UNION CO-OPERATIVE RETIREMENT FUND**

**TRUST DEED AND RULES**

**INDEX**

**THE TRUST DEED**

<b>CLAUSE NO.</b>	<b>SUBJECT</b>	<b>PAGE NO.</b>
<b>1</b>	<b>Overriding Provisions</b>	<b>1</b>
1.1	Relevant Requirements	1
1.2	Conflict between Relevant Requirements and this Deed	1
1.3	Nature of Members' interests	1
<b>2</b>	<b>Definitions and Interpretation</b>	<b>1</b>
2.1	Definitions	1
2.2	Interpretation	4
<b>3</b>	<b>Administration</b>	<b>6</b>
<b>4</b>	<b>The Union</b>	<b>6</b>
4.1	Cancellation of NUW registration	6
4.2	Amalgamation	6
4.3	Dissolution	6
<b>5</b>	<b>The Fund</b>	<b>6</b>
5.1	Fund vests in Trustee	6
5.2	Assets of the Fund	7
<b>6</b>	<b>The Trustee</b>	<b>7</b>
6.1	Trustee must be a Constitutional Corporation	7
6.2	Ceasing to be a Trustee	7
6.3	Compliance with the Relevant Requirements	8
6.4	Appointment of Directors	8
6.5	Trustee discretion	8
6.6	Trustee not to act under direction	8
6.7	Trustee Powers	9
<b>7</b>	<b>Insurance</b>	<b>13</b>
7.1	General power to effect insurance	13

## THE TRUST DEED

CLAUSE NO.	SUBJECT	PAGE NO.
7.2	Limitations imposed by Insurer	13
7.3	Alternative insurance	13
7.4	Conditions of payment of insurance proceeds	13
<b>8</b>	<b>Investment of Fund</b>	<b>14</b>
8.1	Investment Strategy	14
8.2	Investment Options	14
8.3	Default Investment Options	14
8.4	Investment Option during claims process for Insured Benefits	14
8.5	Authorised Investments	15
8.6	Sale, acquisition and other dealings with investments	16
8.7	Underwriting	16
8.8	Investments subject to restrictions under Relevant Requirements	16
<b>9</b>	<b>Reserves</b>	<b>16</b>
9.1	Establishment of Reserve Account	16
9.2	Purpose of Reserve Account	16
9.3	Closure or merger	16
<b>10</b>	<b>Accounts and Audit</b>	<b>17</b>
10.1	Appointment of Auditor	17
10.2	Accounts and audit records	17
<b>11</b>	<b>Notices and Information</b>	<b>18</b>
11.1	Giving of Notice	18
11.2	Trustee to give information	18
11.3	Trustee duty to keep Members informed	19
11.4	Validity	19
<b>12</b>	<b>Employers Sponsors</b>	<b>19</b>
12.1	Admission by agreement with Trustee	19
12.2	Acceptance and rejection of applications	19
12.3	Admission without Application or Agreement with Trustee	19
12.4	Employer Sponsors bound by Deed	19
<b>13</b>	<b>Membership</b>	<b>19</b>

## THE TRUST DEED

CLAUSE NO.	SUBJECT	PAGE NO.
13.1	Eligibility for membership	19
13.2	Application for Membership	20
13.3	Trustee not bound to accept Member	20
13.4	Trustee determines date of acceptance	20
13.5	Failure of Member to provide information	20
13.6	Member to provide information	20
13.7	Member Accounts	20
13.8	Member Records	20
13.9	Members bound by this Deed and the Rules	21
<b>14</b>	<b>Amendments</b>	<b>21</b>
14.1	Power to amend	21
14.2	Variations binding on Employer Sponsors and Members	21
14.3	No variation allowing payment to Employer Sponsor	21
14.4	Variations not permitted	21
<b>15</b>	<b>Winding Up of Union or Employer Sponsor</b>	<b>22</b>
15.1	Ceasing to carry on business	22
15.2	Transfer of Members between Employer Sponsors	22
<b>16</b>	<b>National Scheme</b>	<b>22</b>
<b>17</b>	<b>Minors and Infirm Persons</b>	<b>22</b>
17.1	Definition of “beneficiary”	22
17.2	Reasons include mental or physical infirmity	22
17.3	Trustee under no duty	22
17.4	Application of Benefit to maintenance or education of beneficiary	23
17.5	Payment to Trustee	23
17.6	Investment of residual Benefit	23
<b>18</b>	<b>Incapacity and Bankruptcy</b>	<b>23</b>
18.1	Forfeiture of Benefit	23
18.2	Bankruptcy	23
18.3	No further claim on forfeited Benefit	23
18.4	Application of forfeited Benefit	23



## THE TRUST DEED

CLAUSE NO.	SUBJECT	PAGE NO.
18.5	Forfeited Benefit remains in the Fund	24
18.6	Forfeiture subject to Relevant Requirements	24
<b>19</b>	<b>Enquiries and Complaints</b>	<b>24</b>
19.1	Procedures	24
19.2	Alteration or amendment of procedures	24
19.3	Reconsider a decision	24
<b>20</b>	<b>Availability of Deed</b>	<b>24</b>
<b>21</b>	<b>Applicable Law</b>	<b>24</b>
<b>22</b>	<b>Closure of Fund</b>	<b>25</b>
22.1	Resolution to close the Fund	25
22.2	Provisions to apply from closure date	25
22.3	Provisions to apply after closure date	25
<b>23</b>	<b>Policy Committee</b>	<b>26</b>
23.1	Establishing Policy Committee	26
23.2	Equal representation	26
23.3	Functions	26
23.4	Withdrawal or termination of Policy Committee	26
23.5	No power to give directions	26
<b>24</b>	<b>Committees</b>	<b>26</b>
24.1	Establishing Committee	26
24.2	Particular purpose	27
24.3	Equal representation	27

## THE RULES

RULE NO.	SUBJECT	PAGE NO.
<b>1</b>	<b>Definitions and Interpretation</b>	<b>28</b>
1.1	Definitions	28
1.2	Interpretation	29
<b>2</b>	<b>Membership</b>	<b>29</b>

## THE RULES

<b>RULE NO.</b>	<b>SUBJECT</b>	<b>PAGE NO.</b>
2.1	Classes	29
2.2	Transfers	29
2.3	Transfer to Public Offer	29
2.4	Employer Sponsored Members	29
2.5	Spouse Members	29
2.6	Public Offer Members	32
2.7	Pension Members	32
2.8	Medical Examination	33
2.9	Members bound by Deed and Rules	33
<b>3</b>	<b>Cessation of Membership</b>	<b>33</b>
<b>4</b>	<b>MySuper Products</b>	<b>33</b>
<b>5</b>	<b>Contributions</b>	<b>35</b>
5.1	Employer Contributions	35
5.2	Member Contributions	35
5.3	Eligible Spouse Contributions	35
5.3A	Spouse Contribution-Splitting Amount	35
5.4	Other Contributions	35
<b>6</b>	<b>Accounts of Members</b>	<b>36</b>
6.1	Establishment of Member Accounts	36
6.2	Credits to Member Accounts	36
6.3	Adjustment for amounts invested in a common fund	36
6.4	Debits to Members Accounts	37
<b>7</b>	<b>Account Based Pensions and Transition to Retirement Income Streams</b>	<b>38</b>
7.1	Members entitled to Account Based Pension	38
7.2	Transition to Retirement Income Stream	38
7.3	Establishing a Pension Account	38
7.4	Conditions for Account Based Pensions	38
7.5	Transition to Retirement Pensions	40
7.6	Reversionary Pensioners	40
7.7	Nomination of a Reversionary Pensioner	41

## THE RULES

RULE NO.	SUBJECT	PAGE NO.
7.8	Death of Member	41
7.9	Transfer of Benefits between Accounts	41
7.10	Dual Membership	41
<b>8</b>	<b>Annual Valuation</b>	<b>41</b>
8.1	Obligation to value annually	41
8.2	Determining investment earnings	42
8.3	Interim investment earnings	42
<b>9</b>	<b>Benefits on Termination of Employment</b>	<b>42</b>
9.1	Ceasing employment prior to Normal Retirement Date	42
9.2	Ceasing employment at or after Normal Retirement Date	42
9.3	Preserved and non-preserved Benefits	42
<b>10</b>	<b>Cashing of Benefits</b>	<b>42</b>
<b>11</b>	<b>Benefits on Death</b>	<b>43</b>
11.1	Death Benefit	43
11.2	Insured Benefit	43
11.3	Payment of Death Benefit	43
11.4	Binding Death Benefit Nominations	43
11.5	Beneficiaries with legal disability	43
<b>12</b>	<b>Total and Permanent Disablement</b>	<b>44</b>
12.1	Amount of Benefit	44
12.2	Insured Benefit	44
12.3	Beneficiaries with legal disability	44
<b>13</b>	<b>Total and Temporary Incapacity – Salary Continuance Benefit</b>	<b>44</b>
13.1	Amount of Benefit	44
<b>14</b>	<b>Terminal Illness</b>	<b>45</b>
14.1	Terminal Illness Benefit	45
14.2	Benefit subject to payment by Insurance Company	45
14.3	Beneficiaries with a legal disability	45
<b>15</b>	<b>Payment to Other Funds</b>	<b>46</b>
15.1	Transfer on request	46

## THE RULES

<b>RULE NO.</b>	<b>SUBJECT</b>	<b>PAGE NO.</b>
15.2	Benefit has become payable	46
15.3	Receipt full discharge	46
<b>16</b>	<b>Compulsory Transfers</b>	<b>46</b>
<b>17</b>	<b>Successor Fund Transfer</b>	<b>46</b>
<b>18</b>	<b>Transfer to Eligible Rollover Fund</b>	<b>46</b>
<b>19</b>	<b>Receipt of Benefits from Other Funds</b>	<b>47</b>
19.1	Transfer from an Approved Benefit Arrangement	47
19.2	Transfer from a MySuper product	47
<b>20</b>	<b>Forfeited Benefits</b>	<b>47</b>
<b>21</b>	<b>Adjustment Period</b>	<b>47</b>
<b>22</b>	<b>Proofs</b>	<b>47</b>
22.1	Claims	47
22.2	Questions of fact	48
<b>23</b>	<b>No Personal Claim</b>	<b>48</b>
<b>24</b>	<b>Transfer between Employer Sponsors or temporary Cessation of Employment</b>	<b>48</b>
24.1	Transfer between Employer Sponsors	48
24.2	Temporary cessation of employment	48
24.3	No limit on membership of Public Offer Arrangements	48
<b>25</b>	<b>Early Release of Benefits</b>	<b>48</b>
<b>26</b>	<b>Family Law Superannuation Interests</b>	<b>48</b>
26.1	Compliance	48
26.2	Family Law Fees	49
26.3	Satisfying a payment split	49
<b>27</b>	<b>Lost Members and Unclaimed Benefits</b>	<b>49</b>
27.1	Lost Members	49

## SCHEDULES

<b>SCHEDULE NO.</b>	<b>SUBJECT</b>	<b>PAGE NO.</b>
Schedule 2 – Part A	Appointment, Removal and Qualification of Member Representatives	50

**SCHEDULES**

<b>SCHEDULE NO.</b>	<b>SUBJECT</b>	<b>PAGE NO.</b>
Schedule 2 – Part B	Appointment, Removal and Qualification of Employer Representatives	52
Schedule 2 – Part C	Appointment, Removal and Qualification of Independent Directors	54