



INSTRUCTIONS FOR THE COMPLETION OF YOUR DOCUMENTS

Tinsley Family Super Fund

Thank you for your instructions to provide the documentation to establish your new SMSF.

We can confirm that we have instructed our solicitors to prepare a trust deed on your behalf and enclose that trust deed and ancillary documentation for your attention.

Trust Deed

This deed needs to be validly executed by the Trustee(s). Valid execution initially requires the deed to be signed and dated. Depending on the state you are in the deed may also need to be stamped (There is no requirement to stamp SMSF deeds in NSW, Vic, ACT, Qld, SA or WA).

If you have not asked us to date your deed you will need to date it at the top of the first page where it says "THIS DEED POLL is made on".

You then need to have the deed executed on the second page. Please ensure that where individuals are signing that they have their signatures witnessed. If you are signing as a company you need to sign in accordance with the company's constitution as well as Section 127 of the Corporations Act. This will usually mean that two directors of the company need to sign or where there is only one director who is also the secretary of the company then that person can sign on their own.

Once your deed is validly executed you may need to submit the deed to the relevant state revenue office for stamping. Refer to the enclosed Duties Schedule for further information.

Once you have completed the above steps you have a valid trust (an SMSF is still a trust at law). Failure to complete any of them correctly could mean you do not have a valid trust and therefore an invalid SMSF. This will then create problem if you need to deal with external parties in the future such as banks for borrowing.

Ancillary Documents

We have included some other documents that support the establishment of the SMSF.

Minute/Resolution of Trustee(s)

The first document is a minute or resolution of the Trustee(s) where they resolve the following:

1. To accept the appointment as trustee and establish the fund.
2. To elect to become a regulated fund. This is a requirement of the Superannuation Industry (Supervision) Act 1993 (SISA).
3. To accept the applications for membership from the initial members.
4. To NOT issue a Product Disclosure Statement (PDS). This assumes that the fund will claim the exemption provided in Section 1012D(2A) of the Corporations Act allowing an SMSF an exemption from providing a PDS where the trustee believe that the members have access to, and know they have access to, all of the information that would be required to be provided in a PDS. In your case, as the members are the trustees this would most likely be the case otherwise the trustees would not be able to prepare a PDS.

5. If you choose to issue a PDS then you would need to delete this clause from the minute and prepare a new resolution of the trustees resolving to issue the PDS. Please note that once you issue a PDS you are then required to always comply with the Corporations Act requirements to notify the members when matters of the fund change.

You should ensure that this minute/resolution is held and dated on the same day as execution of the trust deed. This minute/resolution needs to be signed and dated.

ATO Trustees Declaration

All new Trustees of SMSF's are required to read, understand and sign a Trustees Declaration in the form provided by the ATO. This form **MUST** be witnessed. We recommend that you read and understand this declaration as well as signing and witnessing it.

Application for Membership

Each member needs to apply to become a member of the fund. We have provided a partially completed application for membership. All you need to add is your tax file number. If you are not providing a Binding Death Benefit notice to the fund then you can also enter your nominated beneficiaries that you would like to receive your benefit on your death. Please note that this nomination is not binding on the trustees.

Binding Death Benefit Notices

If you wish to provide binding death benefit notices to the trustees you can use this form. We suggest that if you do wish to use this form that the trustees minute the receipt and acceptance of the form and you then provide copies of both the minute and the form itself to your accountant or solicitor to ensure that there is evidence of the nomination should you die.

Trustees Declaration

Further to the Tax Office declaration Section 118 of the SISA also requires any new trustee or director of a Corporate Trustee to sign a declaration that they are not a disqualified person under Section 120 of the Act. You should read the definition of a disqualified person on the declaration and then sign and date (if we have not already dated for you) the form.

It is also essential that new trustees read the ATO's publication *Running a self-managed super fund (NAT 11032)* which outlines your roles and responsibilities as a trustee. You can download this publication from <https://www.ato.gov.au/uploadedfiles/content/spr/downloads/spr46427n11032.pdf>.

Sample 290-170 Notices

Where a person is claiming a tax deduction for personal contributions to a superannuation fund they are required to lodge a notice to the fund under Section 290-170 of the Income Tax Assessment Act 1997 informing the fund of the amount of the deduction the member is claiming. The fund is then required to notify the member of their receipt of the notice. We have provided the ATO form that you can copy and use in the future should you wish to make personal deductible contributions to the fund. The instructions for this form are located at <https://www.ato.gov.au/forms/notice-of-intent-to-claim-or-vary-a-deduction-for-personal-super-contributions>.

Disclosure Statement

If the fund has decided to NOT issue a PDS then it can only do so because the trustees believe that the members have, and know they have, access to all of the information that the PDS would be required to contain. In order to give certainty to the trustees that this is the case this disclosure statement should be signed by each member and given to the fund. This notice actually tells the trustees that the member has access to all of the information required to be provided in a PDS.

Notice of Members Benefits

Where the fund is not issuing a PDS this notice may be given to each member informing them of their benefits in the fund.

Product Disclosure Statement

Should the fund receive advice that they should issue a PDS or should the trustees merely decide that they are not able to claim the exemption contained in ss 1012D(2A) of the Corporations Act 2001 then they should sign and issue a PDS to each member. This PDS should at least include a copy of the fund's investment strategy as well as any other relevant matters.

Other Matters

Other matters the trustee will need to attend to include (but are not limited to):

1. Application for an Australian Business Number (ABN) and Tax File Number. If you are unable to attend to this please contact us for assistance. Further fees will be applicable for this service.
2. You may need to open a bank account. The bank may wish to see a validly executed deed to open the account.
3. You may also want to roll over money from another super fund (you should first take advice on this). That super fund will almost certainly want you to prove that your new fund is a regulated superannuation fund. Once you have received your ABN your fund will be listed on the ATO's Register of Complying Superannuation Funds. This register is found at www.superfundlookup.gov.au. We suggest that you at least take a print out from the register showing your fund as a complying super fund before applying to roll over any money. Your other fund will also probably want other information so you need to contact them to find out their procedure for rolling over your superannuation. There is also an ATO form that can be downloaded at https://www.ato.gov.au/uploadedFiles/Content/SPR/downloads/n74662-06-2017_js29235_f.pdf.
4. Choice of Super Fund. You can download the ATO's choice of super fund form at <https://www.ato.gov.au/assets/0/104/2244/2335/35c234b5-6918-4dd0-a3db-95edfd76adc0.pdf>.

You can complete this form and provide it to your employer to inform them of your new choice to have your superannuation paid into your own fund.

Important Note

We do not provide advice in relation to any stamp duty or other state or territory taxes in relation to the enclosed documents nor in respect of any other matter. Please note that taxation, the Corporations Act, trust laws, contract laws and stamp duty laws in various jurisdictions are continually changing. Professional advice should be obtained before signing these documents. Significant fees, duties and penalties can be imposed when dealing with trust deeds. Accordingly, except to the extent required by law, we do not accept any responsibility other than in relation to the provision of these documents in accordance with your instructions. We do not purport to give advice in relation to the enclosed documents nor should you construe anything in the enclosed documents or any conversation or correspondence as advice of any kind.

Yours faithfully,



Matthew Neibling
CEO

Duties Schedule

Self Managed Superannuation Funds

The table below is provided for general guidance only. It is not intended, nor should it be treated as legal advice regarding the imposition or liability to stamp duty of any document or transaction. If in doubt, you should contact your local stamping authority.

State/ Territory	Contact	Trust Deed	Change of Trustee	Other changes
QLD	Ph 1300 300 734 Office of State Revenue www.osr.qld.gov.au	✗	✓ \$NIL	✗
NSW	Ph 1300 139 814 Office of State Revenue www.osr.nsw.gov.au	✗	✓ \$50	✗
VIC	Ph 13 21 61 State Revenue Office www.sro.vic.gov.au	✗	✗	✗
ACT	Ph (02) 6207 0028 The ACT Revenue Office www.revenue.act.gov.au	✗	✓ \$20	✗
TAS	Ph (03) 6166 4400 State Revenue Office www.sro.tas.gov.au	✗	✗	✗
SA	Ph (08) 8226 3750 State Taxation Office www.revenuesa.sa.gov.au	✗	May require lodgement for assessment	✗
WA	Ph (08) 9262 1400 State Revenue Office www.finance.wa.gov.au/staterevenue	✗	✓ \$20	✗
NT	Ph 1300 305 353 Territory Revenue Office www.treasury.nt.gov.au	✓ \$20	May require lodgement for assessment	✗

Notes:

1. The ability to access a duty exemption in most states requires certain conditions to be satisfied or the local state revenue office being satisfied as to the extent or nature of the transaction. Where a change of trustee is exempt from duty the relevant documents may be required to be lodged for assessment in any event to ensure revenue integrity.
2. Amendments which alter beneficial ownership may not be exempt in all circumstances.

Trustee/s Resolution

Tinsley Family Super Fund

The persons signing below being all of the Trustees or all of the directors of the corporate Trustee of the Fund resolve as follows:

Establishment of Fund

Resolved that the Trustee establish a Self Managed Superannuation Fund to be known as Tinsley Family Super Fund and that the Trustee act as the first Trustee of the Fund.

Further resolved that the Trustee execute the Trust Deed.

Election to Become a Regulated Superannuation Fund

Resolved that the Trustee elect that the Superannuation Industry (Supervision) Act 1993 is to apply in relation to the fund and that the fund become a regulated superannuation fund. And that the notice of the election is to be lodged with the Australian Taxation Office.

Applications for Membership

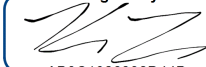
It was resolved that the following applications for membership be accepted, each of the members have consented to be Trustees of the fund in their capacity as Directors of Tinsley Family Super Pty Ltd ACN 655 315 978 and are not disqualified persons:

Kyle Stewart Tinsley

Product Disclosure Statement

All the members of the fund have provided declarations stating that they have access to all the information that would normally be provided in a Product Disclosure Statement. It was resolved that, pursuant to the exemption in Section 1012D(2A) of the Corporations Act 2001, the Trustees are not required to provide a Product Disclosure Statement to the members.

Signature

DocuSigned by:

AB0C1026392D44D...

Dated: 13/11/2021

Kyle Stewart Tinsley
Sole Director
Tinsley Family Super Pty Ltd ACN 655 315 978

Declaration by Director of Trustee Company

UNDER SECTION 118 OF THE
SUPERANNUATION INDUSTRY (SUPERVISION) ACT 1993

I, Kyle Stewart Tinsley

Of 4/1078 Gold Coast Highway
Palm Beach QLD 4221

HEREBY DECLARE that I am not a disqualified person as defined by SIS and am therefore not disqualified from acting as a director of a trustee company of a superannuation fund under SIS.

HEREBY DECLARE that I am aware of my responsibilities under the trust deed having read and fully understood it' contents, and also my responsibilities under SIS.

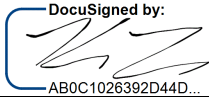
AND HEREBY CONSENT to act as a Trustee of Tinsley Family Super Fund (in my capacity as a director of Tinsley Family Super Pty Ltd ACN 655 315 978)

constituted on 13/11/2021

AND I AGREE to execute the Trust Deed and to administer the Fund in accordance with the terms and conditions set out in the Trust Deed and other legislative requirements.

I UNDERTAKE to notify any other directors of the trustee of the Fund in writing if I am for any reason disqualified from continuing to act as a trustee.

Dated: 13/11/2021

Signed:  AB0C1026392D44D...
Kyle Stewart Tinsley

*Note re Disqualified Person (SIS Section 120):

The following are defined by SIS as being disqualified persons:

1. persons who have at any time been convicted of an offence in respect of dishonest conduct;
2. a civil penalty order was made against the person; or
3. a person is an insolvent under administration.

A body corporate trustee is a disqualified person where:

1. a receiver and manager has been appointed in respect of property beneficially owned by the body;
2. an official manager or deputy official manager has been appointed in respect of the body;
3. a provisional liquidator has been appointed in respect of the body; or
4. the body has begun to be wound up.

N.B. A director of a Corporate trustee must not be a disqualified person as described above.

Tinsley Family Super Fund

Application for Membership

Full name: Kyle Stewart Tinsley
 Address: 4/1078 Gold Coast Highway
 Palm Beach QLD 4221
 Date of Birth: 21/09/1971

I make application to become a member of the Tinsley Family Super Fund ("**The Fund**").

I hereby authorise my current Employer to deduct from my salary such amounts (if any) as are from time to time agreed upon by myself and my employer as contributions to be made by me to the abovementioned Fund.

The Applicant hereby applies to make contributions to the Fund and agrees to be bound by the Trust Deed and Rules governing the Fund.

Pursuant to the authorisations for the collection of Tax File Numbers ("TFN") contained in the taxation laws, the *Superannuation Industry (Supervision) Act 1993* and the *Privacy Act 1988*, I hereby agree to provide my TFN as follows:

My Tax File Number is: 156268970
 and I hereby authorise the trustees to use this tax file number.

NOMINATION OF BENEFICIARIES

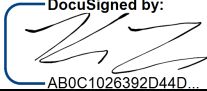
I hereby nominate the following persons to receive the benefit payable by the Trustees of the fund in the event of my death:

Name of Beneficiary	Address of Beneficiary	Relationship to Member	Proportion of Benefit
			%
			%
			%
			%

I would like this nomination to be binding on the trustees and shall not lapse unless revoked by me (cross out & initial if inapplicable).

Dated: 13/11/2021

Signature of Applicant:

DocuSigned by:

 AB0C1026392D44D...

Kyle Stewart Tinsley

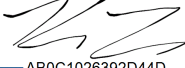
Disclosure Statement

I, Kyle Stewart Tinsley
Of 4/1078 Gold Coast Highway
Palm Beach QLD 4221

hereby acknowledge and declare as follows:

1. I am an initial Member of the Tinsley Family Super Fund (the Fund). I am also a director of the trustee of the Fund.
2. I have not been induced to become a Member and Trustee of the Fund as a result of any representation or statement made by any Members or Trustees of the fund or any other person.
3. I have decided to become a Member and Trustee of the Fund based solely upon my own investigation and inquiries.
4. Having considered the financial strategy, responsibilities, risks, possible gains and benefits, costs of entry and administration, the rules of the Fund and taxation matters, I am satisfied that it is appropriate for me to invest in and become a Member and Trustee of the Fund.
5. I have had and will have access to all documents relating to the Fund including:
 - a. source documents (investments confirmations, invoices and receipts);
 - b. banking records;
 - c. financial strategies;
 - d. financial reports and taxation records;
 - e. minutes of meetings and resolutions of trustees;
 - f. Trust Deed and trust register;
 - g. incoming and outgoing correspondence.
6. I am aware that investing money on behalf of myself and others carries significant risks of loss and that the Trustees of the Fund are not professional investors or experts in that field.
7. I have had the opportunity to seek independent financial, legal and taxation advice before making my decision to establish and invest in the Fund.

Signed:

DocuSigned by:

AB0C1026392D44D...

Kyle Stewart Tinsley

Date: 13/11/2021

Notice of Member's Benefits

Tinsley Family Super Fund

INTRODUCTION

As a member of the Superannuation Fund, benefits will be accruing for financial security in your retirement. Your rights to receive benefits from the Fund are secured by the Trust Deed held and administered by the Trustees in accordance with the Rules.

CONTRIBUTIONS

You, your employer and any person permitted by the Rules may contribute to the Fund at any time. Each contribution is credited to your Accumulated Benefit. Contributions for a member will vest 100% immediately in favour of the member.

BENEFIT ENTITLEMENTS

Your benefit entitlement will depend on a number of factors including the contributions made to the Fund on your behalf, the Trustees' discretion to vest, rollover payments and net investment earnings and from which is deducted any benefit payments, costs and insurance costs. Expenses will usually be allocated at least annually proportionally among Member' balances but the Trustees are empowered to allocate expenses disproportionately if there is good reason.

The Fund is conducted as an accumulation fund (under superannuation law called "an accumulation interest") where Benefits accumulate in distinct accounts for Members out of which a lump sum, a pension, or an annuity may be paid.

The Deed specifies when entitlements to Benefits arise. This will usually be on retirement, attaining a specified age, death or total and permanent disability. You may be entitled to a benefit upon attaining your preservation age even though you may continue in employment.

Benefits are payable as follows:

- **Retirement**

On retirement and as permitted by the Regulator, you are entitled to:

1. an account based pension which provides a minimum payout set by the Regulator and paid out of the Member's Accumulated Benefit;
2. a non-account based pension calculated and paid in accordance with the Relevant Requirements out of the Member's Accumulated Benefit;
3. a lump sum paid out of the Member's Accumulated Benefit;
4. an annuity which meets the Regulator's requirements purchased out of the Member's Accumulated Benefit;

- **Attaining Preservation Age**

Upon attaining your Preservation Age, and as permitted by the Regulator, you are entitled to a non-commutable transition to retirement income stream calculated and paid in accordance with the Relevant Requirements out of the Member's Accumulated Benefit.

- **Permanent Disablement**

If you cease employment on the grounds of Permanent Disablement, the benefits are the same as those payable on retirement. The benefit will include the amount received by the Trustees from a policy of insurance (if any) as a result of your Permanent Disablement.

- **Temporary Disablement**

If you are in employment and the Trustee has taken out a policy of insurance and you qualify as being Temporary Disabled with the meaning of that policy, then you will be entitled to the amount payable under that policy as an income benefit.

- **Death**

In the event of your death, the Trustees shall pay the full amount standing to the credit of your Accumulated Benefit and any other entitlements to your Dependents or Estate as either a lump sum or as a pension. The benefit may include the amount received by the Trustees under an insurance policy (if any) as a result of your death.

- **Early Retirement from Employment**

The benefit payable on retirement from employment in circumstances other than as a result of Retirement (as defined in the Relevant Requirements) Death or Permanent Disablement is the full amount standing to the credit of your Accumulated Benefit and any entitlement out of the reserves, if any.

- **Unrestricted Non-Preserved Benefits**

You may withdraw any amount of your Unrestricted Non-Preserved Benefits in the Fund by giving notice to the Trustees.

- **Terminal Illness**

You may also receive a benefit payment from the fund if you are suffering a terminal illness.

OTHER INFORMATION

Preservation

Government preservation rules generally require certain superannuation benefits to be held within the Superannuation system until your retirement or until Death or Permanent Disablement or if you permanently emigrate overseas.

You may transfer your benefits to another approved Superannuation Fund, approved Deposit Fund or Deferred Annuity.

Trustee

The Trust Deed sets out procedures for the appointment and removal of Trustees and the powers and duties of the Trustee. As a member of the Fund, you will be required to be a Trustee or a director of a company that acts as the Trustee of the Fund. If you are removed or resign as a Trustee or a director of a corporate trustee, you cannot remain as a Member of the Fund.

Death Benefit

You are able to nominate which of your Dependents (as defined) are to receive your superannuation entitlements in the event of your death. When applying for membership of the Fund you were offered the choice of a Nomination binding on the Fund Trustees or a Non Binding Nomination. You should consider carefully the type of Nomination you make.

Unclaimed Benefits

In the event that the Trustee is unable to contact you and you are entitled to benefit payment the Trustees will either rollover your entitlements to an Eligible Rollover Fund (if appropriate) or transfer the benefit to unclaimed monies.

Product Disclosure Statement (PDS)

Under the Corporations Act Superannuation Funds are required to provide a new members with a PDS. SMSF's are able to claim an exemption to this requirement where the trustees think that the new member has access to, and knows they have access to, ALL the information that would be required to be included in a PDS. The Trustees will need to decide if they are required to provide a PDS to you and if they decide that a PDS is required then it will be attached to this New Member Benefit Statement.

Availability of Other Information

Other information is available upon request from the Contact Person.

Contact Details

Inquiries regarding your benefit entitlements in the Fund should be directed to:

Name of Fund: Tinsley Family Super Fund

Address: 4/1078 Gold Coast Highway
Palm Beach QLD 4221

Contact Person: Kyle Stewart Tinsley

A Product Disclosure Statement is attached to this Notice and should be read in conjunction with this Notice (cross out if inapplicable)

Product Disclosure Statement Coversheet

Tinsley Family Super Fund

Member Name: _____

Member Address: _____

Notice Date: _____

I have read and understood this Product Disclosure Statement prior to signing my Membership Application and/or Member's Consent to Amendment of Deed:

Signature: _____

Name: _____

Date: _____

Product Disclosure Statement

Tinsley Family Super Fund

This Product Disclosure Statement (PDS) may be required by Part 7.9 of the *Corporations Act 2001* to be given to superannuation fund Members being issued with an interest in this Superannuation Fund (the "Fund") for the first time. An interest in this Fund includes the acceptance of your Membership application and may also include when you commence a pension.

This PDS applies only for so long as the Fund remains a self-managed superannuation fund (SMSF), pursuant to the *Superannuation Industry (Supervision) Act 1993*.

Much of the information required to be provided in a PDS for a SMSF will fall into one of the following categories:

- Information which you already have such as your address and contact details for the Fund.
- Information which due to your duties and responsibilities as an individual trustee or as a director of a corporate trustee of the Fund you should know prior to becoming a trustee or director of a corporate trustee such as the governing rules of the Fund.
- Where the Fund is newly established, information which has not come into existence at the date this PDS was issued such as fees and charges, investment strategy and returns, etc.

In particular, this PDS must be read in conjunction with the information contained in:

- the Notice of Member's Benefits; and
- the Statement of Advice provided by your fund advisor or administrator, if any.

It is important to note that this information relates to your Membership of the Fund, not to your obligations as a individual trustee or director of a corporate trustee of the Fund. You must decide whether or not you wish to take on the responsibility of trusteeship of a SMSF. However, you cannot be a Member of a SMSF without also being an individual trustee or director of a corporate trustee of the Fund. As such, a reference to "Trustee(s)" in this Statement is a reference to you and your fellow individual trustee(s) or director(s) of a corporate trustee. You should separately familiarise yourself with your trustee duties.

Pursuant to Section 1013D of the *Corporations Act 2001* the following information is provided to you:

Name and Contact Details of the Product Issuer

The Fund is the issuer of this PDS. The Fund's contact details are determined by the Trustee(s). This will either be your own address or an address to which you have previously agreed.

Benefits

The benefits available to you are set out in the Fund's trust deed. As a Member of a SMSF, with the agreement of the Trustee(s), you can choose any form or combination of retirement benefits legally available and permitted to be provided by a SMSF.

Unless you elect otherwise, your primary form of retirement benefit is a "pension", as defined in the *Superannuation Industry (Supervision) Regulations 1994*. However, at the time you wish to take your benefits, you may elect in writing to choose a lump sum benefit. Other benefits potentially available to you include death benefits, total and permanent disablement benefits and total and temporary disablement benefits.

Once you have "retired", you will be entitled to your superannuation benefits. Any decision or election should be in writing but if legally permitted, it may be verbal. It should be noted that the timing and types of superannuation benefits you may be entitled to take is the subject of regular legislative change. As such, you should check what options are available to you, at the time you are ready to start taking your benefits.

There may be significant taxation and other implications, should you choose to take your retirement benefits in one form or another. The area of benefits design is a complex, but critical area to ensuring the value of your superannuation savings are maximised. As such, it is strongly recommended that you seek professional advice, prior to taking any benefits.

Nominating Beneficiaries

You may make two different types of nominations in relation to the payment of your benefits upon your death. The nominations are contained in your Application for Membership to the Fund. There are restrictions on whom you can nominate as a beneficiary to receive a benefit upon your death.

The first type of nomination is not binding on the Trustee(s) and may be open to challenge by any potential beneficiaries. Nevertheless, the Trustee(s) must give this nomination serious consideration and would require good reasons not to distribute in accordance with these wishes. However, it is possible that a person may receive a benefit that you might not otherwise have wanted them to receive.

The second type of nomination is called a Binding Nomination. You should be aware that the trustee cannot deviate from the terms of a valid, binding nomination, even if the consequences of complying with it would result in higher tax than might be possible via other avenues, or where you have changed your mind about the beneficiaries or the amounts they should receive.

It is important that you seek professional advice prior to submitting either type of Nomination.

Risks

means that amounts (including contributions, transfers and rollovers and accumulated earnings) are invested as you and your co-trustees (or director(s) of a corporate trustee) see fit.

Depending upon the investment decisions which the Trustee(s) make over time, you will either accumulate investment gains (including capital and income gains) or accumulate investment losses. In some years, gains may arise and in other years, losses may arise. This will affect the balance of your Member's "Accumulated Benefit". As a trustee, you have both the responsibility for and control over the manner in which the Fund's investments are made and, as such, you control the risks associated with the Fund's investments.

Amounts Payable and Fund Expenses

As a trustee of the SMSF, you and the other trustees control any amounts which might be payable for the issue of your Membership in the Fund. Costs and expenses of the Fund may either be shared equitably among Members by way of deduction from their accounts or, where the expense relates to identifiable Members only, from those Members' accounts.

Commissions

As a trustee of the SMSF, you and your trustees control any appointments of financial professionals and investments into products which might include commissions.

Dispute Resolution

There are no formal dispute resolutions mechanisms available to Members. In the event of dispute it is expected that the Founder of the Fund will exercise the discretions available under the terms of the deed to remove and replace Trustee(s). If you are removed as a trustee you also cease to be a Member of the Fund. As a trustee, it is reasonable to presume that you have made yourself aware of the contents of the trust deed. As such, pursuant to Section 1013F of the *Corporations Act 2001* detailed information concerning the role of the Founder under the deed are not included in this PDS.

Taxation Implications

All superannuation funds in the accumulation phase pay 15% tax on their net taxable incomes. Net taxable income includes assessable contributions, plus investment earnings, less deductible expenses. Other rebates and credits, such as franking rebates and imputations credits may reduce the amount of tax which a superannuation fund must pay. Net taxable capital gains of a superannuation fund are taxed at 10%.

Each year, the Trustee(s) will make a determination as to how these taxes are to be deducted from an individual Members account. The Trustee(s) is required to determine this in an equitable manner, as between the Members.

Depending on your personal taxable income in a given year, there may also be a liability for the superannuation contribution surcharge tax in respect of any tax-deductible contributions made by your employer or yourself. Where surcharge is payable, this amount will be directly deducted from your member's account.

The income and capital gains of a superannuation fund which is paying a benefit after you reach age 60 years will be exempt from tax. Where contributions are in excess of the amount receivable by the Fund for the purposes of concessional tax treatment, the tax liability will be levied on the Member for whom the excessive contribution was made. The Fund will be permitted to release money to pay that liability.

The rules regarding personal taxation of superannuation benefits can depend on the type of benefit being paid and when you receive it and are not addressed in this document. It is strongly advised that you seek professional advice regarding the taxation of your personal superannuation benefits and the options available to you.

Insurance

There is no obligation for the Trustee(s) of the Fund to take out life or other insurances on your behalf. However, there is nothing to prevent you as a trustee making such application. As noted above, benefits can be paid out in similar circumstances to normal insurable events (death, total and permanent disablement, total and temporary disablement), however where the Fund has not undertaken insurance on your behalf, any payments will be limited to the value of your Members' "Accumulated Benefit".

Alternative Types of Superannuation Funds

You should be aware that there are a number of alternative forms of superannuation available to you, each of which have different characteristics. You should consider your own situation carefully prior to becoming a Member of one form of superannuation fund or another, and should seriously consider seeking advice from an authorised representative of an Australian financial services licensee.

Public Offer Superannuation Funds

These funds are managed by a trustee on your behalf. You may have a choice of broad "categories" for investment, such as conservative, balanced, growth, etc., where you have no control over the actual investments which are undertaken by the fund (and, depending upon their reporting, you may never know what those assets are). Certain other funds allow Members (usually only through a financial planner) to select individual investments from a menu of options. An example might be a list of 50 managed funds and shares in the top 200 ASX listed companies. Typically, you will only receive written reports on your share of the fund's performance annually in your Member statement, although you may be able to access interim performance results for the fund (e.g. via a website). Fees will usually be charged on entry and exit from these funds. There will also be contribution fees, administration fees, category switching fees (often only after a certain number of free annual switches) and asset management fees. Some of these fees may be charged as a percentage of your account balance. Many public offer funds will include a commission payable to the advisor who recommends the fund to you. In most cases, the more investment choices you have, the higher the overall level of fees the fund charges.

Typically, you can also purchase insurance (life, total and permanent disablement and sometimes total and temporary disablement). Furthermore, public offer funds may restrict the types of benefits which are payable upon your death or retirement (e.g. they may not pay certain types of pensions, or may require you to transfer to another sub-category within their fund before paying pensions).

Industry Superannuation Funds

These funds are managed by a trustee on your behalf. In the past, these funds have only been open to Members of a certain union or industry, however many are now accepting Membership from other parties. You may not have a choice of "categories" for investment in these funds, although many now offer similar choices of categories to public offer funds, such as conservative, balanced, growth, etc. Once again, you have no control over the actual investments which are undertaken by the fund (and, depending upon their reporting, you may never know what those assets are). Typically, you will only receive reports on your share of the fund's performance annually in your Member statement, although you may be able to access interim performance results for the fund (e.g. via a website). Where categories are available, there will normally be restrictions on the frequency with which you can change between categories. Fees will usually be charged on entry and exit from these funds. There may also be contribution fees, administration fees, category switching fees (often only after a certain number of free annual switches) and asset management fees. Some of these fees may be charged as a percentage of your account balance. Industry funds do not normally pay commissions to advisors who recommend the fund to you. Typically, a certain level of "group" insurance (life, total and permanent disablement and sometimes total and temporary disablement) will be provided by industry funds without medical requirements. Additional insurance can be acquired with medical examination. Industry funds may restrict the types of benefits which are payable upon your death or retirement (e.g. they may not pay certain types of pensions, or may require you to transfer to another sub-category within their fund before paying pensions).

Small APRA Funds

These funds are similar to SMSF'S, except that they have an independent trustee. The independent trustee must be an "approved" trustee. Typically, these are large public trustee corporations. They will charge fees for their services and all decisions as to investments, benefit payments and the like must be approved by them. They will normally control the fund's cheque book and appoint the accountants and auditors of the fund. They are normally only chosen when a Member wishes to have investment flexibility similar to that of a SMSF, but for one reason or another, they cannot be a trustee of their own fund (e.g. because they are an undischarged bankrupt and therefore a 'disqualified' person, or because the trustees are leaving Australia for more than two years, which can have adverse tax consequences). Because of the expense of the approved trustee services, these funds are only used in a very limited number of cases.

Other Information

The first duty of a Trustee is to familiarise themselves with the terms of and their duties under the trust. Pursuant to Section 17A of the *Superannuation Industry (Supervision) Act 1993* all Members of SMSF's must be trustees or directors of the Fund's corporate trustee.

This PDS addresses issues relating to your proposed Membership of the Fund, not issues which arise in relation to your duties and liabilities as a trustee of the Fund. As a trustee, it is your responsibility to separately familiarise yourself with those duties and liabilities and to be actively involved in the operation of the Fund. As this is a legal obligation, it is reasonable to presume that you have done so. As such, pursuant to Section 1013F of the *Corporations Act 2001* detailed information concerning other matters pertaining to the operation of the Fund are not included in this PDS.

Other Documents Forming Part of This PDS, For Funds Other Than New Funds

Where the Fund is a pre-existing fund and you are joining as a Member, or where you are an existing Member and are commencing to take your benefit in the form of a pension, you will find the following documents annexed to this PDS:

- The Fund's investment strategy; and
- The last financial statements prepared in respect of the Fund.

These documents form part of this PDS for funds other than newly established funds. If you have not yet received a copy of these documents, you should not sign this PDS until you have received them.

Binding Death Benefit Nomination

To the Trustees of Tinsley Family Super Fund.

I, Kyle Stewart Tinsley

Of 4/1078 Gold Coast Highway
Palm Beach QLD 4221

as a member of the above fund, direct you to pay my death benefit to the following persons in the proportions as shown:

Name of Beneficiary	Relationship to Me	Percentage of Benefit	Transfer via Lump Sum or Pension

If any of the person nominated above predecease me I direct you to pay the proportion of my death benefit that would have been payable to that person to the following persons in the proportions as shown:

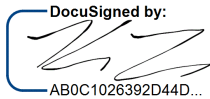
Name of Beneficiary	Relationship to Me	Percentage of Benefit	Transfer via Lump Sum or Pension

I understand that:

1. I can amend or revoke this Nomination at any time by providing a new nomination.
2. Unless amended or revoked earlier, this nomination is binding on the trustees for a period of three (3) years from the date this nomination is signed.
3. If the total proportion of my benefit nominated above does not equal my entire benefit then I understand that the trustee shall have discretion as to where the remaining proportion of my benefit shall be paid.
4. I understand that if I have not completed this nomination correctly then it may be invalid and that the trustee may then have a discretion as to where my benefit is paid.

I acknowledge that I have been provided with the necessary information to enable me to make an informed nomination and I fully understand the effect of this nomination.

Signed:



27 September 2022 | 1:59 AM PDT

Date: _____

Kyle Stewart Tinsley

Witnesses: (This nomination must be signed by 2 witnesses over the age of 18 and not named as beneficiaries)

We declare that:

- This Nomination was signed by the member in our presence.
- We are aged 18 years or older.
- We are not named as beneficiaries in this nomination.

Name: _____

Date: _____

Name: _____

Date: _____

Instructions and form for SMSF trustees

Trustee declaration

To be completed by new trustees and directors of corporate trustees of self-managed super funds.

- ! We strongly recommend you undertake a free trustee education course before reading and signing this declaration. For more information visit ato.gov.au/smsf and search 'approved education courses'.



Who should complete this declaration?

You must complete this declaration if you become a trustee or director of a corporate trustee (trustee) of:

- a new self-managed super fund (SMSF)
- an existing SMSF.

You must sign this declaration within 21 days of becoming a trustee or director of a corporate trustee of an SMSF.

A separate declaration is required to be completed and signed by each and every new trustee.

You must also complete the declaration if you:

- have undertaken a course of education in compliance with an education direction
- are a legal personal representative who has been appointed as trustee on behalf of a:
 - member who is under a legal disability (usually a member under 18 years old)
 - member for whom you hold an enduring power of attorney
 - deceased member.

Understanding your obligations

We have a range of services available to help you understand your obligations and keep up to date with the latest news for SMSF trustees.

To subscribe to our news and alerts service visit ato.gov.au/smsf and search 'news and alerts'.

For more information on free approved trustee education courses visit ato.gov.au/smsf and search 'approved education courses'.

Before completing this declaration

Before you complete and sign this declaration, make sure you:

- read each section
- understand all the information it contains.

- ▶ If you have any difficulties completing this declaration or you do not fully understand the information it contains:
 - speak to a professional adviser
 - visit ato.gov.au/smsf
 - phone us on **13 10 20**.

When completing this declaration

When you complete this declaration, remember to:

- insert the full name of the fund at the beginning
- sign and date it
- ensure it is signed and dated by a witness (anyone 18 years old or over).

What should you do with the declaration?

You must keep your completed declaration for at least 10 years and make it available to us if we request it.

- ! Do not send your completed declaration to us unless we request this from you.

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Canberra
June 2021

DE-35147



Self-managed super fund trustee declaration

I understand that as an individual trustee or director of the corporate trustee of

Fund name

Tinsley Family Super Fund

I am responsible for ensuring that the fund is operated in accordance with the *Superannuation Industry (Supervision) Act 1993* (SISA) and other relevant legislation. The Commissioner of Taxation (the Commissioner) has the authority and responsibility for administering the legislation and enforcing trustees' compliance with the law.

I must keep myself informed of changes to the legislation relevant to the operation of my fund and ensure the trust deed is kept up to date in accordance with the law and the needs of the members.

If I do not comply with the legislation, the Commissioner may take the following actions:

- impose administrative penalties on me
- give me a written direction to rectify any contraventions or undertake a course of education
- enter into agreements with me to rectify any contraventions of the legislation
- disqualify me from being a trustee or director of a corporate trustee of any superannuation fund in the future
- remove the fund's complying status, which may result in significant adverse tax consequences for the fund
- prosecute me under the law, which may result in fines or imprisonment.

Sole purpose

I understand it is my responsibility to ensure the fund is maintained for the purpose of providing benefits to the members upon their retirement (or attainment of a certain age) or their beneficiaries if a member dies. I understand that I should regularly evaluate whether the fund continues to be the appropriate vehicle to meet this purpose.

Trustee duties

I understand that by law I must at all times:

- act honestly in all matters concerning the fund
- exercise skill, care and diligence in managing the fund
- act in the best financial interests of all the members of the fund
- keep records of decisions made about the running of the fund, including the appointment of professional advisers and the retirement of members and payment of benefits
- ensure that my money and other assets are kept separate from the money and other assets of the fund
- take appropriate action to protect the fund's assets (for example, have sufficient evidence of the ownership of fund assets)
- refrain from entering into any contract or do anything that would prevent me from, or hinder me in, properly performing or exercising my functions or powers as a trustee or director of the corporate trustee of the fund
- allow all members of the fund to have access to information and documents as required, including details about
 - the financial situation of the fund
 - the investments of the fund
 - the members' benefit entitlements.

I also understand that by law I must prepare, implement and regularly review an investment strategy having regard to all the circumstances of the fund, which include, but are not limited to:

- the risks associated with the fund's investments
- the likely return from investments, taking into account the fund's objectives and expected cash flow requirements
- investment diversity and the fund's exposure to risk due to inadequate diversification
- the liquidity of the fund's investments having regard to the fund's expected cash flow requirements in discharging its existing and prospective liabilities (including benefit payments)
- whether the trustees of the fund should hold insurance cover for one or more members of the fund.

Accepting contributions and paying benefits

I understand that I can only accept contributions and pay benefits (income streams or lump sums) to members or their beneficiaries when the conditions specified in the law and the fund trust deed have been met.

Investment restrictions

I understand that, as a trustee or director of the corporate trustee of the fund, subject to certain limited exceptions specified in the law, I am prohibited from:

- giving financial assistance using the resources of the fund to a member of the fund or a member's relative (financial assistance means any assistance that improves the financial position of a person directly or indirectly, including the provision of credit)
- acquiring assets (other than business real property, listed securities, certain in-house assets and acquisitions made under mergers, allowed by special determinations or acquisitions from the trustee or investment manager of another regulated super fund as a result of a breakdown of a relationship) for the fund from members or other related parties of the fund
- borrowing money (or maintaining an existing borrowing) on behalf of the fund except in certain limited circumstances (while limited recourse borrowing arrangements are permitted, they can be complex and particular conditions must be met to ensure that legal requirements are not breached)

- acquiring an in-house asset if the fund's in-house assets exceed 5% of the market value of the fund's total assets, or the in-house assets will exceed 5% of the market value of the fund's total assets by acquiring the asset (in-house assets are loans to, or investments in, related parties of the fund – including trusts – or assets subject to a lease or lease arrangement between the trustee and a member, relative or other related party)
- entering into investments that are not made or maintained on an arm's length (commercial) basis (this ensures the purchase or sale price of the fund's assets and any earnings from those assets reflects their market value).

Administration

I understand that the trustees of the fund must:

- keep and retain for at least 10 years
 - minutes of all trustee meetings at which matters affecting the fund were considered (this includes investment decisions and decisions to appoint members and trustees, the retirement of members and payment of benefits)
 - records of all changes of trustees, including directors of the corporate trustee
 - each trustee's consent to be appointed as a trustee of the fund or a director of the corporate trustee
 - all trustee declarations
 - copies of all reports given to members
 - documented decisions about storage of collectables and personal use assets
- ensure that the following are prepared and retained for at least five years
 - an annual statement of the financial position of the fund
 - an annual operating statement
 - copies of all annual returns lodged
 - accounts and statements that accurately record and explain the transactions and financial position of the fund including asset market valuation
 - copies of Transfer balance account reports lodged
 - copies of any other statements you are required to lodge with us or provide to other super funds
- appoint an approved SMSF auditor each year, no later than 45 days before the due date for lodgment of the fund's annual return and provide documents to the auditor as requested
- lodge the fund's annual return, completed in its entirety, by the due date
- review the independent audit report received from the approved SMSF auditor and take action as required
- notify the ATO within 28 days of any changes to the
 - membership of the fund, or trustees or directors of the corporate trustee
 - name of the fund
 - contact person and their contact details
 - postal address, registered address or address for service of notices for the fund
- notify the ATO in writing within 21 days if the fund becomes an Australian Prudential Regulation Authority (APRA) regulated fund.

DECLARATION

By signing this declaration I acknowledge that I understand my duties and responsibilities as a trustee or director of the corporate trustee of the self-managed superannuation fund named on this declaration (or if the fund's name changes, that name). I understand that:

- I must ensure this document is retained for at least 10 years or while I remain a trustee or director of the corporate trustee (whichever is longer) and, if I fail to do this, penalties may apply.
- Administrative penalties can be imposed on me for not complying with the legislation
- I may have to make this document available for inspection by a member of staff of the ATO and, if I fail to do this, penalties may apply.
- I do not have access to the government's financial assistance program that is available to trustees of APRA regulated funds in the case of financial loss due to fraudulent conduct or theft.
- I declare that the information provided in the form is true and correct.

Trustee's or director's name

Kyle Stewart Tinsley

Trustee's or director's signature

DocuSigned by:

 AB0C1026392D44D...

Date
 Day: 13 / Month: 11 / Year: 2021

Witness' name (witness must be 18 years old or over)

Witness' signature

Date
 Day: / Month: / Year:



Trust Deed Tinsley Family Super Fund

Drawn by:

Redchip Lawyers

redchip.com.au

redchip@redchip.com.au

P 07 3223 6100

Solicitors for:

Acis

acis.net.au

acis@acis.net.au

P 1800 773 477

THIS DEED POLL is made on 13/11/2021.

BY: Tinsley Family Super Pty Ltd ACN 655 315 978
4/1078 Gold Coast Highway
Palm Beach QLD 4221

hereby known as "the Trustee"

WHEREAS:


- A. The Trustee has decided to establish an indefinitely continuing superannuation plan to be known as Tinsley Family Super Fund (the "Fund").
- B. The Trustee has agreed to act as the first Trustee of the Fund.
- C. The primary purpose of the Fund is to provide old age pensions to the Members.

NOW THIS DEED WITNESSES as follows:

- 1.
 - a. The Trustees include the Trustees for the time being of this Deed.
 - b. The Rules means the Rules set forth in the attachments hereto as amended from time to time as therein provided.
- 2. The Fund shall come into operation on the date of signing this deed.
- 3. The assets of the Fund shall be vested in the Trustee upon trust to apply the same in the manner set forth in the Rules. The Trustees shall manage and administer the Fund in all respects according to the Rules.
- 4. The power of appointing new Trustees shall be as provided in and subject to the Rules and the Trustees may be appointed or removed in the manner provided for in the Rules.
- 5. The provisions of this Deed may be amended in the manner set out in the Rules.
- 6. This Deed and the Rules shall be governed by and construed in accordance with the law of Queensland.

IN WITNESS the party has duly executed this Deed on the date first above written.

EXECUTED AS A DEED by Tinsley Family)
Super Pty Ltd ACN 655 315 978.)

DocuSigned by:

AB0C1026392D44D...

Kyle Stewart Tinsley
Sole Director / Sole Secretary

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RULES

PLEASE NOTE that the material referred to in these Rules is constantly changing and you must keep up to date with those changes. If you are unsure about the currency of any information in the Rules, please contact us immediately or your accountant, financial planner or other advisor.

YOU SHOULD NOT ATTEMPT TO MANAGE YOUR OWN SUPERANNUATION FUND WITHOUT CONSULTING YOUR ACCOUNTANT, FINANCIAL PLANNER, LAWYER OR OTHER ADVISER.

1. INTERPRETATION PROVISIONS

1.1 Terms defined in the Act

- (a) Any word or expression which is given a defined meaning in the Act has the same meaning when used in these Rules. If any word or expression defined in the Dictionary in Schedule 2 conflicts or is inconsistent with any term or expression defined in the Act, the word or expression will have the meaning given in the Act.
- (b) If a definition used in these Rules expands any defined term contained in the Act, the expanded meaning does not, by itself, result in a conflict or inconsistency under Rule 1.1(a).

1.2 How to apply the Dictionary

Subject to Rule 1.1, the words and expressions set out in the Dictionary in Schedule 2:

- (a) apply to these Rules; and
- (b) have those meanings when used in these Rules.

1.3 Interpretation

- (a) In these Rules, unless the context or subject matter requires otherwise, references to:
 - (i) **singular** words includes the plural and vice versa;
 - (ii) any **gender** includes every gender;
 - (iii) a **person** includes natural persons, firms, companies, corporations, bodies corporate, trustees, trusts, associations, partnerships, government authorities, and other legal entities and includes successors and assigns from time to time;
 - (iv) **writing** includes printing, typing, facsimile and other means of representing or reproducing words, figures, drawings or symbols in a visible and tangible or electronic form, in English;
 - (v) **signature** and **signing** mean due execution of a document by a person, corporation or other relevant entity and include signing by an agent or attorney or representative (if a body corporate);
 - (vi) **months** mean calendar months;
 - (vii) **statutes** include statutes amending, modifying, rewriting, consolidating or replacing the statutes referred to and all regulations, orders-in-council, rules, by-laws, orders in council and ordinances made under those statutes;
 - (viii) **sections** of statutes or terms defined in statutes refer to corresponding sections or defined terms in amended, consolidated or replacement statutes;
 - (ix) **regulations** or terms defined in regulations refer to corresponding regulations or defined terms in amended, consolidated or replacement regulations;
 - (x) an **agreement** or **document** (including these Rules) means that agreement or document as amended, novated or supplemented and includes all parts of it including clauses, recitals, schedules, appendices and exhibits to it;
 - (xi) a **party** includes that party's executors, administrators, substitutes, successors and assigns;
 - (xii) **Rules, clauses** or **schedules** are references to the Rules, clauses or schedules contained in these Rules;
 - (xiii) where a person is entitled to **vote** or holds the **right to vote** on any matter by virtue of these Rules, the person may vote by proxy or attorney or representative (if a body corporate). A reference to a person being present means present in person or by proxy.
- (b) In these Rules, the following rules apply unless the context or subject matter requires otherwise:
 - (i) **headings** and the **table of contents** are used for convenience only and must be disregarded in the interpretation of these Rules;

- (ii) if a word or phrase is given a **defined meaning**, another grammatical form of that word or phrase has a corresponding meaning;
- (iii) a requirement to give a person **notice** in writing must be satisfied by posting the notice to that person's last known address;
- (iv) no **rule of construction** of documents will apply to the disadvantage of a party, on the basis that the party put forward the document or any relevant part of it;
- (v) **notes and references** to statutes (or sections of statutes) or other documents contained in bold text after any term defined in these Rules are used to assist in the reading of these Rules and must be disregarded in the legal interpretation of these Rules.

1.4 Establishment of trust

Where these Rules are adopted:

- (a) as the rules of a new SMSF, the Trustee acknowledges the receipt or anticipated receipt of funds or other property to be held on the trusts in these Rules; and
- (b) as replacement rules in respect of an existing SMSF, the Trustee acknowledges that it holds the assets and property of the Fund on the trusts in these Rules to the exclusion of other Governing Rules contained in any previous instrument.

1.5 Rules for Self Managed Superannuation Funds

The Trustee will ensure that the Fund meets the conditions necessary under the Act and Regulations, from time to time, to be considered a Self Managed Superannuation Fund.

1.6 Sole purpose

These Rules are subject to the requirement that:

- (a) where the Trustee is a natural person or persons, the sole or primary purpose of the Fund must always be the provision of Old-age Pensions; or
- (b) where the Trustee is a constitutional corporation, this Fund is subject to the requirement that the Trustee must always be a constitutional corporation.

2. MEMBERSHIP

2.1 Who may apply

- (a) The Trustee may admit as a Member, any person who may become a Member under the Act and Regulations, from time to time.

2.2 Becoming a Member

- (a) **Submit application.** Any person may apply for membership of the Fund by completing and submitting an application to the Trustee, in any form accepted by the Trustee for that purpose.
- (b) **Applicant agrees to these Rules.** A person who applies for and is admitted as a Member, is deemed to be bound by these Rules.

2.3 Some ex-Spouses treated as Members

Where a Superannuation Interest is subject to a Splitting Order and the Non-member Spouse was not a Member immediately before the order is made, the Trustee must treat a Non-member Spouse as a Member.

2.4 Ceasing to be a Member

A person ceases to be a Member if the person's Benefit Account has a balance of nil and the remaining Trustees or Members determine that the person is no longer a Member.

2.5 Categories and sub-plans

- (a) **Trustee may divide Members into categories and sub-plans.** The Trustee may divide the Members and Beneficiaries into different categories or sub-plans for any purposes which it considers appropriate. The benefits and entitlements of each category, and the criteria for admission into each category will be as determined by the Trustee in its absolute discretion.
- (b) **Allocation of assets.** The Trustee may, to the extent permitted by the Relevant Law, designate or allocate specific assets of the Fund to specific accounts, Benefit Accounts, sub-plans or groups as determined by the Trustee in its absolute discretion.

- (c) **No benefit reduction without approval.** Subject to the Relevant Law, the benefits and entitlements of any Members or Beneficiaries must not be reduced without the prior written approval of the affected Members or Beneficiaries.

2.6 Restrictions for Member-contributed WA property

Regardless of any other provision in these Rules, but subject to Rule 5.11, where the Fund acquires Member-contributed WA Property:

- (a) either:
- (i) the Transferor of the Member-contributed WA Property must be the only Member and the Fund must not admit any further Members, so long as the Fund still owns the Member-contributed WA Property; or
 - (ii) the Member-contributed WA Property must be held by the Fund specifically for the Transferor of the Member-contributed WA Property and must not be combined or pooled with the contributions or other assets of another Member other than the Transferor and no other Member is entitled to obtain or make any claim to any interest in the Member-contributed WA Property; and
- (b) any Member-contributed WA Property held under Rule 2.6(a) can only be held in the Fund to be provided to the Transferor as a retirement benefit.

2.7 Restrictions for Member-contributed NSW property

Regardless of any other provision in these Rules, but subject to Rule 5.11, where the Fund acquires Member-contributed NSW Property:

- (a) either:
- (i) the Transferor of the Member-contributed NSW Property must be the only Member and the Fund must not admit any further Members, so long as the Fund owns the Member-contributed NSW Property; or
 - (ii) the Member-contributed NSW Property must be held by the Trustee solely for the benefit of the Transferor; and
- (b) any Member-contributed NSW Property must be used solely for the purpose of providing a retirement benefit to the Transferor; and
- (c) Member-contributed NSW Property to which Rules 2.7(a) and 2.7(b) apply:
- (i) must be held by the Trustee specifically for the benefit of the Transferor as a Member; and
 - (ii) cannot be pooled with any property held for another Member and
 - (iii) no other Member can obtain an interest in the Member-contributed NSW Property.

3. PROVISION OF INFORMATION BY THE TRUSTEE

3.1 Requirement to give information

The Trustee must consider whether or not an obligation under the Relevant Law exists to provide information in various circumstances, including the timing of that information and the person, people or entities to whom that information should be provided.

3.2 Cost of providing information

There may be circumstances in which it is appropriate that the person, people or entities to whom the information is to be provided should bear the cost of providing such information, however where that information is required to be provided by the Relevant Law, the Trustee must consider the need to provide that information and consider the recovery of costs as separate matters.

4. CONTRIBUTIONS

4.1 Who may make contributions

The Trustee may accept contributions to the Fund that are made in respect of a Member, by entities or people and in circumstances allowable under the Relevant Law, from time to time. These contributions include (but not limited to) contributions which are:

- (a) from a Member's employer;
- (b) from or on behalf of a Member;
- (c) Government Co-contributions;
- (d) Splittable Contributions;

- (e) Downsizer Contributions.

5. BENEFITS AND ENTITLEMENTS

5.1 Pensions and caps

- (a) **Auto-Pension Commencement.** Subject to Rule 5.1(c), where the Trustee becomes aware that a Member has Unrestricted Non-preserved Benefits in the Fund which are not in Retirement Phase and that Member has Retired on or after attaining their Preservation Age, or has attained the age of 65 years, the Trustee must commence an Account Based Pension with all of those Benefits as soon as possible.
- (b) **Effect of Non-concessional Contribution or Roll-in for Existing Pension Member.** Where a Non-concessional Contribution is made or a benefit is rolled into the Fund in respect of a Member receiving one or more Pensions, subject to Rule 5.1(c), the Trustee must commence an additional Pension on the same terms and conditions as the most recently commenced Pension, in the amount of the Non-concessional Contribution, from the day on which that contribution is made.
- (c) **Restriction on Auto-Pension Commencement.** Where a Trustee would otherwise be required to commence an Account Based Pension pursuant to Rule 5.1(a) or an additional Pension pursuant to Rule 5.1(b) and:
 - (i) the Member notifies the Trustee that part or all of the amount is not to be used to commence a Pension; or
 - (ii) the Member notifies the Trustee that the Pension, using part or all of the Member's Benefit or Non-concessional Contribution, as the case may be, is to commence on a different day; or
 - (iii) commencing a Pension using part or all of the Member's Benefit or Non-concessional Contribution, as the case may be, would cause the Member to exceed their Transfer Balance Cap,

to the extent that the Member does not wish the Member's Benefit or Non-concessional Contribution to be used in starting a Pension, or in respect of the amount which would cause the Member to exceed their Transfer Balance Cap, the Trustee must not use that amount to commence a Pension, and where the Member has specified a different day for the Pension's commencement, the Trustee must not commence the Pension until that day.

- (d) **Pension Auto-commutation at Transfer Balance Cap.** Where the Trustee becomes aware that a Member who is receiving one or more Pensions is presently, or will, upon a certain date or on the occurrence of a certain event, exceed, their Transfer Balance Cap, unless instructed otherwise by the Member, the Trustee must commute part or all of one or more Pensions being received by the Member to an accumulation account in respect of that Member, to the extent necessary to reduce their benefits in Retirement Phase to their Transfer Balance Cap, and the Trustee shall decide which Pension or Pensions are to be commuted. Where a Member affected by this Rule is receiving more than one Pension and unless the Member elects otherwise or unless the Trustee decides it would be in the Member's best interests to do otherwise, the Trustee must prefer to commute Pensions in order, from those with the highest, to those with the lowest taxable components.
- (e) **Auto-Pension Commencement where Payments Below Minimums.** Where a Member is receiving an Account Based Pension, if the Member is paid an amount less than the minimum amount required by the Relevant Law during a financial year and the Pension ceases for that reason, the Trustee must, on the first day of July in the following financial year, commence an Account Based Pension on the same terms and conditions as the Pension that ceased, unless the Member notifies the Trustee otherwise.
- (f) **Order of Pension Commutation After Death of Another Person.** Where the Trustee becomes aware that a Member is or will exceed their Transfer Balance Cap because of that Member's entitlement to receive a superannuation pension consequent upon the death of another person, unless instructed otherwise by the Member in writing, and while also complying with Rule 5.1(e), the Trustee must prefer to first commute the Member's own Pensions, before commuting part of all of the pensions receivable or to be received consequent upon the death of that other person.
- (g) **Trustee to Commute Payments Above Minimums for Certain Pensions.** Where a Member is receiving one or more Account Based Pensions, if the Member is paid an amount greater than their aggregate minimum payments (calculated in accordance with Part 1 of Schedule 1) during a financial year in respect of that or those pensions, the Trustee must pay the excess in the following order, until the amounts paid in excess of the aggregate minimum payments are exhausted:
 - (i) where the Member has Unrestricted Non-preserved Benefits which are not in Retirement Phase, from those amounts;

- (ii) where the Member is being paid more than one Pension and unless the Trustee decides it would be in the Member's best interests to do otherwise, as full or partial commutations from the Pensions with the highest taxable components, to the lowest;
- (iii) where the Member is being paid one Pension, as partial or full commutations from that Pension, and this paragraph will apply unless the Member notifies the Trustee in writing that part or all of the payment or payments in excess of the minimum are to be treated in a different manner.

5.2 Benefits a Member may receive

- (a) **Retirement at the normal time.** A Member who Retires or attains the age of 65 years is entitled to receive a Normal Retirement Benefit.
- (b) **Benefits before the normal time.** A Member who has attained Preservation Age but has not yet Retired is entitled to receive a Normal Retirement Benefit, but subject to the benefit being paid as a pension which cannot be commuted to a lump sum before the Member Retires or attains the age of 65 years, or in any other form allowable under the Relevant Law, from time to time.
- (c) **Total and Permanent Disablement.** A Member who ceases Gainful Employment because of Total and Permanent Disablement is entitled to receive a Total and Permanent Disablement Benefit.
- (d) **Total and Temporary Disablement.** Upon the Total and Temporary Disablement of a Member, the Member is entitled to receive a Total and Temporary Disablement Benefit.
- (e) **Terminal Illness Benefit.** Upon a Member being diagnosed as Terminally Ill, the Member is entitled to receive a Terminal Illness Benefit.
- (f) **Death Benefits.** A Death Benefit becomes payable upon the death of:
 - (i) a Member; or
 - (ii) a reversionary beneficiary receiving a Pension,
 to the extent that the type of Pension or other benefit being received allows for the calculation and payment of a Death Benefit.
- (g) **Reversionary Pension.** A Member receiving a Pension may nominate by notice to the Trustee, either at the commencement of the Pension or at any subsequent time, one or more reversionary beneficiaries who are to continue to receive that Pension after the Member's death. A Member may, at any time, by notice to the Trustee, revoke a nomination of one or more reversionary beneficiaries.
- (h) **Reversionary Pension if Member dies.** If a Member dies while receiving a Reversionary Pension and the terms applying to that Pension nominate a reversionary beneficiary (however described), subject to the Relevant Law, the Trustee must continue to pay that Pension in favour of the reversionary beneficiary on the same terms and conditions as applied to the deceased Member.
- (i) **Pension to Spouse if Member dies.** If a Member dies while receiving a Pension, the Member's Spouse may apply to the Trustee to have that Pension continued in their favour. The Trustee may, in its absolute discretion, decide to continue that Pension. The amount of that Pension will not exceed the amount calculated in accordance with the Act and Regulations. Where a Pension nominates a reversionary beneficiary (other than the Member's Spouse) or the payment of the Pension to the Member's Spouse would be contrary to a nomination under Rule 5.4 or an agreement under Rule 5.5, the Trustee cannot elect to continue the Pension in favour of the deceased Member's Spouse.
- (j) **No right to elect to receive Death Benefit as Pension.** Unless Rule 5.4 or 5.5 requires a payment in accordance with a Binding Death Nomination or a Death Benefit Rule to be made by way of a Pension, a person entitled to receive a Death Benefit does not have a right to elect to receive that benefit by way of a Pension. However, the person entitled to receive a Death Benefit may apply to the Trustee for part or all of their Death Benefit entitlement be paid as one or more Pensions and the Trustee, in its absolute discretion, may decide to grant the request.
- (k) **Other cases.** A person who ceases to be a Member, otherwise than by death, and who is not entitled to a:
 - (i) Normal Retirement Benefit; or
 - (ii) Total and Permanent Disablement Benefit,
 will be entitled to:
 - (iii) receive the balance of his or her Benefit Account, subject to Rules 5.9 and 5.10; or
 - (iv) have the balance of his or her Benefit Account transferred to another Regulated Superannuation Fund, Approved Deposit Fund, EPSSS or RSA, in accordance with Rule 6.2.

- (l) **Reject Contributions.** Subject to the Relevant Law, if the Trustee receives:
- (i) a request or direction from a Member to reject a contribution (wholly or partially);
 - (ii) a contribution in error;
 - (iii) a contribution which would cause the Member to exceed their Contributions Cap;
 - (iv) a contribution which does or may result in the Trustee's inability to comply with the Relevant Law;
 - (v) a contribution which may not be accepted under with the Relevant Law; or
 - (vi) a contribution which may lawfully be rejected or repaid under the Relevant Law,
- the Trustee will hold the contribution upon a separate trust apart from the Fund and may reject or repay the contribution (wholly or partially) to or at the direction of the person making the contribution after deducting any expenses incurred in the receipt or return of the contribution and any tax liability imposed on the Trustee as a result of the receipt of the contribution.
- (m) **Overpayments.** If, for any reason, a Member receives an amount of a benefit in excess of the amount due to the Member, subject to the Relevant Law, the Trustee may recover the excess by:
- (i) reducing the balance of the Member's Benefit Account;
 - (ii) reducing the amount of any future payments due to the Member;
 - (iii) any other method permitted by law and the Relevant Law.
- (n) **Early Release.** If the Trustee receives a written request for the early release of some or all of a Member's entitlements and if:
- (i) the Member's circumstances constitute grounds for early release; and
 - (ii) where required, the Trustee receives written approval from the Regulator,
- the Trustee may pay the benefits and entitlements to the Member, net of any taxes or reasonable charges applicable to the payment of those benefits and entitlements, and subject to any restrictions required as to the manner and amount of that payment.
- (o) **Release Authority.** If the Trustee receives a release authority from the Regulator, the Trustee must pay the amount specified in that authority and in accordance with that authority to the person or persons entitled to it.
- (p) **Payments to commence.** Where a Member or another person, becomes entitled to receive any payment of a benefit under the preceding paragraphs, the Trustee must pay those amounts in accordance with the terms of these Rules and the Relevant Law and within the time required by the Relevant Law and, if none is specified, within a reasonable time.
- (q) **Effect of Family Law Act.** Where, pursuant to an order under the Family Law Act, a Superannuation Interest has been created in favour of a Non-member Spouse, a reference in this Rule 5.2 to a Member will be read as including a Non-member Spouse.

5.3 How to calculate benefits

NOTE: While the primary form of benefit is a Pension, Lump Sum benefits may still be paid. See Rule 5.8 for details.

- (a) **More than one Benefit Account.** A Member may have one or more Benefit Accounts which may be accumulation accounts or accounts from which Pensions are drawn or any combination of them or any other type of account permitted by the Relevant Law, as determined by the Trustee.
- (b) **Normal Retirement Benefit.** A Member's Normal Retirement Benefit will be a Pension of an amount determined by the Trustee, having regard to:
- (i) the balance of the Member's Benefit Account intended to fund the Pension at the date the Pension commences to be paid;
 - (ii) the period over which and the terms upon which the Pension is to be payable;
 - (iii) the expected investment earnings of the Fund to be attributable to the relevant Benefit Account;
 - (iv) the operating costs of the Fund, costs associated with the termination of the Fund and any administrative, insurance and taxation costs relating to the operation and termination of the Fund, which are anticipated to be attributable to the relevant Benefit Account;
 - (v) the cost of any annuities, Pensions and income streams purchased or to be purchased by the Trustee in respect of the Member or the Member's Beneficiaries;

- (vi) the terms of any agreement or other instrument containing the terms and conditions upon which the Pension is to be paid;
 - (vii) any restrictions placed upon the payment of annuities, Pensions and income streams by the Act and Regulations; and
 - (viii) any lump sum payment, or total or partial commutation in accordance with Rule 5.8.
- (c) **Benefit payable until nil balance.** A Member's Normal Retirement Benefit will:
- (i) be calculated to produce a nil balance in the Member's relevant Benefit Account from which Pensions are drawn after satisfying the terms on which the Pension is to be paid; and
 - (ii) in any event, ceases to be payable when the balance in the Member's relevant Benefit Account from which Pensions are drawn is nil.
- (d) **Total and Permanent Disablement Benefit.** A Member's Total and Permanent Disablement Benefit will be an amount up to the balance of the total of the Member's Benefit Accounts less any taxes or reasonable charges determined by the Trustee to be applicable to the payment of those benefits.
- (e) **Total and Temporary Disablement.** A Member's Total and Temporary Disablement Benefit will, subject to any requirements imposed by the Regulator on the payment of similar benefits, be a Non-commutable Income Stream cashed from the Fund for:
- (i) the purpose of continuing (in whole or in part) the gain or reward which the Member was receiving before the Temporary Incapacity; and
 - (ii) a period not exceeding the period during which the Member is prevented from undertaking Employment of the kind engaged in immediately before the Temporary Incapacity,
- but in any event must not exceed an amount equal to the balance of the total of the Member's Benefit Accounts, less any taxes or reasonable charges determined by the Trustee to be applicable to the payment of those benefits.
- (f) **Terminal Illness Benefit.** A Member's Terminal Illness Benefit will be an amount up to the balance of the total of the Member's Benefit Accounts less any taxes or reasonable charges determined by the Trustee to be applicable to the payment of those benefits.
- (g) **Death Benefit.** A Member's Death Benefit will be an amount equal to the balance of the total of the Member's Benefit Accounts less:
- (i) any amount set aside to fund the payment of any reversionary Pension after the Member's death;
 - (ii) any taxes or reasonable charges determined by the Trustee to be applicable to the payment of that benefit; and
 - (iii) the amount necessary to meet any obligations with respect to a Pension or other payments required to be met from the Member's benefits and entitlements,
- and, unless Rule 5.4 or requires a payment in accordance with a Binding Death Nomination or Rule 5.5 requires a payment in accordance with a Death Benefit Rule, will be payable in any amounts and to any of the following persons as the Trustee reasonably considers to be appropriate in the circumstances:
- (iv) one or more of the Member's Designated Beneficiaries;
 - (v) one or more of the Member's Dependants;
 - (vi) the Member's legal personal representative.

5.4 Beneficiary and Death Benefit Nominations

- (a) **Requirements.** A Member may, from time to time, give to the Trustee written notice of nominated Beneficiaries to whom the Member directs any Death Benefit to be paid and, if more than one, the amount or proportion to be paid to each.
- (b) **Exclusion.** A notice under Rule 5.4(a) may include a direction by the Member about persons to whom a Benefit is not to be paid.
- (c) **Testamentary Instrument.** A notice under Rule 5.4(a) may be contained within a testamentary instrument and may be given to the Trustee after the Member's death and does not need to be given by the Member personally.
- (d) **Binding.** To be binding the content of the notice under Rule 5.4(a) does not require an express statement that it is binding upon the Trustee and it is sufficient if the notice uses words or language that satisfies the Trustee that the notice was intended by the Member to be binding upon the Trustee.
- (e) **Contents.** A notice under Rule 5.4(a) may:

- (i) specify the type, amount and proportion of different components of Benefit to be paid;
 - (ii) specify whether a Pension including a Reversionary Pension is to be provided;
 - (iii) contain conditions which must be satisfied or met in order for a Death Benefit to be paid;
 - (iv) specify a period of time or date after which any direction which the Member elected to be binding upon the Trustees is to be no longer binding but is otherwise to remain valid;
 - (v) specify a period of time or date after which the notice lapses;
 - (vi) specify the circumstances in which directions in the notice are to be treated as no longer binding upon the Trustee including but not limited to:
 - A. the marriage, separation, divorce or death of a nominated Beneficiary;
 - B. the marriage, separation, divorce of a Member;
 - C. where a nominated Beneficiary consents;
 - (vii) specify payment of a Benefit to a trust in which the beneficiaries are limited to those persons who are the Member's Dependants for the purposes of section 302-195 of the Income Tax Assessment Act 1997;
 - (viii) be revoked, modified, amended or varied by subsequent notice in writing given to the Trustee in the manner and at any time contemplated by the giving of notice under this Rule.
- (f) **Preservation.** Where the Governing Rules have been amended and a valid nomination would have been binding upon the Trustee in respect of a Member's death benefits under those previous rules, despite anything contained in these Rules, that nomination will continue to bind the Trustee until it is revoked or replaced in accordance with these Rules.

5.5 Death Benefit Rules.

The Trustee and any Member may enter into an agreement in writing about the payment of any Death Benefit to nominated Beneficiaries. The agreement may include terms and conditions of the type set out in Rules 5.4(e)(i) to 5.4(e)(vi). The terms of an agreement form part of these Rules as between the Member and the Trustee and will be read together with the Rules as follows:

- (a) the agreement prevails over any notice given under Rule 5.4 unless the notice expressly revokes or replaces the agreement made under this Rule 5.5;
- (b) the agreement replaces any previous agreement made under this Rule;
- (c) any previous notice given under Rule 5.4 is to be treated as ineffective for the purposes of Rule 5.4;
- (d) the terms of the agreement are to prevail if there is any inconsistency between the agreement and these Rules;
- (e) the agreement may specify the manner in which the terms of the agreement may be modified, revoked or amended; and
- (f) if part of an agreement is invalid because a Nominated Beneficiary is not eligible to receive a Death Benefit payment under the Regulations then that part of the Death Benefit shall be distributed in accordance with Rule 5.3(g).

5.6 Order of priority

- (a) **Invalid Nomination.** Where a Binding Death Nomination or a Death Benefit Rule is invalid, in whole or in part, to the extent that it is invalid, the Trustee must pay the Member's Death Benefit in accordance with Rule 5.3(g).
- (b) **Automatic revocation.** A Binding Death Nomination or a Death Benefit Rule, will automatically revoke any earlier Binding Death Nomination or Death Benefit Rule given by the Member or agreed to between the Trustee and the Member.
- (c) **Reversionary Pensions.** Where a Member is receiving a Pension in respect of which a reversionary beneficiary has been named, unless the Member has revoked that reversion, or the reversionary beneficiary is no longer entitled to receive a Reversionary Pension under the Relevant Law, the entitlement of the reversionary beneficiary in respect of that Pension has priority over any Binding Death Nomination or a Death Benefit Rule given by the Member and binding on the Trustee unless the Act or Regulations require otherwise.

5.7 Dealing with insurance

- (a) **Insurance relating to benefits.** The Trustee may take or hold one or more policies of insurance or assurance in relation to a Member as Benefit Payment Insurance or Additional Insurance.

- (b) **Insurance applied to liability.** Whenever a payment is received by the Trustee under any insurance policy held by the Trustee, the payment will be applied:
- (i) in the case of Benefit Payment Insurance, towards satisfaction of the Fund's liability to pay any one or more of a Member's benefits; or
 - (ii) in the case of Additional Insurance, in addition to the Fund's liability to pay any one or more of a Member's benefits,
- as agreed by the Member and the Trustee.
- (c) **Insurance not designated.** If a policy referred to in Rule 5.7(a) has been effected and the policy is not designated as Benefit Payment Insurance or Additional Insurance, the policy will be deemed to be Benefit Payment Insurance.
- (d) **Treatment of Additional Insurance.** Where the Trustee has effected Additional Insurance and an amount becomes payable to the Trustee under it, the Trustee must add the amount payable, net of any reasonable fees, charges and taxes, to the Member's Benefit Account prior to calculating the amount of the Member's benefits or entitlements payable in accordance with these Rules.
- (e) **Treatment of Benefit Payment Insurance.** Where the Trustee has effected Benefit Payment Insurance and an amount becomes payable to the Trustee under it, the Trustee must first apply that amount towards satisfaction of the Fund's liability to pay the Member's benefits or entitlements in accordance with these Rules and the Trustee will reduce the Member's Benefit Account by the amount applied. Any amount remaining will be dealt with by the Trustee in its discretion as follows:
- (i) where any amounts have been deducted from the Member's Benefit Account to pay any premiums in relation to the insurance, by paying or applying similar amounts to or on behalf of the Member in addition to the Fund's liability to pay benefits or entitlements in accordance with these Rules;
 - (ii) by paying amounts to or on behalf of the Member in addition to the amounts set out in Rule 5.7(b) and in addition to the Fund's liability to pay benefits or entitlements in accordance with these Rules;
 - (iii) by paying any expenses and liabilities of the Fund, whether or not those amounts are in whole or in part related to the Member's benefits and entitlements;
 - (iv) where the Trustee in its absolute discretion decides to pay an Anti-detriment Payment in respect of a deceased Member, by applying amounts towards such a payment; and/or
 - (v) by reallocating any amounts to a reserve to be dealt with as the Trustee sees fit.

5.8 How to pay a Pension and how to pay a lump sum benefit

- (a) **How to pay a Pension.** Any Pension payable under these Rules:
- (i) must comply with any minimum terms specified in the Act and the Regulations; and
 - (ii) will be payable on other terms (if any) decided by the Trustee.
- (b) **How to pay a lump sum benefit (or change a Pension to a lump sum).** Any person who is entitled to receive a Pension, Annuity or income stream from the Fund other than a Total and Temporary Disablement Benefit, may direct the Trustee to:
- (i) pay any amount as a lump sum; or
 - (ii) commute any amount to a lump sum,
- but only to the extent permitted by the terms of the Pension, Annuity or income stream. The amount of any lump sum will be equal to the total of the balances of the Member's Benefit Accounts related to the payment less any taxes and other reasonable charges which the Trustee considers are applicable to the payment or commutation.
- (c) **How to reduce a Pension when commuting to a lump sum benefit.** Where a person exercises the right in Rule 5.8(b)(ii), the Trustee must discount the amount to which the person is entitled to the extent which the Trustee considers necessary to take account of the commutation. The Fund and the Trustee will then be discharged and relieved of any further liability in respect of the amount of the discount.
- (d) **How to pay benefits to minors and certain other people.** Where any Beneficiary is under a Legal Disability, the Trustee will be entitled to pay or apply the Beneficiary's benefits or entitlements:
- (i) to the Beneficiary; or
 - (ii) to another person for the sole purpose of that person paying or applying those benefits or entitlements for, or on behalf of, the Beneficiary or the Beneficiary's Dependants; or
 - (iii) to a trust established for the benefit of the Beneficiary or the Beneficiary's Dependants,

and that payment or application will constitute an effective discharge to the Fund and the Trustee. The Trustee need not be concerned and is not liable to see to the application of those benefits or entitlements after the time of their payment or application.

- (e) **Effect of Family Law Act.** A reference to a Member in this Rule 5.8 includes a Non-member Spouse. If a Superannuation Interest is created in favour of a Non-member Spouse and the order creating that interest does not require the Non-member Spouse's benefits or entitlements to be paid as a Pension, the Trustee is not required to pay those benefits or entitlements as a Pension.

5.9 Types of Pensions which may be paid

The Trustee may pay any Pension allowable under the Act and Regulations. A Pension must be subject to the terms and conditions contained in the Act and Regulations in relation to that type of Pension, however the Trustee and the Member may agree upon further terms and conditions, as allowable, from time to time.

5.10 Restrictions on when and how benefits may be paid

This Rule is subject to the Relevant Law which may impose any requirement on the payment of benefits and entitlements and must be read and interpreted accordingly.

5.11 Member-contributed property

- (a) **Member-contributed Property subject to different payment rules.** Despite any other Rule, where the Fund holds Member-contributed WA Property or Member-contributed NSW Property, any Rule purporting to enable a beneficial interest to be obtained by any person other than the Transferor of the Member-contributed WA Property or Member-contributed NSW Property do not apply to that Member-contributed WA Property or Member-contributed NSW Property.
- (b) **Options for Trustee.** Where an event occurs which would normally entitle the Trustee to create a beneficial interest in Member-contributed WA Property or Member-contributed NSW Property in a person other than the Transferor of the Member-contributed WA Property or Member-contributed NSW Property, the Trustee must deal with the Member-contributed WA Property or Member-contributed NSW Property only in one of the following ways:
- (i) by separating the Member-contributed WA Property or Member-contributed NSW Property from the other assets supporting the Transferor's Benefit Account and dealing with the Member-contributed WA Property or Member-contributed NSW Property in a manner that the beneficial interest in that property remains solely with the Transferor of the Member-contributed WA Property or Member-contributed NSW Property or, if the Transferor has died, the Transferor's estate; or
 - (ii) after taking such professional advice as is considered prudent by the Trustee, in any other manner as the Trustee considers appropriate, but not so as to create a beneficial interest in any person other than the Transferor of the Member-contributed WA Property or Member-contributed NSW Property.

6. ROLLOVERS AND TRANSFERS OF BENEFITS

6.1 Into the Fund

- (a) **Members may.** A Member may request that the Trustee accept a rollover or transfer into the Fund of any existing superannuation benefits or entitlements which are able to be rolled over or transferred into the Fund under the Relevant Law.
- (b) **Trustee to decide.** The Trustee must consider a request made in accordance with Rule 6.1(a) and may accept or reject the rollover or transfer in whole or in part.
- (c) **Some rollovers and transfers cannot be accepted.** The Trustee must not accept a rollover or transfer of any benefits or entitlements which would or would be likely to cause a breach of a Civil Penalty Provision or constitute an offence under the Act.
- (d) **Most benefits rolled over or transferred into the Fund retain the same status.** Except as otherwise provided by the Act and Regulations, for the purpose of determining the status of benefits or entitlements under these Rules, any benefits or entitlements rolled over or transferred into the Fund will retain the same character in the Fund as they had in the fund from which they were transferred.

6.2 Out of the Fund

- (a) **Who may request.** A request to roll over or transfer any benefits or entitlements out of the Fund may only be made by:
- (i) a Member;

- (ii) in the case of a Member's death or Total and Permanent Disablement, the person or persons otherwise entitled to receive a benefit or entitlement; or
 - (iii) a Member's legal personal representative.
- (a) **Trustee must notify others.** Upon receiving a request to roll over or transfer benefits out of the Fund, the Trustee must give notice of the proposed rollover or transfer to all other interested persons who at that time are entitled to make a similar request.
 - (b) **Trustee must not rollover or transfer benefits with objections.** Subject to Rule 10.2, if a person notified under Rule 6.2(a) objects to the rollover or transfer by notice to the Trustee containing reasons, the Trustee must not roll over or transfer those benefits and must give notice of the objection and of the identity of the objector to the person making the request.
 - (c) **Conditions of rollover or transfer out.** The Trustee will roll over or transfer benefits or entitlements in accordance with a request under Rule 6.2(a) if:
 - (i) no person is required to be notified of a request for a rollover or transfer;
 - (ii) no objection has been received from an interested person within 7 days of giving notice; or
 - (iii) the Trustee is satisfied that any objection received has been removed.
 - (d) **Time for rolling over or transferring out.** Subject to Rule 10.2, unless another provision of this Rule 6.2 applies to a request to roll over or transfer benefits or entitlements, the Trustee must roll over or transfer the amounts within a reasonable time of receiving such a request containing the information required by this Rule 6.2. For the purposes of this Rule 6.2, 30 days is a reasonable time unless otherwise determined by the Trustee.
 - (e) **Non-member Spouse benefits.** Where a Superannuation Interest has been created in favour of a Non-member Spouse under a Family Law Act order and that order does not restrict the transfer or roll over of the Non-member Spouse's Superannuation Interest, that interest may be rolled over or transferred out of the Fund:
 - (i) upon the request of the Non-member Spouse, subject to the request complying with the terms of this Rule 6.2; or
 - (ii) if the Trustee, in its discretion, decides to do so and the Trustee complies with all conditions imposed by the order,

and after all reasonable costs of rolling over or transferring that interest out of the Fund have been deducted from the Non-member Spouse's Superannuation Interest.

6.3 Trustee's duties

- (a) **Duty to ensure transferee is regulated.** When the Trustee receives a request under Rule 6.2(a), the Trustee must, before allowing any rollover or transfer, ensure that the entity accepting the benefits or entitlements is permitted by the Relevant Law to receive the rollover or transfer, and it is sufficient for the Trustee to receive from the entity accepting the benefits or entitlements, confirmation in writing of its status.
- (b) **Duty to ensure proper deductions made.** Where a rollover, transfer or payment of benefits or entitlements out of the Fund is to be made, the Trustee must ensure that:
 - (i) all taxes, expenses, accrued and actual liabilities required to be deducted from the Member's Benefit Account have been deducted; and
 - (ii) all income, gains and accretions required to be credited to the Member's Benefit Account have been credited,
 prior to determining the amount of benefits or entitlements available for rollover, transfer or payment to the Member.
- (c) **People to be notified if Member has died.** If a Member dies and benefits or entitlements become payable to any person other than the Member's legal personal representative, the Trustee must notify each person to whom benefits or entitlements are payable of the reasons why benefits or entitlements are payable to them, the amounts payable and the terms upon which they are to be paid.
- (d) **Dealing with Death Benefits if Beneficiaries cannot be located.** If the Trustee cannot, after making all reasonable attempts in accordance with Rule 6.3(c), locate a person to whom any benefits or entitlements are payable, the Trustee may pay those benefits or entitlements, to the Member's legal personal representative, or to any one or more of the remaining Designated Beneficiaries, if any, in any proportions as the Trustee decides. No person will have any claim or cause of action against the Trustee or the Fund as a result of the Trustee exercising its discretion in accordance with this Rule.

6.4 Splitting contributions

- (a) **Contributions that may be split.** Where allowable under the Relevant Law, the Trustee may allow a member to split contributions with another person, upon such terms as the Relevant Law either allows or requires, and upon such other terms as the Trustee may, in its discretion, determine.
- (b) **Trustee may create Member account.** If the person who will be receiving a Splittable Contribution does not already have a Member account, the person must apply for Membership, in accordance with Rule 2.2 of these Rules. A Trustee cannot accept an application to split contributions in respect of a Member until the Trustee has accepted the person as a Member.
- (c) **Trustee's discretion.** The decision to offer the option to split contributions and the decision to accept a particular application to split contributions under this Rule 6.4 is entirely at the discretion of the Trustee.
- (d) **This Rule does not affect Family Law Act splits.** For the avoidance of doubt, this Rule 6.4 does not apply to benefits which are split, pursuant to the operation of the Family Law Act.

7. EMPLOYERS' CONTRIBUTIONS TO THE FUND

7.1 Employers who may contribute

Subject to Rule 4.1, the Trustee may accept contributions from an Employer or past Employer whether or not the Employer has agreed to the terms and conditions of these Rules.

7.2 SuperStream compliance

Where necessary, the Trustee will comply with the SuperStream standards set out in the Superannuation Data and Payments Standards Legislative 2012 Instruments and associated schedules, as modified or amended from time to time.

8. THE TRUSTEE

8.1 Appointment, resignation and removal

- (a) **Not Disqualified Person.** A Disqualified Person cannot be a Trustee or a Director of a Corporate Trustee.
- (b) **Appointment.** The Members have the right to appoint one or more Trustees or Directors of a Corporate Trustee. The right to appoint a Trustee or Director of a Corporate Trustee may be exercised by:
 - (i) a sole Member, where the Fund only has 1 Member; or
 - (ii) a resolution passed by a majority of the Members present at a meeting called for the purpose or by circular resolution signed by all of the Members, in all other cases, and

the legal personal representative of a Member who is deceased or under a Legal Disability will be treated as a Member and has the right of a Member for the purposes of this Rule.
- (c) **Consent to be in writing.** Any person appointed or to be appointed to be a Trustee or Director of a Corporate Trustee must consent in writing to the appointment and, upon consenting, is deemed to accept and be bound by the terms, conditions, duties and obligations specified in these Rules.
- (d) **New Trustees or directors to sign declaration.** Where a person becomes a Trustee or a Director of a Corporate Trustee of the Fund after 30 June 2007, they must sign a declaration in a form approved by the Regulator, stating that they understand the obligations and responsibilities of a trustee of an SMSF. This declaration must be completed and signed within 21 days of their appointment and retained for not less than 10 years.
- (e) **How the Trustee may resign.** A Trustee or a Director of a Corporate Trustee may resign from the office of Trustee or Director of a Corporate Trustee at any time, by giving notice in writing to the Members and to the legal personal representative of a Member who is deceased or under a Legal Disability.
- (f) **How the Trustee may be removed.** The Members have the right to remove a Trustee or a Director of a Corporate Trustee at any time. The right to remove a Trustee or Director of a Corporate Trustee, may be exercised by written notice given by:
 - (i) a sole Member, where the Fund only has 1 Member; or
 - (ii) a resolution passed by a majority of the Members present at a meeting called for the purpose or by circular resolution signed by all of the Members, in all other cases, and

the legal personal representative of a Member who is deceased or under a Legal Disability will be treated as a Member and has the right of a Member for the purposes of this Rule.

- (g) **Removal of the Trustee in other circumstances.** A Trustee ceases to be a Trustee upon the happening of any of the following events:
- (i) the Trustee, being a natural person:
 - A. dies;
 - B. becomes incapable of dealing with his or her own affairs;
 - C. is convicted of an offence of dishonesty or otherwise becomes disqualified from office by operation of law;
 - D. becomes bankrupt;
 - E. makes an assignment to or enters into a composition with his or her creditors, or seeks the protection of any statute for relief from creditors;
 - F. becomes a Disqualified Person.
 - (ii) the Trustee, being a corporation:
 - A. has an application made, resolution passed or an order made for its liquidation or winding up;
 - B. is deemed to be insolvent, or any act or event constituting grounds for winding up by a court occurs;
 - C. is struck off, de-registered or otherwise ceases to exist or to have full capacity; or
 - D. has a receiver or official manager appointed to the whole or any part of its undertaking;
 - E. becomes disqualified from office by operation of law; or
 - F. becomes a Disqualified Person.
- (h) **Member dies or becomes Legally Disabled.** If a Member dies or becomes Legally Disabled, the Member's legal personal representative may elect to become, and will, on that election being made, be appointed as:
- (i) a Trustee where the Trustee of the Fund is or are natural persons; or
 - (ii) a Director of the Corporate Trustee where the Trustee is a Constitutional Corporation, but subject to the constitution of the Corporate Trustee,
- and the Member's legal personal representative will be deemed to have been appointed during the period:
- (iii) in the case of the Member's death, beginning at the date of the Member's death and ending when death benefits first commence to be payable in respect of the Member or such other date as may be allowed by the Relevant Law; or
 - (iv) in the case of the Member's Legal Disability, beginning at the date when the Member's legal personal representative assumes control of the Member's affairs and ending either when that person ceases to act in the capacity of legal personal representative for the Member, or such other date as may be allowed by the Relevant Law.
- (i) **Trustee discharged.** When a Trustee has been removed or has resigned in accordance with these Rules:
- (i) that Trustee will be discharged from the trusts in these Rules to the extent allowed by law from the effective date of removal or resignation; but
 - (ii) without affecting any liability of the Trustee which has accrued, or may accrue, because of any thing done, or omitted to be done, by the Trustee prior to the effective date of removal or resignation; and
 - (iii) without affecting any obligation of the Fund or any liability of the Fund arising under any agreement or security to which the Fund is a party entered into prior to the removal or resignation of the Trustee,
- even if there is only one Trustee remaining provided that the Fund remains an SMSF.
- 8.2 Covenants, powers, authorities and restrictions**
- (a) **Trustee's covenants.** A person, by accepting the appointment to the office of Trustee or Director of a Corporate Trustee, covenants:
- (i) to act honestly in all matters concerning the Fund;

- (ii) to exercise, in relation to all matters affecting the Fund, the same degree of diligence as an ordinary prudent person would exercise in dealing with property of another for whom the person felt morally bound to provide;
 - (iii) to ensure that the Trustee's duties and powers are performed and exercised in the best interests of the Beneficiaries;
 - (iv) to keep the money and other assets of the Fund separate from any money and assets respectively that are held by the Trustee personally or in any other capacity;
 - (v) not to enter into any contract, or do anything else, that would prevent the Trustee from, or hinder the Trustee in, properly performing or exercising the Trustee's functions and powers;
 - (vi) to formulate and give effect to an investment strategy for the Fund;
 - (vii) if the Fund has any reserves, to formulate and to give effect to a strategy for their prudential management, consistent with the Fund's investment strategy and its capacity to discharge its liabilities (whether actual or contingent) as and when they fall due; and
 - (viii) to allow any Beneficiary access to information or documents which are prescribed by a Relevant Law to be accessible by them.
- (b) **Trustee may authorise others to act.** A covenant in Rule 8.2(a) does not prevent the Trustee from engaging, or authorising persons to do, acts or things on behalf of the Trustee.
- (c) **Matters to be considered in formulating investment strategy.** In formulating and maintaining one or more investment strategies for the purposes of Rule 8.2(a), the Trustee must ensure that each strategy has regard to all the circumstances of the Fund or sub-plan (as the case may be), including but not limited to:
- (i) the risk involved in making, holding and realising, and the likely return from, the Fund's investments, having regard to the Fund's or sub-plan's (as the case may be) objectives and expected cash flow requirements;
 - (ii) the composition of the investments as a whole, including the extent to which they are diverse or involve exposure of the Fund or sub-plan (as the case may be) to risks from inadequate diversification;
 - (iii) the liquidity of the investments, having regard to the Fund's or sub-plan's (as the case may be) expected cashflow requirements;
 - (iv) the ability of the Fund or sub-plan (as the case may be) to discharge its existing and prospective liabilities; and
 - (v) whether insurance on the life or disablement of one or more of the Members can or should be purchased,
- and the Trustee should review any investment strategies regularly to ensure that they remain current and in accordance with the Fund's present circumstances.
- (d) **Beneficiaries may direct Trustee.** An investment strategy made in accordance with Rule 8.2(a) may provide for a specified Beneficiary or class of Beneficiaries to give directions to the Trustee, where:
- (i) the directions relate to the strategy to be followed by the Trustee in relation to the investment of a particular asset or assets of the Fund; and
 - (ii) the directions are given in circumstances where:
 - A. the Trustee gives to the Beneficiary, or to each member of a class of Beneficiaries, a choice of two or more investment strategies from which the Beneficiary, or class of Beneficiaries, may choose a strategy or combination of strategies;
 - B. the Beneficiary, or each member of the class of Beneficiaries, is given the investment objectives of each of the strategies mentioned in A. and all information the Trustee reasonably believes a person would reasonably need for the purpose of understanding the effect of, and any risk involved in, each of those strategies;
 - C. the Beneficiary, or each member of the class of Beneficiaries, is fully informed of the range of directions that may be given and the circumstances in which they may be changed;
 - D. the Trustee clearly identifies, when the Beneficiary, or each member of the class of Beneficiaries, is given a choice of two or more investment strategies, the strategy the Trustee will adopt if no direction is given;
 - E. the direction from the Beneficiary, or each member of the class of Beneficiaries, to the Trustee is given after compliance with the above paragraphs and the direction specifies

which of the strategies, or which combination of strategies referred to in A, is to be followed and any other matters applicable to the choice offered in accordance with the above paragraphs; and

F. it conforms with any other matters prescribed by the Regulations for the purposes of section 52B(4) of the Act.

(e) **General powers of Trustee.** Subject to the Relevant Law, the Trustee has all the rights of a natural person to do any thing, or to engage in any transaction or dealing, on behalf of the Fund as it could do if it were the beneficial owner of the Fund and absolutely entitled to it.

(f) **Specific powers of Trustee.** The following powers are specific examples of the Trustee's powers in Rule 8.2(e) and should not be interpreted as limiting those powers:

- (i) to invest in such corporeal or incorporeal property, rights, currency, or other things of value as the Trustee decides.
- (ii) to invest in or purchase any securities permitted by the Relevant Law;
- (iii) to enter into any derivative contract or purchase, sell, deal or trade in any derivatives product. This right includes, without limitation, power for any purpose to enter into and perform or to deal with or in any:
 - A. options and futures contracts;
 - B. warrants or instalment warrants;
 - C. contracts for difference;
 - D. certificates of deposit;
 - E. default swap contracts; and/or
 - F. any other form of derivative contract,

and otherwise to do and perform all things to operate, utilise or deal with the facilities of any stock or futures exchange either directly or through any broker or agent in any market in any part of the world.

- (iv) to purchase, acquire, create, hold, rent, lease, license, sell or otherwise dispose of assets and investments in any property, rights or privileges, including derivatives assets and contracts, which the Trustee is authorised by law to acquire or dispose of, on terms and conditions as the Trustee decides.
- (v) to grant any lease, sub-lease or other rights in relation to any property of the Fund for any term or terms and whether or not that term or terms exceeds 21 years or any other term allowable under the Relevant Law.
- (vi) to carry on a business, to the extent that it is allowable under the Relevant Law, from time to time.
- (vii) to appoint and/or remove or suspend, the Fund's Auditor, or any accountants, lawyers, Custodians, managers, secretaries, clerks, agents and other servants or consultants, and may appoint any of them permanently, temporarily or for special services and may determine the scope and extent of their powers and duties, on terms as to remuneration or salaries as the Trustee decides.
- (viii) to appoint any person to be a Custodian for the purpose of holding or retaining the legal title of or to any asset, property, investment or other thing acquired or to be acquired by or for the benefit of the Fund.
- (ix) to institute, conduct, defend, compound, compromise or abandon any legal or other proceedings by or against the Fund or its officers or otherwise, concerning the affairs of the Fund and also to compound and allow time for payments or satisfaction of any debts due and of any claims or demands made by or against the Fund.
- (x) to make and give receipts, releases and other discharges for money payable to the Fund and for any claims and demands against the Fund and to pay expenses as it considers properly relate to the Fund, including any income tax liability which may attach to income of the Fund or contributions made to it.
- (xi) to open accounts and to retain on current or deposit account at any bank or financial institution, any moneys as it considers proper and to make regulations for the operation of those accounts, including the signing and endorsement of cheques in connection with them.

- (xii) to borrow moneys, incur liabilities, pledge or charge the assets of the Fund as security, but only to the extent allowed or allowable in accordance with the Act and Regulations. Any borrowing or raising may include (without limitation):
 - A. the drawing, endorsing, accepting, negotiation or other dealing in bills of exchange, promissory notes, cheques or other negotiable instruments;
 - B. any other form of borrowing or raising of money which is authorised by the Act.
 - (xiii) to purchase annuities, pensions and income streams, and to effect policies of insurance or assurance in relation to Members for the purpose of providing benefits under these Rules.
 - (xiv) to revalue the Fund's assets, and to allocate the revaluation amount to the Members and Beneficiaries.
 - (xv) to determine who will be entitled to sign, on the Fund's behalf, receipts, acceptances, endorsements, releases, contracts and documents.
 - (xvi) to pay benefits and entitlements out of the Fund to persons entitled to them.
 - (xvii) to decide, as and when required, who are Dependants for the purposes of these Rules.
 - (xviii) to enter into any negotiations and contracts, to rescind and vary all contracts, to execute any deeds, and to do all or any things in the name of and on behalf of the Fund as it may consider expedient for or in relation to any of the matters referred to in these Rules or otherwise for the purposes of the Fund.
 - (xix) to enter into an agreement with a Member varying the benefits or entitlements, or the contributions otherwise payable in respect of that Member, in any manner which the Trustee decides, subject to the terms of these Rules and to the consent of affected Members.
 - (xx) to enter into contracts, transactions or agreements, whether they be for sale, lease or any other purpose, with one or more individual trustees, with one or more Directors of a Corporate Trustee, or with a Corporate Trustee itself, notwithstanding that they have or may obtain an interest or benefit in their own or other capacities.
 - (xxi) to enter into contracts, transactions or agreements, whether they be for sale, lease or any other purpose, in respect of another trust where one or more individual Trustees or the Corporate Trustee, is a trustee of that trust.
 - (xxii) generally, to exercise or concur in exercising all of the Trustee's powers and discretions contained in these Rules or otherwise conferred by law notwithstanding that any Trustee or any Director or shareholder of a Corporate Trustee or any person being a relative of a Trustee or of a Director or shareholder of a Corporate Trustee has, or may have, a direct or personal interest (whether as trustee of any other settlement or in his or her personal capacity or as a shareholder or Director or Member or as a relative of the Trustee or relative of a Director or shareholder of a Trustee or Member or partner of any company or partnership or as a unit holder in any unit trust or beneficiary of any discretionary trust or otherwise) in the mode or result of exercising such power or discretion or may benefit either directly or indirectly as a result of the exercise of any such power or discretion and notwithstanding that the Trustee for the time being is the sole Trustee.
- (g) **Trustee may delegate.** Regardless of any other provision of these Rules but subject to the Relevant Law, the Trustee may delegate, in writing, any of its powers or discretions to one or more other persons.
- (h) **Trustee's indemnity.** The persons listed in Rule 8.2(i) have a right of indemnity out of the assets of the Fund in respect of any expenses incurred or liabilities resulting from any activities carried out by those persons in the exercise or purported exercise of the powers, duties, responsibilities and discretions imposed or authorised by the trusts constituted by these Rules except where those expenses or liabilities arise from or as a result of:
- (i) a breach of trust by a person in Rule 8.2(i)(i) and/or (ii) if the person:
 - A. fails to act honestly in a matter concerning the Fund; or
 - B. intentionally or recklessly fails to exercise in relation to a matter affecting the Fund, the degree of care and diligence that the Trustee was required to exercise; or
 - (ii) an act or omission by a person in Rule 8.2(i)(iii) and/or (iv) if the person:
 - A. fails to act honestly in a matter concerning the Fund; or
 - B. intentionally or recklessly fails to exercise in relation to a matter affecting the Fund, the degree of care and diligence that the Trustee was required to exercise; or
 - (iii) a liability for a monetary penalty under a Civil Penalty Provision.

- (i) **Persons entitled to indemnity.** The following persons are entitled to claim the indemnity in Rule 8.2(h):
 - (i) the Trustee;
 - (ii) the Directors and other officers of the Trustee, in the case of a Corporate Trustee;
 - (iii) any Custodian; and
 - (iv) any Investment Manager.
- (j) **Trustee not liable.** Without prejudice to the indemnity in Rule 8.2(h) those persons listed in Rule 8.2(i) will not be liable for any loss or damage arising from any:
 - (i) act or omission in the exercise of any powers, duties, responsibilities or discretions;
 - (ii) contract entered into or document executed in relation to the Fund;
 - (iii) error in judgment;
 - (iv) neglect, default, intent to defraud, wilful misconduct, defalcation, or act or omission of any manager, agent, professional adviser, banker, stockbroker, or other person engaged by the Trustee for the purposes of the Fund; or
 - (v) breach of duty or of trust, or any neglect or otherwise.
- (k) **Limited Recourse Borrowing Arrangements.** Subject to the investment strategy of the Fund, the Trustee has the power to borrow money under arrangements of the kind contemplated by Section 67A of the Act and to enter into any and all such arrangements for that purpose, including:
 - (i) the granting of indemnities to lenders for the purpose of furthering these arrangements;
 - (ii) the granting of any security for the performance of any obligation or other dealing or engagement incurred or to be entered into by the Trustee or by any other person. The Trustee's power includes the power to grant any mortgage, charge or encumbrance over all or any part of any asset or property to be acquired in accordance with Section 67A of the Act;
 - (iii) despite the covenants in Rule 8.2(a), to give proxies and powers of attorney (with or without power of substitution) and appoint representatives for voting or acting on behalf of the Trustee in relation to any part of the Fund. Without limitation, the Trustee may empower its attorney to take any action and/or perform any act on behalf of the Trustee and to sign and execute any deed, agreement or document that the Trustee may lawfully do, including the exercise of any of the Trustee's rights or obligations and the execution of mortgage and security documents. The Trustee may in its discretion, grant powers of attorney or proxies to any third party including any mortgagee, lender or financier of the Fund.

8.3 In-house Assets and other restricted investments

The Trustee must not make any investments and, to the extent necessary, must divest the Fund of investments, in order to ensure that the Fund does not breach the Relevant Law.

8.4 Collectables

Regardless of any other provision in these Rules, the Trustee must comply with the Act and Regulations regarding making and maintaining investments in Collectables.

8.5 Rules apply to others

All of the rules and restrictions contained in these Rules which affect or apply to any act or thing done or not to be done by the Trustee, will apply to any act or thing done or not done on behalf of the Trustee by any person including, without limitation, any Director of a Corporate Trustee, Custodian or Investment Manager appointed by the Trustee.

9. ACCOUNTS, AUDIT, RECORDS AND RETURNS

9.1 Voluntary contributions

- (a) **Voluntary contribution reserve.** Subject to the Act and Regulations, the Trustee may establish and keep, in respect of the Fund or, where there are one or more sub-plans, in respect of each sub-plan, a voluntary contribution reserve, to which the Trustee may credit all contributions other than Mandated Employer Contributions.
- (b) **Allocations within 28 days.** Where, during a Year of Income, an amount has accumulated in the voluntary contribution reserve, the Trustee must:
 - (i) use the reserve for any purposes of the Fund as the Trustee decides; and

- (ii) allocate all of the amounts in the reserve to one or more Members' Benefit Accounts, in the proportions determined by the Trustee within 28 days after the end of the month in which any such amounts are received, even if such allocation occurs after the Year of Income in which the contribution was made.
- (c) **Change in allocation.** If required by the Act and Regulations, or otherwise if the Trustee decides to do so, the Trustee may decide to allocate some or all contributions made by or on behalf of a Member directly to the Member's Benefit Account, even if those contributions are of a type which would normally be allocated to the voluntary contribution reserve.

9.2 Member Benefit Accounts

The Trustee must establish and keep, in respect of each Member, a Benefit Account or Accounts, to which must be added:

- (a) all contributions made by, for, or in relation to the Member which form part of a Member's Minimum Benefits;
- (b) all contributions allocated to the Member's Benefit Account from the voluntary contribution reserve;
- (c) all benefits or entitlements (including Superannuation Lump Sums) transferred into the Fund by, for, or in relation to the Member, in accordance with these Rules;
- (d) all investment earnings of the Fund or, where the Member is a member of a sub-plan, of that sub-plan, allocated to that Member's Benefit Account attributable to the amounts in (a) and (b);
- (e) the current surrender value of any policy of capital guaranteed life assurance taken out by the Trustee upon the life of that Member;
- (f) the proceeds, or part proceeds, of any policies of insurance which the Trustee decides to allocate, or is obliged to allocate in respect of that Member;
- (g) any amounts which the Trustee decides to pay in respect of the Member, pursuant to Section 295-485 of the Tax Act;
- (h) any reserves held by the Fund or, where the Member is a member of a sub-plan, by that sub-plan, which the Trustee has allocated to that Member's Benefit Account;
- (i) any refunds of taxes or surcharges and any interest applicable to such amounts, where the tax or surcharge was deducted directly from contributions made by or on behalf of that Member;
- (j) any increase in the value of any investment or other asset held by the Fund (whether actual or notional) which is reasonably attributable to the Member's Benefit Account;
- (k) any other amount that the Trustee reasonably determines should be credited to the Member's Benefit Account,

and against which must be deducted:

- (l) all direct costs of establishing, operating and terminating the Fund and any administrative, insurance and taxation costs relating to the establishment, operation and termination of the Fund allocated to the Member's Benefit Account; and
- (m) any overpayments of Government Co-contribution which the Fund is required to repay;
- (n) any amounts required to be paid to the Commissioner of Taxation as a result of the Member's failure to quote his or her tax file number to the Fund within the prescribed time;
- (o) any other taxes or surcharges applicable to contributions made by or on behalf of a Member which are required to be withheld or deducted directly from such contributions;
- (p) any decrease in the value of any investment or other asset held by the Fund (whether actual or notional) which is reasonably attributable to the Member's Benefit Account;
- (q) any other amount that the Trustee reasonably determines should be debited to the Member's Benefit Account,

and the Trustee must allocate all amounts in a fair, reasonable and consistent manner, having regard to any special circumstances relating to one or more Members which might otherwise affect the allocation of amounts to a Member's Benefit Account. Where the Trustee has made the allocations in accordance with these principles, its decision will be final.

9.3 Accounts for non-Member Spouses

- (a) **Compliance with Family Court Orders.** When any order is made under the Family Law Act in respect of a Member's Superannuation Interest, the Trustee may be required to:
 - (i) create and maintain a new Benefit Account for a Non-member Spouse;

- (ii) split the amount standing to the credit of a Member's Benefit Account with the Non-member Spouse;
 - (iii) identify a component or percentage of a Member's Superannuation Interest which is to be paid to the Non-member Spouse;
 - (iv) transfer or roll over a Non-member Spouse's Superannuation Interest to another regulated superannuation fund, approved deposit fund, EPSSS or RSA; and/or
 - (v) notify the Non-member Spouse and the Member of orders requiring a Payment Split and other matters.
- (b) **Cost of complying.** If Rule 9.3(a) applies, the reasonable costs incurred in complying with any Family Court order, including the costs of the Trustee seeking professional advice, may be deducted from the Non-member Spouse's interest.
- (c) **Splitting Pensions.** Where, pursuant to the Family Law Act, an order is made which affects the Superannuation Interest of a Member receiving a Pension, the Trustee may deduct any reasonable costs incurred in complying with those orders from the capital sum supporting the Pension to be paid to the Non-member Spouse, or from the periodical payments of the Pension to be paid to the Non-member Spouse.

9.4 Other reserves

Subject to the Act and Regulations, the Trustee may, in its discretion, establish other reserves, including but not limited to investment reserves, pension reserves, anti-detriment reserves, in respect of amounts not presently allocated to Members' Benefit Accounts or to other reserves. The cost of meeting expenses, taxes or other outgoings as the Trustee decides, may be deducted from the reserve. The balance of the reserve may be allocated to the Benefit Accounts of one or more Members or, where the Fund is divided into sub-plans, of Members of that sub-plan at a time and in a manner which the Trustee chooses. The Trustee must make any allocation in a fair, reasonable and consistent manner having regard to any special circumstances relating to one or more Members which might otherwise affect the allocation.

9.5 Trustee to keep records of types of benefits

In addition to maintaining details of the value of Benefit Accounts for each Member, the Trustee must keep records in a manner to enable the Trustee to determine the amounts and components of a Member's benefits and entitlements, as required by the Relevant Law, from time to time.

9.6 Trustee to keep accounting records

The Trustee must:

- (a) keep accounting records in writing which correctly record and explain the transactions and financial position of the Fund; and
- (b) keep its accounting records to enable the preparation of:
 - (i) the accounts and statements required under Rule 9.7; and
 - (ii) the returns of the Fund required under Rule 9.9; and
- (c) keep its accounting records to enable those accounts, statements and returns to be conveniently and properly audited in accordance with the Act; and
- (d) keep the accounting records of the Fund, or cause them to be kept, in Australia for at least 5 years after the end of the Year of Income to which they relate.

9.7 Preparation of accounts

The Trustee must, in respect of each Year of Income, prepare financial information in respect of the Fund including:

- (a) a statement of financial position of the Fund;
- (b) a statement of the Market Value of each of the assets of the Fund;
- (c) an operating statement of the Fund; and
- (d) other financial information required by the Regulator,

and prepare that financial information in a form or manner determined by the Trustee.

9.8 Audit of the accounts

The Trustee must appoint, and has the power to dismiss, an Approved Auditor. The Trustee must ensure that the Fund's financial information prepared in respect of a Year of Income is audited by the Auditor.

9.9 Preparation and lodgement of returns

The Trustee must, in respect of each Year of Income, prepare and lodge:

- (a) with the Regulator:
 - (i) an annual return, in the approved form;
 - (ii) a certificate, in the approved form, in respect of that Year of Income; and
 - (iii) any report given to the Trustee by the Auditor in respect of that Year of Income; and
- (b) with the Taxation Commissioner, an income tax return, in the approved form.

10. MEETINGS OF TRUSTEES AND MEMBERS

10.1 Trustees or Directors meetings

- (a) **How to call a meeting.** The Trustees, or the Directors of a Corporate Trustee, may convene a meeting of the Trustees, or of the Directors, as the case may be, by 1 of their number giving not less than 7 days notice in writing to each of the others, of the time, place and business to be conducted at the meeting. The notice period in this Rule may be waived by unanimous agreement of all Trustees and/or all Directors. No notice and no meeting is required in the case of a sole Trustee or a sole Director of a Corporate Trustee.
- (b) **Appointing a chair.** Before any business is discussed at a meeting of Trustees or Directors, they must appoint one of their number to chair the meeting, and the meeting must be conducted by that person in a fair and reasonable manner, but otherwise as that person determines.
- (c) **Meetings at least annually.** Meetings of Trustees or Directors may be convened at any time, but must be convened at least once in every calendar year, to consider:
 - (i) the accounts of the Fund and the Approved Auditor's report relating to those accounts;
 - (ii) the returns and other documents specified in Rule 9.9;
 - (iii) any matters raised by the accounts and statements which require action or attention; and
 - (iv) any other matters which the Trustees or the Directors, consider appropriate.
- (d) **Quorum.** The quorum for meetings of Trustees or Directors is two or half of the total number of Trustees or Directors, whichever is greater.
- (e) **Voting by proxy.** A Trustee and/or a Director who is unable to be present at a meeting of the Trustees or the Directors, as the case may be, may nominate another person to attend the meeting as their proxy, subject to the following requirements:
 - (i) the person nominated as proxy must carry into and put before the meeting an authority, signed by the person in whose place the proxy is attending, in a form approved by the Trustee.
 - (ii) a person may be nominated as a proxy for one meeting only. The same person may be nominated for any subsequent meeting.
 - (iii) a person nominated as proxy, who is not otherwise a Trustee or a Director of the Trustee, must be asked to leave the meeting if the chairperson considers that a subject to be discussed is of a sensitive or confidential nature.
 - (iv) a person nominated as proxy must be given an opportunity to read and to table any written statement from their appointor and must vote strictly in accordance with the directions of that person, but a proxy, who is not otherwise a Trustee or a Director of the Trustee, is not further entitled to participate in the discussions and conduct of the meeting.
- (a) **Circular resolution.** Trustees or Directors may pass a resolution without a meeting of Trustees or Directors if all of the Trustees or Directors:
 - (i) sign a document stating that they are in favour of the resolution in which case duplicate copies of the document may be used; and/or
 - (ii) indicate electronically that they are in favour of the resolution in which case separate electronic communications and/or forms of electronic communications may be used,
 and a resolution is deemed to be passed at the time when the last Trustees or Directors signs or confirms they are in favour of the resolution.

10.2 Resolving disputes between trustees

- (a) **Usual decision-making to be unanimous.** In any proceedings of individual Trustees, or Directors of a Corporate Trustee, decisions shall be made on a unanimous basis.
- (b) **Changes to usual decision-making arrangements.** The individual Trustees, or Directors of a Corporate Trustee, may unanimously decide that another basis for decision making be adopted:
- (i) in respect of a particular decision; or
 - (ii) for a period of time; or
 - (iii) from that point onwards, until any one or more of them gives notice in writing to the other Trustees or Directors that they no longer wish the alternative arrangements to apply.
- (c) **Where unanimous agreement cannot be reached.** Except in the circumstances outlined in paragraph (b) above, should the individual Trustees, or Directors of a Corporate Trustee, not be able to agree upon a unanimous decision or course of action at any point in time (the “**Disputed Actions**”), and if a Trustee or Director who is out voted does not accept that decision (a “**Dissenter**”), then the following provisions apply in the following order:
- (i) **Notice to be given.** A Dissenter shall within 1 week of the Disputed Actions give their fellow Trustees or Directors notice in writing that they do not accept that decision (a “**Disputed Actions Notice**”).
 - (ii) **Single member funds or funds with nil balance members.** If there are no Members who are recently deceased and in respect of whom a benefit payment decision has yet to be made, then the position of the Trustees or Directors of a Corporate Trustee will be recalculated on the basis that:
 - A. in the event that there is a single Member, the Trustee or Director who is or represents the Member shall have the casting vote; and
 - B. in the event that a Trustee or Director also is or represents a Member of the Fund with a nil balance, that person’s corresponding vote as Trustee or Director will not be counted,
 however the Trustees or Directors who are also Members, and who do not have a nil balance, must agree in writing to personally indemnify the other Trustees or Directors against any legal or financial consequences of the Disputed Actions, unless the indemnified Trustees or Directors initiate the legal action, or cause the financial consequences.
 - (iii) **Willing Members prepared to voluntarily roll out.** If a Disputed Actions Notice has been given, and any Member is prepared to voluntarily roll the balance of their Member’s Benefit Account out of the Fund (the “**Willing Members**”), then they will be permitted to do so, as long as they provide details of an alternative regulated superannuation fund to which their benefits may be transferred within 14 days of the notification of their decision to roll out, and subject to Rule 10.2 (g) . Until the Willing Members have been rolled out of the Fund, the Disputed Actions will not be undertaken.
 - (iv) **Funds where Members have small balances to be compulsorily rolled out.** If a Disputed Actions Notice has been given, and all of the Dissenters did not roll out as Members pursuant to paragraph (iii) above, then the Trustees or Directors who represent corresponding Members balances making up at least 80% of the market value of the Fund’s assets (the “**Majority Members**”) may commence to compulsorily rollover any Member who is also a Dissenter and whose balance is 20% or less of the market value of the Fund’s assets (“**Minority Members**”), subject to paragraph (f) of this Rule, as follows:
 - A. if a Minority Member nominates an alternative regulated superannuation fund to accept the rollover – that fund; or
 - B. if a Minority Member does not so nominate - an eligible rollover fund selected by the Trustees or Directors who are Majority Members.
 Until the Minority Members have been rolled out of the Fund, the Disputed Actions will not be undertaken.
 - (v) **Mediation or court action as a remedy in other cases.** In the event that the Disputed Actions have not been resolved pursuant to the preceding paragraphs, any one of the Trustees or Directors may request the Australian Mediation Association to select a mediator to resolve the matter and:
 - A. all Trustees and Directors shall attend any mediation hearings scheduled.
 - B. any Trustee or Director who has been notified of, but does not attend a scheduled mediation:

- I shall be entitled to one alternative mediation date; and
- II should they fail to attend that alternative mediation date, shall be deemed to accept its outcome.

- C. in the event that the Trustees or Directors are not able to resolve the matters which are the subject of the mediation, one or more of the parties may apply to the relevant court in the State or Territory in which the Fund is based, for a determination of the matter.
- (d) **Stay of decision while Minority Member rolled out.** For the avoidance of doubt, if a Minority Member is being compulsorily rolled out of the Fund, then the Majority Members may not cause the Fund to engage in the Disputed Actions until such time as all Minority Members have been rolled out of the Fund.
- (e) **Requirement to prepare accounts prior to rollover.** Prior to any rollover, the Fund's administrators will prepare management accounts showing the best estimate of the Members' present account balances, less a provision for accrued income and capital gains taxes, and any other reasonable provisions relating to the income and expenses of the Fund, accrued and incurred up to the date of those accounts.
- (f) **Stay of compulsory rollover during significant market declines.** If the All Ordinaries Index has declined by more than 20% during the 12 months preceding the Disputed Actions Notice being given, then the Minority Members are entitled to a deferral of 12 months, or the period taken for the All Ordinaries Index to regain its level from 12 months prior to the Disputed Actions Notice being given, whichever is the earlier, before any compulsory rollover is initiated.
- (g) **Stay of voluntary rollover during certain periods.** If a Member has requested a voluntary rollover of their benefits from the Fund in accordance with this Rule 10.2, then any other individual Trustee, or any other Director of a Corporate Trustee, may elect to defer the roll out:
- (i) if the All Ordinaries Index has declined by more than 20% during the 12 months prior to the rollover request – for 12 months, or the period taken for the All Ordinaries Index to regain its level from 12 months prior to the rollover request, whichever is the earlier; or
 - (ii) if, in order to pay out the Member, one or more illiquid, non-listed assets representing more than 20% of the Fund's total assets would need to be sold – 12 months from the date the rollover request is made, or a sufficient number of illiquid, non-listed assets are sold and the proceeds received, whichever is earlier; or
 - (iii) if, in order to pay out the Member, one or more of the Fund's assets which is leased to a business owned or operated by a Fund Member, or a Related Party of a Member, would need to be sold – the time taken to sell and receive the proceeds from the sale of that or those assets,
- however, during this time any of the individual Trustees, or any Director of a Corporate Trustee, may initiate the mediation provisions in Rule 10.2(c)(v).
- (h) **Limit on this Rule for Legal Disability or Family Law Act proceedings.** The provisions of this Rule, other than those which require mediation or recourse to a court of law, shall not apply where:
- (i) the Disputed Actions concern the payment of benefits of a Member who is under a Legal Disability; or
 - (ii) where one or more of the Members is party to proceedings under the Family Law Act.
- (i) **When this Rule does not apply.** The preceding provisions of this Rule shall not apply if the Disputed Actions would be:
- (i) illegal; or
 - (ii) reasonably likely, in the opinion of the Fund's auditor, to cause:
 - A. a breach of the Act and Regulations; or
 - B. part or all of the Fund's income to be non-arm's length income.
- (j) **Continuation of good governance.** During any period where this Rule applies, the individual Trustees, or Directors of a Corporate Trustee shall continue to deal with each other in good faith and undertake all elements of their duties in a timely fashion.
- (k) **Preservation of Rights.** Apart from as otherwise specifically provided, nothing in this Rule shall prevent one or more parties from pursuing their usual legal and equitable rights and entitlements.
- (l) **Parties may voluntarily withdraw.** All of parties who served Disputed Actions Notices may jointly, by further notice in writing to all of the other individual Trustees or Directors of a Corporate Trustee, withdraw their Disputed Actions Notice, however the withdrawing parties must agree to:

- (i) their Member Benefit Accounts being debited with all of the Fund's expenses in relation to the Disputed Actions accrued after the Disputed Actions Notice was given; or
- (ii) a portion of the Fund's expenses in relation to the Disputed Actions, which is agreed between all Trustees or all Directors, being debited to their Member Benefit Accounts; or
- (iii) a mediation in accordance with this Rule being held, which is restricted to a decision on the allocation of such expenses.

10.3 Members' meetings

- (a) **When to hold meetings.** A Members' meeting must be convened by the Trustee, when:
 - (i) the Trustee considers it necessary; or
 - (ii) the Trustee or a Director, receives a meeting request, signed by not less than Members having at least 25% of the amount of the account balances of the current Members.
- (b) **How to call a meeting.** In order to convene a Members' meeting, the Trustees must give to each Member not less than 7 days notice in writing that a Members' meeting is to be held, specifying the time and place and a general description of the business to be conducted at the meeting. The notice period in this Rule may be waived by the agreement of all Members. No notice and no meeting is required in the case of a sole Member.
- (c) **Appointing a chair.** Before any business is conducted at a Members' meetings, the Trustees or the Directors must appoint one of their number to chair the meeting, and the meeting must be conducted by that person in a fair and reasonable manner, but otherwise as that person determines.
- (d) **Capacity of meetings.** Subject to the requirements of these Rules and to the Act and Regulations, the Trustees or the Directors of the Trustee, must use their best endeavours to comply with a resolution passed by a majority of the Members then present in person or by proxy at a Members' meeting.
- (e) **Quorum.** The quorum for Members' meetings is half of the total number of Members present in person or by proxy rounded up to the nearest whole number.
- (f) **Voting by proxy.** A Member who is unable to be present at a meeting of Members may nominate a person to attend the meeting as the Member's proxy, subject to the following requirements:
 - (i) the person nominated as proxy must carry into and put before the meeting an authority, signed by the Member in whose place the proxy is attending, in a form approved by the Trustee.
 - (ii) a person may be nominated as a proxy for one meeting only. The same person may be nominated for any subsequent meeting.
 - (iii) a person nominated as proxy must vote strictly in accordance with the directions of the appointing Member. A proxy, who is not otherwise a Member, is not further entitled to participate in the discussions and conduct of the meeting.

10.4 Member dies or becomes Legally Disabled

If a Member dies or becomes Legally Disabled, the Member's legal personal representative has a right to attend meetings of Members and to vote as a Member at any meeting of Members and:

- (a) upon the Member's legal personal representative becoming a Trustee where the Trustee of the Fund is or are natural persons, has a right to vote as a Trustee; and
- (b) upon the Member's legal personal representative becoming a Director of the Corporate Trustee where the Trustee is a Constitutional Corporation, has a right to vote as a Director of the Corporate Trustee.

10.5 Circular resolution.

Members may pass a resolution without a meeting of Members if all of the Members:

- (a) sign a document stating that they are in favour of the resolution in which case duplicate copies of the document may be used; and/or
- (b) indicate electronically that they are in favour of the resolution in which case separate electronic communications and/or forms of electronic communications may be used,

and a resolution is deemed to be passed at the time when the last Member signs or confirms they are in favour of the resolution.

11. INQUIRIES AND COMPLAINTS

- (a) **Dealing with complaints.** The Trustee must, within 90 days, consider any inquiry or complaint by one or more Members which has been raised either in a Members' meeting or in writing. Where an inquiry or complaint is not dealt with to the satisfaction of the Member or Members within that time, the parties must arrange for a convenient time and place to meet with each other, for the purpose of resolving the matter.
- (b) **Conduct of meetings.** The parties present at a meeting under Rule 11(a):
- (i) may, by agreement, appoint a person to chair the meeting, but it is not necessary to do so;
 - (ii) must appoint a person to take and distribute, to all parties in attendance, written minutes of the proceedings; and
 - (iii) may agree to convene one or more further meetings to address the issues in dispute.

12. ADMINISTRATIVE MATTERS

12.1 Interpretation of these Rules

Subject to the Relevant law, the interpretation and application of these Rules will be determined by the Trustee and that determination will be binding and final.

12.2 Effect of changes in Relevant Law

The Trustee is authorised and empowered to act in accordance with the Relevant Law (including the requirements for the Fund to be a complying superannuation fund and a Regulated Superannuation Fund) and, to the extent that there is any inconsistency between these Rules and the Relevant Law, the Relevant Law will prevail. For the avoidance of doubt and regardless of the terms of these Rules:

- (a) the Trustee may act in accordance with the Relevant Law regardless of the terms of these Rules;
- (b) the Trustee must act in accordance with the Relevant Law where the provisions of the Relevant Law are mandatory;
- (c) the Trustee is authorised to do any act or thing which is permitted by the Relevant Law regardless of the terms of these Rules;
- (d) the Trustee is authorised to refrain from doing any act or thing which is restricted or prohibited by the Relevant Law regardless of the terms of these Rules.

12.3 Limits on rights of Members

No person, whether as a Member or otherwise, will have any claim, right or interest to, in respect of, or against the Trustee, the Fund, or any contributions made to the Fund, except under and in accordance with these Rules.

12.4 Right to inspect

Every Member has the right to inspect a copy of these Rules, at a time and a place which is convenient to the Trustee.

12.5 Confidentiality

- (a) **Confidential Information.** No Member has any right to enquire, or to be given any information concerning the interest of another Member.
- (b) **Other confidential information.** The Trustee must observe strict confidentiality with regard to the affairs, accounts and transactions of the Fund, but this does not prevent the publication of financial, statistical or other information to all Members, generally, whenever the Trustee decides.

12.6 Receipts and payments with assets

Subject to Rule 5.9 and to the Act and Regulations, where:

- (a) any contribution, benefit or entitlement of a Member or Members is or are payable, transferable or receivable by or to the Fund; or
- (b) any liabilities incurred by or on behalf of the Fund are to be satisfied; or
- (c) any property is due to or is to be acquired by the Fund,

the Trustee may, with the agreement of the person to or from whom a payment is required to be made, in lieu of money, and at its discretion, make or receive settlement of the relevant amount by:

- (d) transferring, in specie, property of the Fund to; or
- (e) receiving a transfer of property from,

that person, at the property's Market Value.

12.7 Members to provide information

Every Member and every person claiming a benefit or entitlement, or receiving a Pension, or other benefit or entitlement, must give the Trustee any information or authorisation and produce any documents which the Trustee considers necessary for the purposes of giving effect to these Rules.

12.8 Variation provision

The Trustee may at any time amend, revoke, replace or modify all or any of the Governing Rules and/or the provisions of these Rules, by deed or other written instrument, or by resolution in writing. Any amendment, revocation, replacement or modification must not:

- (a) alter the objects of the Fund;
- (b) reduce the benefits and entitlements payable to Members without the prior written approval of the Members unless the amendments are required to comply with the Relevant Law;
- (c) alter the rights and benefits of existing Members in any manner so that, on the whole, equity between Members is not maintained in accordance with their Member Benefit Account balances;
- (d) where the Fund holds Member-contributed WA Property and/or Member-contributed NSW Property, alter the undertakings contained in Rule 2.6 or 2.7; or
- (e) be contrary to or inconsistent with the Act and Regulations.

12.9 Additional variation provision

- (a) Provided the Fund is subscribed to and recorded as Active on superdepot.net.au (the "Site"), SuperDepot Pty Ltd ACN 122 036 248 may at any time amend, revoke, replace or modify all or any of the Governing Rules and/or the provisions of these Rules, by uploading new Governing Rules to the records of the Fund on the Site. Any amendment, revocation, replacement or modification must not:
 - (i) alter the objects of the Fund;
 - (ii) reduce the benefits and entitlements payable to Members without the prior written approval of the Members unless the amendments are required to comply with the Relevant Law;
 - (iii) alter the rights and benefits of existing Members in any manner so that, on the whole, equity between Members is not maintained in accordance with their Member Benefit Account balances;
 - (iv) where the Fund holds Member-contributed WA Property and/or Member-contributed NSW Property, alter the undertakings contained in Rule 2.6 or 2.7; or
 - (v) be contrary to or inconsistent with the Act and Regulations.
- (b) Where the Fund is subscribed to and recorded as Active on the Site, any new Governing Rules uploaded by SuperDepot Pty Ltd ACN 122 036 248 to the records of the Fund on the Site will be taken to be the Governing Rules of the Fund as from the date of upload and the then existing Governing Rules will be replaced by the new Governing Rules.
- (c) The Trustee may exercise the power in Rule 12.8 to revoke all or any of the new Governing Rules at any time.
- (d) The Trustee delegates the power to amend, revoke, replace or modify all or any of the Governing Rules and/or the provisions of these Rules to SuperDepot Pty Ltd ACN 122 036 248, but only whilst the Fund is subscribed to and recorded as Active on the Site.

12.10 Saving provision

The exercise of the power in Rule 12.8 or Rule 12.9 will not invalidate or alter the terms of any:

- (a) Binding Death Nomination given by a Member;
- (b) Death Benefit Rule made between the Trustee and by a Member;
- (c) Pension rules in respect of Pensions commenced to be paid prior to the exercise of that power;
- (d) Superannuation will or other testamentary instrument executed by a Member prior to the exercise of that power,

and whether or not the terms of, or provisions applicable to, any of them does not comply with the operative Governing Rules of the Fund applying after the exercise of that power.

13. WINDING UP THE FUND**13.1 Conditions for termination**

The trusts created by these Rules will terminate:

- (a) where the Members, by unanimous resolution vote to wind up the Fund;
- (b) where the Trustee becomes aware that the Fund is insolvent, on the day on which the Regulator's permission to wind-up is obtained; or
- (c) in any other circumstances when there are no Members or Beneficiaries and the Trustee considers it to be unlikely that there will be any new Members, on the day determined by the Trustee.

13.2 Steps to take on winding-up

When it becomes clear to the Trustee that Rule 13.1 will apply, the Trustee will take all necessary steps to distribute any remaining assets of the Fund and to satisfy any outstanding liabilities, and will then:

- (a) notify any remaining interested parties of its intention to wind-up the Fund;
- (b) notify the Regulator and the Taxation Commissioner of its intention to wind-up the Fund;
- (c) comply with any other requirements of the Act and the Regulations concerning the winding-up of Funds; and
- (d) take any further steps which, in the Trustee's opinion, are required to wind-up the Fund.

SCHEDULE 2

Dictionary

Many of the terms you will encounter in these Rules are specifically defined in the Superannuation Industry (Supervision) Act 1993 (Cth) or any one of a number of other pieces of Commonwealth legislation. Due to the complex nature of superannuation, the definitions used by the legislation and by the documents establishing your Fund can be difficult to read and / or understand.

Please seek professional advice if you are unsure about any matter concerning your Superannuation Fund.

The Dictionary uses plain English versions of some definitions. These must be used as a guide to interpreting these Rules. **PLEASE NOTE** that the definitions set out in the Relevant Law will apply to these Rules regardless of the terms provided in the Dictionary.

Not all of the definitions in the legislation are included in this Dictionary. If you require clarification of any defined term or have any questions about these Rules or about anything you do not understand you should immediately contact your accountant or legal advisor.

PART 1

REFERENCES TO THE ACT

- (a) Unless otherwise stated, references to sections or regulations appearing after defined terms refer to sections of the Act or Regulations.
- (b) Any terms or expressions used in these Rules which are not defined in these Rules have the meanings given to them by the Act or the Regulations as the case requires.

PART 2

DEFINITIONS

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

Act means the Superannuation Industry (Supervision) Act 1993 (Cth);

Additional Insurance means insurance effected by the Trustee to provide benefits in addition to the Trustee's liability to pay Total and Temporary Disablement Benefits, Total and Permanent Disablement Benefits or Death Benefits;

Adopted Child means a person adopted by another person under any law of (or recognised in) any state or territory of Australia relating to the adoption of children; **section 10**

Allocated Pension means a Pension which meets the standards of Regulation 1.06(4); **Reg 1.03 and 1.06**

Annuity means a benefit which meets the standards of Regulation 1.05; **Reg 1.05**

Anti-detriment Payment, means a payment made pursuant to Section 295-485 of the Tax Act;

Approved Auditor means a person included in a class of persons specified in the Regulations, but excludes a person disqualified under the Act; **section 10**

Approved Deposit Fund has the meaning given by the Act; **section 10**

APRA means the Australian Prudential Regulation Authority;

ASIC means the Australian Securities and Investments Commission;

Associate has the meaning given by section 12 of the Act; **section 10**

Beneficiary means a person who has a beneficial interest in the Fund and includes, in all cases, the legal personal representative of such a person; **section 10**

Benefit Account means an account established and maintained under Rule 9.2;

Benefit Payment Insurance means insurance effected by the Trustee to discharge the Trustee's liability to pay Total and Temporary Disablement Benefits, Total and Permanent Disablement Benefits or Death Benefits;

Binding Death Nomination means a nomination which complies with Rule 5.4;

Cashing Restriction means, in relation to a Condition of Release, the corresponding cashing restriction specified in Column 3 of Schedule 1 to the Regulations;

Child, in relation to a person, includes:

- (a) an Adopted Child, a step child or an ex nuptial child of the person; and
- (b) a child of the person's Spouse; and

(c) a person who is a child of the person within the meaning of the Family Law Act 1975; **section 10**

Civil Penalty Provision has the meaning in section 193 of the Act;

Collectables has the meaning given by the Act: **section 62A**

Condition of Release means a condition of release specified in Column 2 of Schedule 1 to the Regulations;

Constitutional Corporation means a trading corporation or a financial corporation formed within the Commonwealth (within the meaning of paragraph 51(xx) of the Commonwealth of Australia Constitution Act); **section 10**

Contributions Cap means a Member's concessional contributions cap or non-concessional contributions cap for the purposes of the Income Tax Assessment Act 1997; **section 291-20 and section 292-85**

Control, for the purpose of Part 8 has the meaning given in section 70E of the Act;

Corporate Trustee means a Constitutional Corporation that is a Trustee; **section 10**

Corporations Act means the Corporations Act 2001 (Cth);

Custodian means a person (other than a Trustee) who, under a contract with a Trustee or an Investment Manager, performs custodial functions in relation to any of the assets of the Fund; **section 10**

Death Benefit means a benefit payable under Rule 5.3(g);

Death Benefit Pension, means a new pension which commences to be payable from the Fund to a beneficiary of a deceased Member, after that Member's death;

Death Benefit Rule means an agreement between the Trustee and a Member which complies with Rule 5.5;

Dependant includes a Spouse, any Child and any person with whom a person has an Interdependency Relationship; **section 10**

Director has the same meaning as in the Corporations Act;

Disqualified Person has the meaning given by the Act; **section 120**

Downsizer Contribution has the meaning given by the Regulations; **Reg 7.04**

Employee has its natural meaning as that meaning is contained and expanded by section 15A of the Act; **section 10 section 15A**

Employer has its natural meaning as that meaning is contained and expanded by section 15A of the Act; **section 10 section 15A**

Employer Sponsor means an Employer who does or would contribute to the Fund for the benefit of:

- (a) a Member who is an Employee of the Employer or its Associate; or
- (b) the Dependants of the Member on the death of the Member; **section 16**

Entity means an individual, a body corporate, a partnership, or a trust;

EPSSS means an exempt public sector superannuation scheme; **Reg 1.03**

Family Law Act means the Family Law Act 1975 (Cth);

Full-time means Gainfully Employed for at least 30 hours each week; **Reg 1.03**

Fund means the superannuation fund, the Trustee of which has adopted these Rules;

Gainfully Employed or **Gainful Employment** means employed or self-employed for gain or reward in any business, trade, profession, vocation, calling, occupation or employment; **Reg 1.03**

Governing Rules or **Rules** means the governing rules (as defined in the Act) of the Fund which include these rules and any provision applied to the Fund by any Relevant Law; **section 10**

Government Co-contributions means contributions made in respect of a Member by the Government under

Interdependency Relationship means circumstances in which 2 persons (whether or not related by family):

- (a) have a close personal relationship, live together, one or each of them provides the other with financial support and one or each of them provides the other with domestic support and personal care; or
- (b) have a close personal relationship but do not satisfy paragraph (a) because either or both of them suffer from a physical, intellectual or psychiatric disability,

but excludes relationships which are excluded by the Regulations; **section 10 section 10A**

Invest or **Investment** means:

- (a) apply assets in any way; or
- (b) make a contract,

for the purpose of gaining interest, income, profit or gain; **section 10**

Investment Manager means a person appointed by a Trustee to Invest on behalf of the Trustee; **section 10**

In-house Asset has the meaning given in Part 8 of the Act;

Lease Arrangement means any agreement, arrangement or understanding in the nature of a lease (other than a lease) between the Trustee and another person, under which the other person is to use, or control the use of, property owned by the Fund, whether or not the agreement, arrangement or understanding is enforceable, or intended to be enforceable, by legal proceedings;

Legal Disability or **Legally Disabled** in relation to a natural person means a lack of legal capacity because the person is:

- (a) a minor;
- (b) an intellectually disabled person who is liable to have their affairs administered by another person under any law dealing with the intellectually disabled; or
- (c) suffering from a mental illness or is mentally disabled and who is liable to have their affairs administered by another person under any law dealing with mental health or the mentally disabled;

Loan includes the provision of credit or any other form of financial accommodation, whether or not enforceable, or intended to be enforceable, by legal proceedings;

Mandated Employer Contributions means contributions required to be made by, or on behalf of, an Employer that are equal to the sum of:

- (a) the contributions to be made by, or on behalf of, the Employer to the Fund in relation to a Member, that:
 - (i) reduce the Employer's potential liability under section 5 of the Superannuation Guarantee Charge Act 1992; or
 - (ii) are payments of shortfall components under the Superannuation Guarantee (Administration) Act 1992; and
- (b) the contributions (other than contributions specified in (i)) to be made by, or on behalf of, the Employer to the Fund in relation to a Member in or towards satisfaction of the Employer's obligation to make contributions for the Member under an agreement certified, or an award made, on or after 1 July 1986 by an industrial authority;

Market Value means the amount that a willing buyer of an asset could reasonably be expected to pay to acquire the asset from a willing seller if the following assumptions were made:

- (a) that the buyer and the seller dealt with each other at arm's length in relation to the sale; and
- (b) that the sale occurred after proper marketing of the asset; and
- (c) that the buyer and the seller acted knowledgeably and prudentially in relation to the sale; **section 10**

Member means any person who has become a member of the Fund and who has not ceased to be a Member, and:

- (a) where the Fund is a Self Managed Superannuation Fund; or
- (b) in all other cases, unless the Trustee declares otherwise by resolution in writing,

includes a person who receives a Pension, or who has deferred his or her entitlement to receive a benefit from the Fund; **section 10**

Membership Application means an application to be admitted as a Member in a form which the Trustee approves;

Member-contributed NSW Property means dutiable property for the purposes of the Duties Act 1997 (NSW), which is transferred to the Trustee of the Fund by a Transferor and, in respect of which property, duty has been assessed and paid under section 62A of the Duties Act 1997 (NSW), and includes the proceeds of the sale of the whole or part of any such property;

Member-contributed WA Property means dutiable property for the purposes of the Duties Act 2008 (WA), which is transferred to the Trustee of the Fund by a Transferor and, in respect of which property, stamp duty has been assessed and paid under section 122 of the Duties Act 2008 (WA), and includes the proceeds of the sale of the whole or part of any such property;

Minimum Benefit means all of a Member's benefits in the Fund;

Non-commutable Income Stream has the meaning given by the Regulations; **Reg 6.01**

Non-concessional Contribution has the meaning given in the Income Tax Assessment Act 1997; **section 995-1 and section 292-90**

Non-member Spouse means a person who is the non-member spouse in relation to a Payment Split; **Reg 1.03**

Normal Retirement Benefit is the benefit to which a Member who meets the criteria set out in Rules 5.2(a) or 5.2(b) is entitled and which is calculated in accordance with Rules 5.3(b) and 5.3(c);

Old-age Pension has the meaning in paragraph 51(xxiii) of the Commonwealth of Australia Constitution Act; **section 10**

Part 8 Associate, in relation to an Entity has the meanings given in Subdivision B of Part 8 of the Act;

Part-time Basis means Gainfully Employed for at least 40 hours in a period of 30 consecutive days during a Year of Income;

Payment Split, means a payment split under Part VIII B of the Family Law Act;

Pension, except in the expression **Old-age Pension**, includes a benefit provided by the Fund, if the benefit is taken, under the Regulations, to be a pension for the purposes of the Act; **section 10**

Preservation Age means:

- (a) for a person born before 1 July 1960--55 years; or
- (b) for a person born during the year 1 July 1960 to 30 June 1961--56 years; or
- (c) for a person born during the year 1 July 1961 to 30 June 1962--57 years; or
- (d) for a person born during the year 1 July 1962 to 30 June 1963--58 years; or
- (e) for a person born during the year 1 July 1963 to 30 June 1964--59 years; or
- (f) for a person born after 30 June 1964--60 years.

Preserved Benefits means the total of all benefits and entitlements standing to the credit of the Member's Benefit Account, less the sum of:

- (a) Restricted Non-preserved Benefits; and
- (b) Unrestricted Non-preserved Benefits;

Regulated Superannuation Fund means a Superannuation Fund which has a trustee and:

- (a) the trustee is a Constitutional Corporation as required by its trust deed or governing rules; or
- (b) the trust deed or governing rules provide that the sole or primary purpose of the fund is the provision of Old-age Pensions,
- (c) and in relation to which the trustee has elected in writing in a form approved by the Regulator that the Act will apply to the fund; **section 10 section 19**

Regulations means the Superannuation Industry (Supervision) Regulations 1994 (Cth);

Regulator means the body having the responsibility for administering the Act and the activities of the Fund and includes APRA, ASIC or the Taxation Commissioner; **section 10**

Related Party means any of the following:

- (a) a Member;
- (b) a Standard Employer Sponsor;
- (c) a Part 8 Associate of a person or entity referred to in paragraph (a) or (b); or
- (d) a Non-member Spouse with a Superannuation Interest;

Related Trust has the meaning given by the Act; **section 10**

Relative of an individual (except in Rule 1.5) means the following:

- (a) a parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or Adopted Child of the individual or of his or her Spouse;
- (b) the Spouse of the individual or of any other individual referred to in paragraph (a),

and for the purposes of paragraph (a), if one individual is the child of another individual because of the definition of Child in these Rules, relationships traced to, from or through the individual are to be determined in the same way as if the individual were the natural child of the other individual;

Relevant Law means the Act and Regulations, the Tax Act, the Corporations Act and any other laws governing the provision of superannuation and retirement benefits in Australia, from time to time and any regulations made under them;

Restricted Non-preserved Benefits means the total of the amount of any restricted non-preserved benefits that are received from another Regulated Superannuation Fund, a Retirement Savings Account established under the Retirement Savings Account Act 1997, or an EPSSS;

Retire means:

- (a) where a person is at least aged 55 years and less than 60 years, an arrangement under which the Member was Gainfully Employed has come to an end and the Trustee is reasonably satisfied that the Member intends never again to become Gainfully Employed on at least a Part-time Basis;
- (b) where a person is at least aged 60 years and less than 65 years, an arrangement under which the Member was Gainfully Employed ceased on or after the Member's 60th birthday;
- (c) where a person is at least aged 65 years, this definition is not relevant, as other provisions govern the permissibility or compulsion to take superannuation benefits;

Retirement Phase has the meaning given in the Income Tax Assessment Act 1997; **section 995-1 and section 307-80**

Reversionary Pension means a Pension which continues to be paid to one or more reversionary beneficiaries after the death of the Member who was receiving that Pension immediately before his or her death;

RSA or Retirement Savings Account has the meaning given in the Act; **section 10 and section 8 of the Retirement Savings Accounts Act 1997**

Self Managed Superannuation Fund or SMSF, has the meaning given in the Act; **section 17A**

Splittable Contribution has the meaning given in Rule 6.4(a);

Splitting Order means a splitting order under Part VIIIB of the Family Law Act;

Spouse of a person includes:

- (a) another person (whether of the same sex or a different sex) with whom the person is in a relationship that is registered under a law of a State or Territory prescribed for the purposes of Section 22B of the Acts Interpretation Act 1901 (Cth) as a kind of relationship prescribed for the purposes of that section; and
- (b) another person who, although not legally married to the person, lives with the person on a genuine domestic basis in a relationship as a couple; **section 10**

Standard Employer Sponsor means, an Employer Sponsor who does or would contribute, wholly or partly pursuant to an arrangement between the Employer Sponsor and the Trustee;

Superannuation Fund means:

- (a) a fund that is:
 - (i) an indefinitely continuing fund; and
 - (ii) a provident, benefit, superannuation or retirement fund; or
- (b) a public sector superannuation scheme;

Superannuation Interest means a beneficial interest in the Fund; **section 10**

Superannuation Lump Sum has the meaning given by subsection 995-1(1) of the Tax Act;

Tax Act means, as the case requires, the Income Tax Assessment Act 1936 (Cth), or the Income Tax Assessment Act 1997 (Cth);

Taxation Commissioner means the person appointed or acting as the Commissioner of Taxation under the Taxation Administration Act 1953 (Cth);

Temporary Incapacity means ill-health (whether physical or mental) that caused a Member to cease to be Gainfully Employed but does not constitute Total and Permanent Disablement;

Terminal Illness Benefit means a benefit payable under Rule 5.3(f);

Terminally Ill means a condition that the Member is suffering, which two medical practitioners (at least one of these a specialist) certify would, in the normal course, result in death within a period of 24 months;

Total and Permanent Disablement means ill-health (whether physical or mental), where the Trustee is reasonably satisfied that the Member is unlikely, ever again to engage in Gainful Employment for which the Member is reasonably qualified by education, training or experience;

Total and Permanent Disablement Benefit means a benefit payable under Rule 5.3(d);

Total and Temporary Disablement Benefit means a benefit payable under Rule 5.3(e);

Transfer Balance Cap has the meaning given in the Tax Act; **section 995-1 and section 294-35 and section 294-185**

Transferor means a Member who transfers Member-contributed WA Property or Member-contributed NSW Property to the Trustee of the Fund;

Trustee means the first Trustee of the Fund and / or any other person appointed as an addition to or replacement or substitute for that person. The Trustee may be one or more persons at any time;

Unrestricted Non-preserved Benefits means the sum of:

- (a) the total of the Member's Unrestricted Non-preserved Contributions;
- (b) the amount of the Member's Preserved Benefits and Restricted Non-preserved Benefits which have met a Condition of Release and have a nil Cashing Restriction;
- (c) the amount of unrestricted non-preserved benefits received by the Fund in respect of the Member on or after the day on which the Fund becomes a Regulated Superannuation Fund; and
- (d) the investment earnings on the amounts specified in paragraphs (a) and (c) for the period before 1 July 1999,

less administrative, insurance and taxation costs and other direct costs relating to the establishment, operation and termination of the Fund applicable to the amounts in (a) to (d) above at the relevant time;

Unrestricted Non-preserved Contributions has the meaning given by the Regulations; **Reg 6.10**

Year of Income means the period from 1 July of a calendar year to 30 June of the following calendar year, unless any other period applicable to the Fund is, for the purposes of the Tax Act, a year of income of the Fund. **section 10**

For further information please contact your accountant, financial planner, lawyer or other advisor or go to www.ato.gov.au.