

Constitution

of

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Overview

This is the Constitution of Toxiq Investments Pty Ltd

The company is a proprietary company limited by shares. The liability of its members is limited to any amount owing on their shares.

- This Constitution only allows the company to act as trustee of a regulated superannuation fund within the meaning of section 19 of the *Superannuation Industry (Superannuation) Act 1993*.
- This constitution prohibits distribution of the company's income or property to its members.
- The company is not allowed to have more than 50 members who are not:
 - employees of the company or a subsidiary company; or
 - former employees of either the company or a subsidiary company who became members during their employment.

For this purpose, joint holders of particular shares are counted as one member. The company must always have at least one member.

- The company is not allowed to engage in an activity that would require a disclosure document to be lodged under Chapter 6D of the *Corporations Act*. This does not apply to an offer to existing members of the company or to employees of the company or a subsidiary company.

The Constitution sets out the basis on which the company is to be managed. Nothing in the Constitution is intended to derogate from the *Corporations Act*. That Act imposes numerous obligations on the company which are not reproduced in this Constitution. It prevails over anything in this Constitution to the extent that they are inconsistent. This Constitution replaces the replaceable rules in the *Corporations Act*. Words used in the Constitution that have a meaning in the *Corporations Act* have the same meaning in this Constitution.

A Management of the company

Company's powers

- 1 Subject to any restrictions under the *Corporations Act*, the company has all the powers of a natural person except that it is not permitted to distribute the company's income or property to its members.

Company's purpose

- 2 The sole purpose of the company is to act as the trustee of a regulated superannuation fund within the meaning of section 19 of the *Superannuation Industry (Supervision) Act 1993*.

Company managed by the Board

- 3 The Board of Directors manages the company. It must do so in accordance with the *Corporations Act* and lawful resolutions of the company. The initial directors are named in the Schedule. A director is not required to own shares in the company.

Directors to appoint company secretary

- 4 The directors may appoint one or more company secretaries in accordance with the *Corporations Act* on the conditions they think fit. The directors may remove a company secretary from office. Unless the directors decide otherwise, the company secretary is also the company's public officer.

Directors to appoint public officer

- 5 The directors must appoint a public officer in accordance with Australian tax law on the conditions they think fit. The directors may remove a public officer from office.

Powers of directors

- 6 Through the Board, the directors have the power and duty to manage and control the business and affairs of the company. They may exercise all the company's powers, except those that are required to be exercised by the company in general meeting. The following are among the specific powers they have:
 - to borrow or raise money;
 - to secure the payment of any money in any way, including by mortgage, debenture, charge or other security interest on all the company's assets and undertakings, present and future.

Directors may confer powers on a person

- 7 The directors may confer on a person (including a director) the power to do specified things on behalf of the company, whether by power of attorney or not. They may confer on that person a power of sub-delegation.

The entrusting of a power to a person does not exclude its exercise by the directors themselves.

Number of directors

- 8 Subject to clause 9, there must be at least one director of the company and not more than 10.
- 9 The company may change the number of directors above one by passing a resolution at a general meeting of the company. If the number of directors falls below the minimum set by the company in accordance with this clause, the remaining directors for the time being must not take any action as directors other than to:
- appoint additional directors to meet the minimum; or
 - convene a general meeting of the company.

Appointment and removal of directors

- 10 The company or the directors may appoint a director, remove a director, or do both, by passing a resolution to that effect.

The directors may appoint a director either to fill a casual vacancy or to add to their number. A director appointed by the directors ceases to be a director 6 months after the date of his or her appointment unless the appointment is confirmed by the company's passing a resolution at a general meeting.

Retirement of directors

- 11 A director may retire from office by giving written notice to the company at its registered office. The resignation is effective at the time stated in the notice, provided it is after the time the notice was given. If not, the notice is effective immediately it is given.

Office of director becomes vacant

- 12 A director automatically ceases to be a director if any of the following applies:
- the director is prohibited from being a director or ceases to be a director or is removed from being a director by the *Corporations Act* or by an order made under it;
 - the director becomes insolvent or makes a composition or arrangement with his or her creditors or a class of them;
 - the director becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under any law relating to mental health;
 - the director is absent from meetings of directors for 6 consecutive months

without special leave from the directors, and the directors consequently declare his or her office vacant;

- the director fails to pay a call on his or her shares in the company for at least a month after the call was made – or a longer period allowed by the directors.

Alternate directors

- 13 A director may appoint a person to act in his or her place as an alternate for any period the director thinks fit. The appointment must be in writing and must first be approved by a majority of the other directors. The managing director may not appoint an alternate managing director. An alternate does not have to own shares in the company. An alternate may be an alternate for more than one director.

Powers of alternate directors

- 14 In the absence of the appointing director, his or her alternate has all the rights, and may exercise all the powers of, the director (including voting at meetings) on the same conditions as the appointing director. The exercise of rights and powers has the same effect as if the appointing director had exercised them. However, the alternate director is not the appointing director's agent and is personally responsible to the company for his or her conduct.

Notice of meetings

- 15 An alternate is entitled to receive notices of meetings of directors if the appointing director requests it.

Resignation of alternate director

- 16 An alternate may resign by giving the company written notice at its registered office. The resignation takes effect immediately when the notice is given.

Termination or suspension of appointment of alternate director

- 17 An appointing director may immediately terminate the appointment of his or her alternate, or suspend the appointment, by giving the company written notice at the registered office. The other directors may immediately terminate the appointment of an alternate, or suspend that appointment, by passing a resolution at a meeting of directors after giving the appointing director reasonable written notice.

The appointment of an alternate terminates automatically if the appointing director ceases to be a director, or if anything happens in respect of the alternate which, if it happened to the appointing director, would result in that director ceasing to hold office.

Appointment of managing director

- 18 The directors may appoint one or more of them to be the company's managing director for the period and on the terms (including terms as to salary and fees) they think fit. If the

managing director is unable to act in that office, the directors may appoint a person to act temporarily as managing director.

If more than one managing director has been appointed at a particular time, they hold office jointly.

Resignation etc of managing director

- 19 The clauses in this Constitution that apply in relation to the resignation, disqualification and removal of a director apply to the managing director with any necessary qualifications. The directors may remove the managing director from office, but only in accordance with the company's contract of employment with that person.

Managing director ceasing to hold office

- 20 The managing director automatically ceases to hold office when he or she ceases to be a director.

Powers of managing director

- 21 The managing director has the powers entrusted to him or her by the directors. The directors may withdraw or vary any power entrusted to the managing director. The entrusting of a power to the managing director does not exclude its exercise by the directors themselves.

Remuneration of directors

- 22 The directors are entitled to be paid directors' fees set by the directors. The directors may set different amounts for different directors. If they don't, each director's fee must be the same as each other director's fee. The directors' fees must not be more in aggregate than the maximum amount approved by the company in general meeting. Directors' fees accrue daily.

Expenses

- 23 In addition to their fees, directors are entitled to be paid or reimbursed for all travelling and other expenses they properly incur in relation to exercising their powers and performing their duties in relation to:
- a meeting of directors;
 - a meeting of a committee of directors;
 - a general meeting of the company; or
 - the business or affairs of the company.

Conflict of interests

- 24 A director is entitled to hold another office with the company, or to be remunerated for other work (including professional work) by the company, despite being a director. This does not apply in relation to the office or work of auditor.

A director is not disqualified from office by reason of entering into a contract or arrangement with the company or having an interest in a contract or arrangement with the company, nor is any such contract or arrangement void or liable to be avoided.

A director does not have to account to the company for any profit arising from a contract or arrangement with the company merely because of being a director and having a fiduciary duty to the company.

Disclosure of an interest

25 A director must disclose an interest in any contract or arrangement with the company as required by the *Corporations Act*.

General notice of an interest

26 A director may give a general notice to the company at its registered office that he or she is an officer or member of a specified corporation or firm, or has an interest in it in some other way. The notice must set out the nature and extent of the director's interest. The notice is effective on all subsequent occasions as a disclosure of the director's interest in a matter involving the company and that corporation or firm, but only if the director's interest at the time of first consideration of the matter is no greater than as stated in the general notice.

Effect of disclosure by a director

27 If a director complies with the law and this Constitution in relation to disclosing an interest:

- the director may vote on whether the company enters into the contract or arrangement;
- the contract or arrangement may be entered into;
- the director may participate in the execution of the contract; and
- the director may vote on matters involving the contract.

B Meetings of directors

Directors may regulate meetings

28 The directors may regulate their meetings in the way they think fit.

Holding meetings

29 A director may convene a meeting of directors at any time. The company secretary must convene a meeting if requested by a director to do so. The convenor convenes a meeting by giving written or oral notice of it to all directors. The convenor does not have to give notice of a meeting to a director whom the convenor reasonably believes to be outside Australia.

Failure to give notice

- 30 The resolutions passed at a meeting of directors for which notice was not given to all directors, and actions taken to implement those resolutions, are nonetheless valid if each director who was not given notice later agrees to waive the receipt of that notice.

Quorum

- 31 No business may be transacted at any time during a meeting of directors unless a quorum is present. Until the directors decide otherwise, the quorum for a meeting of directors is any 2 directors. If there is only one director, the quorum is that director. The quorum must be present throughout a meeting. An alternate director who is not also a director may be counted in the quorum if the appointing director is not present.

Chair

- 32 The directors may elect one of them to be chair for a specified period. If a meeting of directors is held and no chair has been appointed, or the usual chair is not present within 30 minutes after the scheduled starting time or is unwilling to chair the meeting, the directors present must elect one of them to chair that meeting.

Meetings of directors in different places

- 33 With the consent of all directors notified orally or in writing to the company secretary, a meeting of directors may be convened at different venues, provided the technology used gives the directors at each venue a reasonable opportunity to participate in the meeting. The meeting is held at the place where the largest number of participating directors is present. If that place cannot be identified, the meeting is held where the chair is present.
- If there is a failure in the technology which deprives any director of a reasonable opportunity of participating in the meeting, the chair must adjourn the meeting until the failure is rectified. If the failure is not rectified within one hour, the chair must adjourn the meeting to a date and time when the chair believes all directors will be able to participate.

Director's consent to meeting of directors in different places

- 34 A director who consents to a meeting of directors being held even though all directors are not in the same place may withdraw that consent 48 hours before the meeting is due to be held. In that case, the meeting may not be held.

Departure from a meeting of directors in different places

- 35 A director who wishes to leave a meeting of directors being held even though all directors are not in the same place must obtain the express consent of the chair. A director who fails to do so is conclusively presumed present throughout the meeting for the purposes of the quorum for that meeting.

Voting and resolutions at a meeting

- 36 At a meeting of directors:

- each director who is present has one vote;
- an alternate director who is also a director has one vote as director and one vote for each appointing director who is absent from the meeting and by whom he or she has been appointed as an alternate; and
- the chair has a casting as well as a deliberative vote.

A resolution is passed at a meeting of directors if a majority of the votes cast is in favour of it. If there is only one director, he or she may pass a resolution in the way provided for by section 248B of the *Corporations Act*.

Resolutions by circular

- 37 The directors may pass a resolution without holding a meeting in accordance with this clause. The resolution must be signed by all directors entitled to vote on it and must state that they are in favour of it. The resolution is valid from the time the last director signs it and is taken to have been passed at that time. Different directors may sign different documents provided they are identical. Facsimile documents are acceptable. All original signed counterparts of this resolution must be retained in the company's books.

Minutes of meetings

- 38 The directors must keep minutes of meetings in accordance with the *Corporations Act*. They must record each of the following:
- the names of directors and alternate directors present at each meeting of directors
 - all orders, resolutions and proceedings of meetings of directors
 - any matter that the *Corporations Act* requires to be recorded in the books of the company. This includes declarations and notices of interest made and given by a director.

The chair of the meeting or of the next meeting must sign the minutes as a true and correct record of the meeting. That person's signing of the minutes is sufficient evidence of anything recorded and of the regularity of what was done at the meeting.

If there is only one director of the company, he or she must record:

- all orders and resolutions made; and
- any matter that the *Corporations Act* requires to be recorded in the books of the company. This includes declarations and notices of interest made and given by the director.

Committees of directors

- 39 The directors may delegate any of their powers to a committee of directors they specify. The directors may revoke a delegation. A committee must comply with any conditions on the exercise of its powers that the directors set. A power properly exercised by a committee is exercised by the directors. The clauses that apply in relation to the

proceedings of a meeting of directors apply in relation to meetings of a committee of directors (except a committee of one).

Minutes of meetings of committees

- 40 The rules applying to the minutes of meetings of directors and their signing apply, with any necessary changes, to the minutes of meetings of a committee. If a committee consists of only one director, a minute signed by that director recording a decision by him or her as that committee is a minute of that committee.

Validation of acts of directors

- 41 Any act done at a meeting of directors or of a committee of directors, or by any person acting as director, or by a person claiming to act under a power of attorney executed by the company, is valid even if it is later discovered that there was a defect in the person's appointment or continuance in office, or that the person was disqualified from voting or not entitled to vote.

Execution of documents

- 42 In addition to any other way in which the company may execute a document, it may do so by 2 directors signing it, or by one director and a secretary of the company signing it. If there is only one director who is also the sole company secretary, the company may execute a document by that director and company secretary signing it. If there is only one director and no company secretary, the company may execute a document by that director signing it. Execution under a common seal is not required.

Company seal

- 43 The directors may adopt a company seal. They must provide for its safe-keeping. The directors may also adopt a duplicate of the seal – that is, a facsimile of the seal with the words 'Share seal' on its face. The directors may adopt different duplicate seals for use in different places. Each must have on its face the place where it is to be used.

C General meetings of the company

Convening a general meeting

- 44 A director may convene a general meeting of the company at any time. A member or members may only call for or convene a meeting in accordance with the *Corporations Act*. A meeting may be convened at different venues, provided the technology used gives the members at each venue a reasonable opportunity to participate in the meeting. The meeting is held at the place where the largest number of members is present. If that place cannot be identified, the meeting is held where the chair is present.

If there is a failure in the technology which deprives any member of a reasonable opportunity of participating in the meeting, the chair must adjourn the meeting until the failure is rectified. If the failure is not rectified within one hour, the chair must adjourn the

meeting to a date and time when the chair believes all members will be able to participate.

Notice of meetings

45 Unless consent is given for shorter notice in accordance with the *Corporations Act*, at least 21 days' notice must be given of a general meeting to those persons entitled to notice under the *Corporations Act*. The notice must specify each of the following:

- the time and place for the meeting;
- the general nature of the business to be transacted at the meeting;
- the details of any special resolution intended to be passed at the meeting;
- the technology to be used if the meeting is to be held in more than one place;
- that a member who is entitled to cast 2 or more votes is entitled to appoint up to 2 proxies; and that, if the member appoints 2 proxies, the member must specify the proportion or number of votes each proxy is appointed to exercise;
- any other information required by the *Corporations Act*.

An accidental failure to give notice to a person, or the non-receipt by that person of the notice, does not affect the validity of the proceedings at the meeting or any resolution passed at it.

Cancellation

46 The directors may cancel a general meeting convened by them. If a general meeting is convened by, or on the call of, a member or members, the directors may only cancel the meeting if they have received from that member or members a signed notice withdrawing their request for the meeting.

Adjournment

47 The directors may postpone a general meeting or change a venue at which it is to be held. The only business that may be transacted at an adjourned meeting is the business stated in the notice concerning the original meeting.

- If a meeting is cancelled or adjourned, the directors must try to notify in writing each person entitled to receive notice of the fact of its cancellation or adjournment.
- In the case of an adjournment, the notice must state the new time and venue for the meeting.
- An accidental failure to give notice to a person, or the non-receipt by that person of the notice, does not affect the validity of the cancellation or adjournment of the meeting.

Quorum

48 No business may be transacted at any time during a general meeting unless a quorum is present. The quorum for a general meeting is 2 members who are present in person or by proxy, representative or attorney and who are entitled to vote. If a proxy, representative or attorney is appointed by more than one member, unless that person is also a member that person may be counted only once for the purpose of calculating the quorum. If that person is also a member, then that person may be counted twice. If the company has only one member, that person is the quorum.

48.1 *In the case of a meeting convened or called for by a member or members, if a quorum is not present within 30 minutes after the time appointed for a general meeting to be held, the meeting is automatically abandoned.*

48.2 *In the case of a meeting convened by the directors (other than on a member's or members' call), if a quorum is not present within 30 minutes after the time appointed for a general meeting to be held, it automatically stands adjourned to the same day of the following week at the time and venue the directors notify to the members in writing. If a quorum is not present within 30 minutes after the time appointed for the adjourned meeting, the meeting is automatically abandoned.*

Chair

49 The chair of meetings of directors is also the chair of a general meeting. If there is no chair, or the chair is unwilling to act as chair, or the chair is not present within 30 minutes after the time appointed for the general meeting to be held, the directors may choose another director to be chair of the meeting. If the directors fail to do so, or all directors present decline to be chair, the members who are present may choose one of them to be chair of the meeting.

Chair's rulings final

50 The chair's rulings on any matter relating to the order of business, procedure and conduct of the general meeting are final. No motion of dissent from a ruling will be accepted.

Adjournment

51 On the request or on the decision of a majority of members present and entitled to vote, the chair must adjourn a general meeting, or any business, motion, resolution, question, debate, discussion or poll. The adjournment of any business, motion, resolution, question, debate, discussion or poll may be until later in the meeting or to an adjourned meeting in accordance with the decision or request and does not affect the conduct of any other business that remains to be conducted at the meeting.

Adjourned meetings

52 No notice has to be given of an adjourned meeting or the business to be transacted at it unless the adjournment is for at least 30 days. In that case, the notice requirements relating to the original meeting apply. No business may be transacted at an adjourned

meeting except the business from the meeting adjourned. A resolution passed at an adjourned meeting is passed on the day of that adjourned meeting.

Voting rights

- 53 Subject to any rights or restrictions attached at the relevant time to a class or classes of shares, each member of the company, or each member of a class of members, who is entitled to attend and vote may attend a meeting of the company, or of the class of members. An individual member may vote personally or by proxy or attorney. A corporation member may do so by a representative who is an individual. No person who is not a member of the company, or a member of the class of members, or a proxy or attorney of that member – or, in the case of a corporation member, a representative of that member – may vote at a meeting of members or of a class of members.

Votes

- 54 *On a show of hands*, each member present (including by proxy, representative or attorney) at a meeting of members or of a class of members who is entitled to vote has one vote.

On a poll, each member present at a meeting of members or of a class of members who is entitled to vote has one vote.

Votes by joint holders

- 55 Any joint holder of shares may vote at a general meeting. However, if more than one vote is cast, the only one that will be counted is that of the joint holder whose name appears first on the Share Register of the company.

Members not entitled to vote: general

- 56 A member who is a minor or who is of unsound mind or who is, or whose estate is, liable to be dealt with in any way under any law relating to mental health may vote by the person or body who has the management or guardianship of the person or his or her estate. That person or body may vote by proxy or by representative, but only after giving the directors satisfactory proof of the right to do so under this clause.

Members not entitled to vote: amount unpaid

- 57 A member is not entitled to be present or to vote at a general meeting unless all calls and other amounts payable at the time of the meeting in respect of shares held by the member have been paid in full.

Objection to vote

- 58 A challenge to a person's entitlement to vote at a general meeting or to the validity of a vote made at that meeting may only be raised at that meeting. If a vote is allowed by the chair, it is valid for all purposes.

Method of voting

59 A resolution at a general meeting is to be decided on a show of hands unless a poll is demanded by any of the following:

- the chair of the meeting;
- at least 5 members present who are entitled to vote on the resolution;
- by a member or members who represent at least 10% of the votes that may be cast on the resolution.

Chair to declare proxies before taking vote

60 Before taking a vote on a resolution at a general meeting, the chair must inform the meeting whether any proxy votes have been received and how any proxy votes are to be cast.

Declaration of result of a vote on a show of hands

61 A declaration by the chair of a general meeting of the result of a vote on a show of hands, and a subsequent entry into the minutes of that meeting confirming that result that is signed by the chair of that meeting or the next general meeting, is by itself conclusive evidence of the declared result.

When a poll may be demanded

62 A poll may be demanded before a vote on a resolution is taken, before the result of a vote on a show of hands is declared, or immediately after the result is declared.

Demand may be withdrawn

63 A demand for a poll may be withdrawn at any time before the poll is taken.

Taking of poll

64 If a poll is demanded, it must be taken in accordance with the directions of the chair. However, if the poll concerns the election of a chair or the adjournment of the meeting, it must be taken immediately. A delayed poll does not affect the transaction of other business. The result of the poll is the resolution of the meeting on that question.

Chair's votes

65 In addition to any deliberative vote or votes as a member, the chair of a meeting is entitled to a casting vote in the case of an equality of votes on a show of hands or a poll.

Right of non-members to attend general meeting

66 The chair may invite any person who is not a member to attend and address a general meeting, including a director, auditor or company secretary.

Resolutions by circular

67 The members may pass a resolution by circular without holding a general meeting. The resolution must be signed by all members entitled to vote on it and must state that they are in favour of it. If there are joint holders of shares entitled to vote on the resolution, each must sign it. The resolution is valid from the time the last member signs it and is taken to have been passed at that time. Different members may sign different documents provided they are identical. Facsimile documents are acceptable. The resolution must be recorded in the minutes of the company's meetings.

67.1 This does not apply to either of the following resolutions:

- a resolution to remove a director or appoint a director in place of a director who has been removed;
- a resolution to remove an auditor under section 329 of the *Corporations Act*.

Resolutions by sole member

68 If the company has only one member, that member may pass a resolution of the company simply by recording it in the minutes of the company's meetings.

Proxies

69 A member who is entitled to cast 2 or more votes may appoint no more than 2 proxies. A proxy does not have to be a member of the company. If a member appoints 2 proxies, neither can vote on a show of hands. If the appointment does not specify what proportion of votes each is to be proxy for, each may exercise one half of the member's voting rights. A fraction of a vote is to be disregarded.

Appointment of proxy

70 A member may appoint a proxy or attorney. The member, the member's attorney or the corporation member's representative must sign the appointment. The appointment is valid if it contains the information which the *Corporations Act* requires it to contain. At the date of this Constitution, the *Corporations Act* required it to contain each of the following:

- the name and address of the member
- the name of the company
- the proxy's name or the name of the proxy's office
- the meetings at which the proxy is to be used.

An appointment is not invalid merely because it does not specify all this information.

An appointment may be a standing appointment.

An appointment for a meeting is valid for an adjournment of that meeting.

Form of proxy

71 The form set out in Schedule 4 may be used for the appointment of a proxy.

Revocation of appointment

- 72 A member who has appointed a proxy may revoke the appointment at any time by giving the company written notice. An appointment is not revoked by the member attending and taking part in a general meeting. However, if the member votes on a resolution, the proxy or other person appointed to exercise a member's voting rights is unable to vote.

Lodgement of proxies

- 73 A proxy, power of attorney or other authority to exercise a member's voting rights at a general meeting is not to be treated as valid unless notice of it is received by the company at its registered office (or another place specified in the notice of meeting) at least 48 hours before the time the meeting (or adjourned meeting) at which it is to be exercised is due to commence. The proxy or power of attorney must be accompanied by the authority under which the proxy was signed or a certified copy of the power of attorney. Facsimile documents are acceptable.

Rights of proxies etc

- 74 A proxy or other person appointed to exercise a member's voting rights has the same rights as the member to speak and vote at a general meeting. Those rights are suspended while the member is personally present at the meeting. The proxy or other person must vote on a resolution in accordance with any direction in the appointment.

- If there is no direction, and the person is separately entitled to vote on the resolution, the person may vote on it for the member as he or she thinks fit.
- If there is no direction, and the person is *not* separately entitled to vote on the resolution, he or she must abstain from voting on it.

A proxy or other person appointed to exercise a member's voting rights may demand or join in a demand for a poll.

Votes by proxy etc remain valid

- 75 A vote by proxy, power of attorney or other authority is valid despite any of the following:
- the death of the member or the member ceasing to have mental capacity;
 - the bankruptcy or liquidation of the member;
 - the revocation of the proxy, power of attorney or other authority;
 - the transfer of the share in respect of which the vote was cast.

This does not apply if the company receives notice of the relevant fact at its registered office at least 48 hours before the commencement of the meeting (or adjourned meeting) at which the vote is to be cast.

Proxy of joint holders

- 76 The vote of a proxy appointed by all the joint holders of a share is to be counted to the exclusion of a vote by any other proxy of any of the joint holders.

Chair may require evidence

- 77 The chair of a general meeting may require a person acting as a proxy for a member to establish that he or she is the person named in the lodged proxy. If the person cannot do so, he or she may be excluded from voting as proxy for the member.

Meetings of members of a class of shares

- 78 The rules applying to general meetings of the company apply with any necessary modification to meetings of members holding a class of shares, unless a matter is dealt with specifically by the rules for meetings of class members.

D Shares in the company

Power to issue shares

- 79 The directors may issue shares in the company at any time. They must preserve any special rights conferred on holders of existing shares. The directors may issue shares on any conditions they think fit subject to the limitation on the company's powers set out in clause 1 and the *Corporations Act*.

- 79.1 The directors may issue or allot shares as fully paid or partly paid, or as payment for property acquired by, or services rendered to, the company. They may differentiate between holders, including holders of the same class of shares, in relation to amount of calls or the timing of calls that are to be paid.

The directors may impose any conditions dealing with preferred, deferred, qualified, guaranteed and other special rights, privileges, conditions, restrictions or limitations in regard to voting or otherwise that they think fit.

- 79.2 The directors may grant options to call on the company to issue shares that they think fit.

Shares that may be issued

- 80 The shares issued by the directors must be of a class described in the Schedule or otherwise authorised by this Constitution.

Issue price

- 81 The directors determine the price of any shares they issue.

Variation of rights

- 82 The rights of holders of a class of shares to which special rights are attached are not varied or cancelled by the creation of additional shares ranking equally with the shares of that class. They may be cancelled or varied only by a special resolution of the company, and:

- a special resolution at a general meeting of the members holding shares in the relevant class of shares; or

- with the written consent of members who hold at least 75% of the shares in that class.

Variation or cancellation of shares

83 If the capital of the company is divided into different classes of shares, any rights attached to shares of any class may be varied or cancelled:

- with the written consent of the holders of 75% of the issued shares of that class; or
- with the sanction of a special resolution of the holders of shares in that class passed at a separate general meeting.

In the latter case, the quorum for the meeting is members holding 25% of the issued shares of the relevant class. Any member holding shares of the class may demand a poll.

Commission and brokerage

84 The company may pay commission or brokerage as allowed by the *Corporations Act*. It may do so by paying cash, allotting shares, or both.

Share certificates

85 The company must issue share certificates to holders of shares. They must be in the form laid down by the directors and in accordance with any requirements in the *Corporations Act*. Each member is entitled to one share certificate, free of charge, for all the shares registered in his or her name. Joint holders of shares are entitled to only one certificate between them.

If a share certificate produced to the directors is worn out or defaced, the directors may order it to be cancelled. On cancellation, they may issue a replacement after being paid a fee set by them. If a share certificate is lost or destroyed, the directors must issue a replacement to the person entitled to the shares after being paid a fee set by the directors.

Calls on shares

86 The directors may at any time make a call, including a call by instalments, in respect of an amount unpaid on the shares of members. This does not apply if it was a condition of their issue that the shares were payable at or after fixed times. A call is made when the directors pass a resolution making it. The directors may adjourn or revoke a call.

Notice of a call

87 The company must give at least 14 days' written notice to each member who holds a share in respect of which a call is made. An accidental failure to give notice or the failure of a member to receive it does not affect the validity of the call.

Fixed payment dates to be dates of calls

88 An amount which, by the terms of issue of a share, becomes payable on allotment or at or after a fixed or defined time, is treated as being subject to a call at that time, without notice being required.

Liability for a call

89 After receiving notice of a call, a member must comply with it. Joint holders are jointly and severally liable.

Interest on unpaid calls

90 If a call is not paid on time, the member must pay interest at the daily rate that is equivalent to the annual rate set by the directors (if no rate has been set by them, the last Reserve Bank Official annual cash rate published in the Australian Financial Review) from that time until actual payment, plus any expenses incurred by the company because of the failure to pay. The interest is to be compounded daily. The directors may waive payment of any part of the interest.

Proceedings

91 If a call is not paid on time, the directors may proceed to recover the amount, plus any interest and expenses. The exercise of that right does not affect any right of the company to forfeit the relevant shares. In any proceedings, it is sufficient and conclusive to prove that:

- the defendant's name is entered in the Share Register as a holder of the shares in respect of which the call was made;
- the resolution making the call is recorded in the company's minute book; and
- notice of the call was given to the member; or that the terms on which the shares were issued required payment at or after the relevant fixed or defined time.

Nothing else has to be proved.

Prepayment of calls

92 The directors may accept payment of an amount unpaid on a share without a call having been made in respect of any part of it. The directors may authorise the company to pay interest on that amount, at the rate set by the directors (if no rate has been set by them, the last Reserve Bank Official annual cash rate published in the Australian Financial Review), from the time it is paid until the time the amount would have become due under a call. The directors may at any time repay any part of a prepaid amount. They must give the member at least one month's notice of an intention to repay a prepaid amount.

Forfeiture of shares

93 If a member does not pay a call on time, the directors may serve a forfeiture notice on the member requiring payment of the relevant amount, plus interest and expenses. The notice must state:

- a date and time (no earlier than 14 days after the date the notice is served) on or before which payment of the outstanding amount is required, and the place where payment is to be made; and
- that if payment is not made as required, the shares will be liable to forfeiture.

If the member does not comply, the directors may forfeit the shares, including unpaid dividends declared in respect of them. The directors may at any time annul a forfeiture of shares.

Notice that forfeiture has taken place

94 If a share is forfeited, the directors must enter the forfeiture and its date in the Share Register of the company. The company must give notice of the forfeiture to the member (or members) in whose name the share was registered. Failure to comply with this clause does not invalidate the forfeiture.

Consequences of forfeiture

95 A person whose shares have been forfeited ceases at the time of forfeiture to be a member in respect of those shares. He or she has no claim against the company in respect of the forfeited shares, but remains liable to pay the company the amount outstanding in respect of them at the date of forfeiture. If the directors think fit, the person must also pay interest on the outstanding amount, at the rate set by the directors (if no rate has been set by them, the last Reserve Bank Official annual cash rate published in the Australian Financial Review), from the time of the forfeiture until the outstanding amount is paid. The directors are not under an obligation to enforce the person's obligations.

Evidence of forfeiture

96 A statement in writing by a director or the company secretary that a particular share has been forfeited on a particular date is conclusive evidence of that fact against any person claiming to be entitled to it.

Disposal of forfeited shares

97 The company may sell or dispose in some other way of a forfeited share as the directors think fit. On receipt of any consideration for the disposal, the company may transfer the share to the person to whom it was sold or disposed of. That person is then to be registered as the holder of the share, but is not responsible for seeing to what is done with any consideration paid. Entitlement to the share is not affected by any irregularity or invalidity in the forfeiture and disposal procedure.

Balance belongs to former member

98 Any balance of the proceeds of sale after payment to the company of the amount outstanding for the share belongs to the person who last held the forfeited share.

Company has a lien on shares in respect of amounts payable

99 The company has a first and paramount lien on each share registered (solely or jointly) in the name of a member, and on the proceeds of sale of that share, for all money that is outstanding on it, including an amount the company may be required to pay in respect of it. The lien extends to dividends declared and other entitlements in respect of the share. Unless the directors decide otherwise, the registration of a transfer of a share waives the company's existing lien in respect of it. The directors may exempt a share from the company's lien.

Company's indemnity and lien in respect of certain liabilities etc

100 If, under the law of Australia or any other jurisdiction, a liability is imposed on the company, or the company is required to make a payment in respect of any shares registered in the company's Share Register or in respect of any dividends or other amounts which are or may become accrued or payable to a member in respect of those shares, then the company is entitled to be indemnified against that liability or requirement by the holder of those shares. In addition:

- The company has a lien on the shares and the dividends or other amounts for the amount of the liability or requirement, plus interest on that amount, at the rate set by the directors (if no rate has been set by them, the last Reserve Bank Official annual cash rate published in the Australian Financial Review), from the time the company pays the amount of the liability or requirement until the time the member indemnifies the company. The directors may waive payment of the interest.
- The company may deduct from any amount payable by it to the member the amount due by the member under the indemnity.

This does not affect any other right the company may have in respect of its payment of the liability or requirement.

Suspension of a member's rights

101 While the company holds a lien over shares in respect of an amount which has not been paid on time, the relevant member may not exercise any rights as a member in respect of those shares.

Enforcement of a lien

102 The company may enforce a lien in respect of an amount that has not been paid on time by selling the shares in the way the directors think fit. The company must give the member or other person entitled to the shares at least 14 days' written notice, stating the amount due and demanding payment of it.

Completion of sale under a lien

- 103 The directors may authorise a person to effect the transfer to the purchaser of shares which have been sold under the company's lien over them. The purchaser is entitled to be registered as the holder of the shares and is not responsible for seeing to what is done with the consideration paid. The purchaser's entitlement to the shares is not affected by any irregularity or invalidity in connection with the sale. The purchaser is not under any obligation to pay any amount in respect of the shares except the purchase price and any other amount agreed with the company.

Proceeds of sale under lien

- 104 Proceeds received by the company from the sale of shares under a lien are to be applied towards payment of the amount in respect of which the lien existed and any expenses of the company in enforcing the lien. Any balance must be paid to the person entitled to the shares before they were sold under the lien. However, the company may retain any amount that has become payable since the sale in relation to something that occurred before the sale.

Transfer of shares

- 105 A person may transfer shares to another person by a document in the usual or common form or in some other form approved by the directors, signed by both the transferor and the transferee. The transferor remains holder of the shares until the transfer is registered.

Registration of transfer

- 106 For a transfer to be registered, the following documents must be lodged at the company's registered office:

- the transfer itself, duly stamped;
- the share certificate (if there is one) or evidence satisfactory to the directors of its loss or destruction;
- any other information the directors require to establish the transferor's right to transfer the beneficial ownership in the shares.

No fee is payable in respect of a transfer.

Refusal to register

- 107 The directors may refuse to register a transfer for any reason they think fit. The company must give written notice to the person who lodged the transfer within 7 days after a refusal to register a transfer. Except in the case of suspected fraud, they must return the transfer to that person.

Suspension of transfers

- 108 The directors may suspend registration of transfers for a specified period at any time, provided the total period of suspension in a calendar year is no more than 30 days.

Transmission of shares on the death of a member

109 On the death of a member, a surviving joint holder or the personal representative of a deceased sole holder are the only persons who have any title to the deceased's shares. The estate of a deceased holder remains liable for any liability in respect of the shares held, solely or jointly, at his or her death.

Election by a person entitled

110 The directors may require any person who becomes entitled to shares on the death or bankruptcy of a member or under any law relating to mental health to elect either to become registered as the holder of the shares or to nominate another person in whose name the shares are to be registered.

- *If the person elects to become registered, he or she must give the company a notice to that effect.*
- *If the person elects to nominate another person to be registered, he or she must transfer the shares to the other person.*

Entitlement before registration

111 A person entitled to be registered as the holder of shares is entitled to receive any dividend or other payment payable in respect of the relevant shares that the member would have been entitled to if he or she had not died. However, that person must first give the directors any information they properly require. The person is not entitled to any other rights until he or she becomes registered as the holder of the shares.

Incapacity etc of member

112 If a member becomes incapacitated or his or her person or assets becomes liable to be dealt with in any way under a law that relates to incapacity, the person who becomes legally entitled to manage the member's estate may exercise any rights that the member would have been able to exercise but for the incapacity. However, the person must first give the directors any information they properly require.

E Capital and profits of the company

Alteration of capital of the company

113 The company may alter its capital by passing a resolution to that effect in general meeting. It may do so in any of the following ways, provided it does not infringe clause 82:

- by converting any of its shares into larger or smaller numbers, in which case, any amount unpaid on them is to be divided equally among the replacement shares;
- by cancelling any shares which have been forfeited;
- by converting a class of shares into another class.

Power to reduce capital

114 The company may reduce its share capital in accordance with the *Corporations Act*.

Power to buy back shares

115 The company may buy back shares at any time in accordance with the *Corporations Act*.

Prohibition on dividends

116 The company must not distribute income, profits or dividends to the members.

Reserving profits

117 The directors may at any time set aside an amount out of the profits of the company as a reserve. A reserve is to be applied, at the directors' discretion, to any of the purposes for which profits may properly be applied.

Carrying forward profits

118 The directors may carry forward any profits rather than reserving them.

Capitalising profits

119 The company must not capitalise any sum being the whole or a part of the amount for the time being standing to the credit of any reserve account or otherwise.

F Loans to members

Loans under Division 7A of the Income Tax Assessment Act 1936

120 The company may make one or more loans to a member.

121 Any loan by the company to a member will be governed by the Default Loan Agreement, except loans to which the company and the member agree in writing that the Default Loan Agreement is not to apply. Also:

121.1 if the member ceases to be a member of the company, the member continues to be bound by the Default Loan Agreement; and

121.2 if a person or an associate borrows money from the company and then becomes a member of the company, the Default Loan Agreement will apply as an agreement between the company and that member from the date the member is registered as a member, except where the company and that person have agreed in writing that the Default Loan Agreement is not to apply.

122 In this Part F, the terms 'associate' and 'loan' have the same meaning as in the Default Loan Agreement.

G Miscellaneous

Display of name

- 123 The company must display its name prominently at every place at which the company carries on business and that is open to the public. It must display its name and ACN on the first page of all its public documents and negotiable instruments, except in cases (eg, cash register receipts) where that is not required by the *Corporations Act*.

Registered office

- 124 The directors must decide on the place of the company's registered office.

Records to be kept

- 125 The directors must keep proper financial records and accounts. They must distribute copies of financial reports and a directors' report in accordance with the *Corporations Act*. They must decide whether, to what extent, where, when and under what conditions the accounts and records of the company are to be available for inspection to members who are not directors. A member who is not a director is not entitled to inspect accounts and records except as decided by the directors or in accordance with the *Corporations Act*.

Register of charges

- 126 The company may keep a register of mortgages and charges specifically affecting the company's property. If the company keeps a register of mortgages and charges, it must keep that register up to date.

Confidential information

- 127 A member who is not a director is not entitled to require or receive from the directors or the company any information concerning the business, trading or customers of the company, or any trade secret, secret process, or other confidential information belonging to or used by the company.

Notices

- 128 The company may give a notice to a member in any of the following ways:
- by serving it on the member personally;
 - by posting it to the member or leaving it at the member's address shown in the Share Register, or at a replacement address for giving notices supplied to it by the member;
 - by faxing it or sending it electronically to the fax number or electronic address supplied by the member to the company for the giving of notices.

Time of service

- 129 A notice is to be treated as received in accordance with the following:

- if it is sent by post in Australia, on the next business day after pre-paid posting;
- if it is sent by post to an address outside Australia, in the ordinary course of pre-paid mail;
- if it is faxed or sent electronically, on the business day after it is sent.

Notice to a person entitled on the death etc of a member

130 The company may give a notice to a person who becomes entitled to shares on the death or bankruptcy of a member or under any law relating to mental health in accordance with the following:

- by serving it on the person personally;
- by posting it to the person at the address supplied to it by that person;
- by giving it in any other way in which it might have been given if the member had not died or become bankrupt or subject to any law relating to mental health.

Notice to joint holders

131 A notice to joint holders is given if the notice is given to the holder first named in the Share Register as joint holder.

Notice of a general meeting

132 Notice of a general meeting must be given to each of the following:

- each member;
- each director;
- the auditor of the company;
- each person entitled to shares because of the death or bankruptcy of a member or under any law relating to mental health.

Persons not entitled to notice

133 A person who does not have an address in the Share Register and who has not supplied an address or number for the giving of notices is not entitled to be given notice.

Winding up of the company

134 If the company is wound up, the liquidator must vest the whole or any part of any property of the company including any undistributed profits, income or reserves:

- 134.1 In the newly appointed trustee of the regulated superannuation fund (**fund**) within the meaning of section 19 of the *Superannuation Industry (Supervision) Act 1993* of which the company acted as trustee upon trust for the benefit of the members of the fund; or

- 134.2 If the fund has been wound-up or is being wound-up, to the members of the fund in the same proportion as the entitlements that the members of the fund received or will receive upon the winding up of the fund.

Remuneration in relation to winding up etc

- 135 No remuneration may be paid to a director or liquidator from the proceeds of the sale or realisation of the company's property or undertaking, except with the approval of the company in general meeting.

H Indemnity for officers etc

Indemnity

- 136 Each officer and former officer of the company (and, if the company approves it in general meeting, an employee, authorised agent, auditor or general adviser of the company) is entitled to an indemnity from the company against any liability, loss or expense incurred as an officer of the company (or in the other relevant capacity). However, this indemnity only applies if one of the following conditions is satisfied:

- 136.1 The liability, loss or expense is to another person (except the company or a related body corporate) and does not arise out of conduct involving a lack of good faith.
- 136.2 The liability is for costs and expenses incurred either:
- in defending civil or criminal proceedings in which judgment is given in favour of the person or the person is acquitted; or
 - in connection with an application in relation to those proceedings in which the court grants relief to the person under the *Corporations Act*.

Payment for an insurance policy

- 137 To the extent permitted by the *Corporations Act*, the company may, at the directors' discretion, enter into and pay for a policy of insurance insuring an officer or former officer against any liability incurred as an officer or employee of the company. However, this does not apply in relation to either of the following liabilities:
- a liability arising out of conduct involving a wilful breach of duty in relation to the company
 - a contravention of section 182 or 183 of the *Corporations Act*.

Interrelationship between indemnity and policy

- 138 An officer or former officer who is entitled to an indemnity under the insurance policy entered into by the company is not entitled to an indemnity from the company, except to the extent that the policy does not fully indemnify him or her.

Indemnity continues

- 139 An indemnity given by the company under clause 136 continues to apply after any change to or deletion of that clause, but only in relation to acts and omissions before the change or deletion.

Definitions

Call includes an instalment of a call.

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

Default Loan Agreement means the terms set out in Schedule 3 – Default Loan Agreement (Part F).

Dividend includes interim dividends and bonus issues.

Liability includes an immediate, future and possible liability.

Member present includes a member present by proxy or attorney – or, in the case of a corporation member, by a representative.

Officer means what it means in section 241(4) of the *Corporations Act*.

Person includes an entity or group that is not a legal entity.

Related body corporate means what it means in the *Corporations Act*.

Representative means a person authorised in accordance with section 250D of the *Corporations Act*.

Secretary includes an assistant and an acting secretary.

Writing includes writing in an electronic form.

Schedule 1

Names and usual residential addresses of initial directors

Name of director	Usual residential address of director
Qui Qeen Xi	11 Jennifer Court Derrimut, VIC, 3030
Hoa Viet To	11 Jennifer Court Derrimut, VIC, 3030

Classes of shares

Ordinary shares 'A' class shares, 'B' class shares, 'C' class shares, 'D' class shares, 'E' class shares, 'F' class shares, 'G' class shares, 'H' class shares, 'I' class shares, 'J' class shares, 'K' class shares, 'L' class shares, 'M' class shares.

Rights and restrictions attached to shares

Holders of classes of shares	Rights and restrictions
Ordinary, 'A', 'B' and 'C'	Right to receive notice of any general meeting of the company
	Voting rights as set out in clause 53
'D', 'E', and 'F'	No right to receive notice of any general meeting of the company
	No right to vote at any general meeting of the company
'G', 'H', and 'I'	Right to receive notice of any general meeting of the company
	Voting rights as set out in clause 53
'J'	Right to receive notice of any general meeting of the company
	Voting rights as set out in clause 53
'K'	No right to receive notice of any general meeting of the company
	No right to vote at general meetings of the company

Holders of classes of shares	Rights and restrictions
'L'	No right to receive notice of any general meeting of the company
	No right to vote at general meetings of the company
'M'	Right to receive notice of any general meeting of the company
	Voting rights as set out in clause 53

Schedule 2

Statement by persons who have consented to be members of the company

We consent to becoming members of the company. We agree to the form of this Constitution of the company.

Name of member	Usual residential address
Qui Qeen Xi	11 Jennifer Court Derrimut, VIC, 3030
Hoa Viet To	11 Jennifer Court Derrimut, VIC, 3030

Schedule 3 – Default Loan Agreement (Part F)

A The facility

Interest on loans

- 1 As from 1 July after a loan is made by the company to a member, the member must pay interest on the outstanding amount of that loan at the Benchmark Interest Rate as defined in the *Income Tax Assessment Act 1936*.

Minimum annual repayment

- 2 In relation to each amalgamated loan, the member must make annual repayments by 30 June each year that are at least the minimum yearly repayments as defined in section 109E(5) of the *Income Tax Assessment Act 1936*.

Repayment of loan and interest

- 3 The member must repay each loan to the company, plus all interest that remains unpaid on it, no later than 7 years from the date the loan is made or is deemed by the *Income Tax Assessment Act 1936* to have been made. The member may repay any part of a loan, and any interest on a loan, before that date.

Capitalising interest

- 4 The company may capitalise any interest that has become due but remains unpaid. That interest is then to be treated as having been added to the amount of the loan as from the date it became due.

Company may require security

- 5 The company may at any time require the member to provide reasonable security for the performance of the member's obligations under this agreement.

Costs

- 6 The member must pay the company the costs it reasonably incurs in connection with this agreement, and any security the member offers or provides under it. This includes stamp duty.

B Default

Acceleration of amounts owing under this agreement

- 7 The company may elect to treat all loans made to the member under this agreement, and any interest that has accrued but remains unpaid, as payable automatically and immediately if any of the following happens:

- The member fails to pay an amount in accordance with this agreement.
- The member assigns any of the member's property for the benefit of creditors or any class of them.
- The member's interest in or under this agreement is attached or is taken in execution under any legal process.
- A mortgagee or person with a similar legal interest in any of the member's assets takes possession of them or takes a step in that direction, or exercises a power of sale over them.
- The member ceases to conduct or suspends the conduct of a major part of its business, or threatens to do so, except for the purpose of a solvent reconstruction or amalgamation that has been approved by the company.
- The member, being a company, disposes of its assets, or threatens to do so, except for the purpose of a solvent reconstruction or amalgamation that has been approved by the company.
- A security interest becomes enforceable or is enforced against the member.
- A distress, attachment or other form of execution is levied or enforced against the member for more than \$1,000.
- The member takes any step to obtain protection under legislation against the member's creditors, or is granted that protection.
- The member commits an act of bankruptcy or becomes insolvent.
- The member passes a resolution to appoint an administrator or an administrator of the member is appointed.
- An order is made that the member be wound-up.
- An order is made appointing a liquidator or a provisional liquidator of the member.
- An order is made or a resolution is passed for the member to enter into any arrangement, compromise or composition with or assignment for the benefit of its creditors or any class of them, except for the purposes of a solvent reconstruction or amalgamation previously approved by the company.
- The member is, or states that it is, or under applicable legislation is taken to be, unable to pay its debts (except as a result of a failure to pay a debt or claim that is the subject of a dispute in good faith) or stops or suspends or threatens to stop or suspend payment of all or a class of its debts.
- A receiver, receiver and manager, administrator, controller or similar officer of any of the assets or the whole or any part of the undertaking of the member is appointed.
- The member is or makes a statement from which it may be reasonably deduced by the company that the party is the subject of an event described in section 459C(2) of the *Corporations Act*.
- An event occurs that is analogous or having a substantially similar effect to any of the events specified in this clause occurs.

C General provisions

Method of payment

- 8 The company may inform the member in writing that it requires payment under this agreement to be made in a specified way.

Joint and individual liability

- 9 Where a member is comprised of more than one person, the obligations imposed on a borrower by this agreement are imposed on those persons individually as well as jointly. A breach by any of them is a breach by all of them.

Waiver

- 10 The company only waives the exercise of a right or the performance of a duty under this agreement by specifically waiving it in writing, and then only to the extent it is specifically waived. Nothing else suffices.

Severability

- 11 Each provision in this agreement is to be interpreted in a way that makes it enforceable. If anything in this agreement is unenforceable, it is to be disregarded to that extent. All other provisions remain unaffected.

Jurisdiction

- 12 This agreement is governed by the law of the jurisdiction in which the company was incorporated. Each party submits to the jurisdiction of the courts of that jurisdiction. No party may argue, on the basis of the doctrine of forum non conveniens or any other basis, that the courts of that jurisdiction should not exercise jurisdiction.

Definitions in this Default Loan Agreement

Amalgamated loan means the total of all the loans made under this agreement that are made in a particular year of income and are not repaid by the end of that year.

Associate means what it means in Division 7A of the *Income Tax Assessment Act 1936*.

Company means the company of whose Constitution this Schedule forms part.

Loan means any of the following:

- an advance of money
- a provision of credit or of some other financial accommodation
- a payment of an amount for or on behalf of or at the request of the borrower where there is an express or implied obligation to repay the amount
- a transaction which in substance effects a loan of money
- it includes any of these that is deemed to have been made under the *Income Tax Assessment Act 1936*.

Member means any person who is a member of the company at the relevant time.

Schedule 4

Proxy Form

Toxiq Investments Pty Ltd ACN: 165865510

Meeting

Place	
Date	
Time	

I/We, *[insert name and address of member/members]*, am/are a member/members of *[insert company name and ACN]*. I appoint the following person/persons as my proxy/proxies to vote on my/our behalf at the specified meeting and any adjournment.

Name or office of proxy	Address

I/We appoint the following alternate person/persons to vote on my/our behalf at that meeting and any adjournment if a person I/we have appointed proxy is/are unable to act.

Name of proxy	Name of alternate	Address of alternate

[Include any instructions concerning voting in favour of or against particular resolutions]

Signature/signatures of member/members

[Insert name of member/members appointing proxy]

Execution

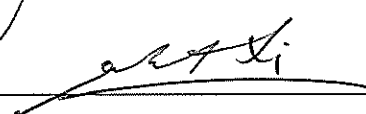
Date: 17 September 2013

Signature of member: x



Qui Geen Xi

Signature of witness:



Name of witness:

QUINHAT XI

Date: 17 September 2013

Signature of member: x



Hoa Viet To

Signature of witness:



Name of witness:

QUINHAT XI

(To be tabled at first meeting of directors)

17 September 2013

To
Toxiq Investments Pty Ltd
C/- Qeen Xi & Hoa To
11 Jennifer Court
Derrimut, VIC, 3030

Consent to act as Director

I consent to act as director of **Toxiq Investments Pty Ltd** with effect from 17 September 2013.

My personal details are as follows:

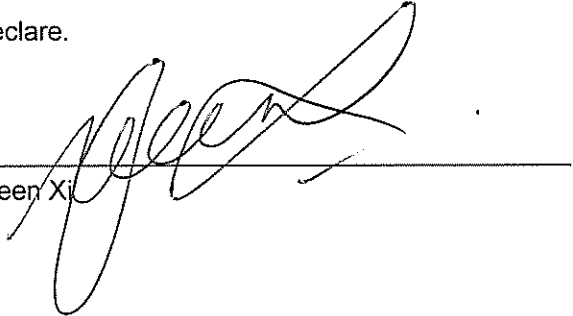
Full name	Qui Qeen Xi
Usual residential address	11 Jennifer Court
Town / State / Postcode	Derrimut, VIC 3030
Place of birth	Melbourne
Date of birth	07-09-1985

I give you notice of the following:

No Interests to declare.

Signed: *

Qui Qeen Xi



(To be tabled at first meeting of directors)

17 September 2013

To
Toxiq Investments Pty Ltd
C/- Qeen Xi & Hoa To
11 Jennifer Court
Derrimut, VIC, 3030

Consent to act as Director

I consent to act as director of **Toxiq Investments Pty Ltd** with effect from 17 September 2013.

My personal details are as follows:

Full name	Hoa Viet To
Usual residential address	11 Jennifer Court
Town / State / Postcode	Derrimut, VIC 3030
Place of birth	Kowloon Hong Kong
Date of birth	05-09-1985

I give you notice of the following:

No Interests to declare.

Signed: 

Hoa Viet To

(To be tabled at first meeting of directors)

17 September 2013

To

Toxiq Investments Pty Ltd

C/- Qeen Xi & Hoa To

11 Jennifer Court

Derrimut, VIC, 3030

Consent to act as Secretary

I consent to act as secretary of **Toxiq Investments Pty Ltd** with effect from 17 September 2013.

My personal details are as follows:

Full name	Qui Qeen Xi
Usual residential address	11 Jennifer Court
Town / State / Postcode	Derrimut, VIC 3030
Place of birth	Melbourne
Date of birth	07-09-1985

Signed:


x

Qui Qeen Xi

(To be signed and provided to company before Registration Application is submitted)

17 September 2013

To the Directors
Toxiq Investments Pty Ltd
C/- Qeen Xi & Hoa To
11 Jennifer Court
Derrimut, VIC, 3030
Australia

Application for Shares

I apply for the allotment to me of the following shares in the capital of the company as trustee for Qui Qeen Xi:

Type of shares	Number of shares	Amount paid per share	Amount unpaid per share	Total cost of shares
Ordinary	6	\$1.00	\$0.00	\$6.00

I will accept the shares allotted to me and will be bound by the company's Constitution.

I authorise the company to place my name on the Register of Members in respect of the shares.

My personal details are as follows:

Name of Shareholder	Usual residential address of Shareholder
Qui Qeen Xi	11 Jennifer Court Derrimut, VIC 3030

Date: 17.09.2013

Signed: x
Qui Qeen Xi



(To be signed and provided to company before Registration Application is submitted)

17 September 2013

To the Directors
Toxiq Investments Pty Ltd
C/- Qeen Xi & Hoa To
11 Jennifer Court
Derrimut, VIC, 3030
Australia

Application for Shares

I apply for the allotment to me of the following shares in the capital of the company as trustee for Hoa Viet To:

Type of shares	Number of shares	Amount paid per share	Amount unpaid per share	Total cost of shares
Ordinary	6	\$1.00	\$0.00	\$6.00


I will accept the shares allotted to me and will be bound by the company's Constitution.

I authorise the company to place my name on the Register of Members in respect of the shares.

My personal details are as follows:

Name of Shareholder	Usual residential address of Shareholder
Hoa Viet To	11 Jennifer Court Derrimut, VIC 3030

Date: 17.09.2013

Signed: x 
Hoa Viet To

Dummy Form 201

This is a dummy form 201 - and is for your reference only. The actual information that will be lodged with ASIC is more accurately reflected in the 'Summary Checklist' that appeared at the end of the online question interface you completed to create these documents.

Message Trace Number : 302370

lodging party or agent name **Hoa Viet To**
level/building name/unit
street number & name **11 Jennifer Court**
state/territory
postcode **3030**
DX number suburb/city **Derrimut**

Australian Securities & Investments Commission

form **201**

**Application for
registration as an Australian company**

Corporations Act 2001

100(1)(d), 112-114, 117,
119-121, 134-136, 147-
150

Application

I/We apply for registration of the company under the Corporations Act 2001, and nominate VIC as the State or Territory in which the company will be taken to be registered.

Proposed details of the company

Does the company have a proposed company name? **Yes**

if yes, the proposed company name is, **Toxiq Investments Pty Ltd**

(give name reservation number, if any)

Is the proposed name identical to a registered business name(s)? **No**

type and class of company	type of company	class of company	subclass of company
	proprietary company	limited by shares	superannuation trustee company

registered office

C/- **Queen Xi & Hoa To**
office level building name
street number & name **11 Jennifer Court**
suburb/city **Derrimut** State/territory **VIC** postcode **3030**

Does the company occupy these premises **Yes**

if no, name of occupier

occupier's consent

principal place of business in Australia

as above

Director and secretary details

Give details below of the person(s) who have consented in writing to become a director and/or secretary of the company. A public company must have a minimum of 3 directors (2 resident in Australia) and 1 secretary (resident in Australia). A proprietary company must have a minimum of 1 director (resident in Australia). The office of secretary is optional, but if appointed one must reside in Australia. Officeholder(s) appointment date shall be effective from the beginning of the day on which the company becomes registered.

family name **Xi** given names **Qui Qcen**
former name
unit, floor, building name
street number & name **11 Jennifer Court**
suburb/city **Derrimut** state/territory **VIC** postcode **3030**
country (if not Australia)
date of birth **07/09/1985** place of birth (town/city) **Melbourne** (state/country) **VIC**
office held Director - **YES** secretary **YES**

Is the address shown above the usual residential address of the officeholder? **YES**

family name **To** given names **Hoa Viet**
former name
unit, floor, building name
street number & name **11 Jennifer Court**
suburb/city **Derrimut** state/territory **VIC** postcode **3030**
country (if not Australia)
date of birth **05/09/1985** place of birth (town/city) **Kowloon** (state/country) **Hong Kong**
office held Director - **YES** secretary **NO**

Is the address shown above the usual residential address of the officeholder? **YES**

Share structure

(details of shares issued by the company, not required from a company limited by guarantee)

Code	Full title	Code	Full title	Code	Full title	Code	Full title
A	A	LG	Life governor's	SPC	Special	REDP	Redeemable preference
B	B.. etc	MAN	Management	PRF	Preference	NRP	Non-redeemable preference
EMP	Employees	ORD	Ordinary	CUMP	Cumulative preference	CRP	Cumulative redeemable preference
FOU	Founder's	RED	Redeemable	NCP	Num-cumulative preference	NCRP	Non-cumulative redeemable preference
						PARP	Participative preference

Share class code	Full title	Total number issued	Amount to be paid	Amount to be unpaid
ORD	Ordinary	12	12.00	0.00

If you are using the standard share class codes you do not need to provide a full title for the shares

If you are not using the standard share class codes, enter a code of no more than 4 letters and then show full title.

If shares will be issued for other than cash

Will some or all of the shares be issued under a written contract yes no

If yes, proprietary companies must also lodge a Form 207Z certifying that all stamp duties have been paid and public companies must also lodge a Form 207Z and either a Form 208 or a copy of the contract

If No, public companies must also lodge a Form 208

Details of all members

Companies with shares – provide the names and addresses of all persons who have agreed to take up shares, then, for each share class, show the total number of shares that the member will hold, the totals amounts that will be paid and will remain unpaid for those shares, and indicate if the shares are fully paid or beneficially held.

Companies Limited by Guarantee – provide the names and address of all your members.

Name and address of member	Code	Total number Held	Total amount paid	Total amount Unpaid	Fully paid	Beneficially held
Qui Qeen Xi 11 Jennifer Court Derrimus, VIC 3030 Australia	Ordinary	6	6.00	0.00	Y	N
Hoa Viet To 11 Jennifer Court Derrimus, VIC 3030 Australia	Ordinary	6	6.00	0.00	Y	N

Ultimate Holding Company

Will the company have an ultimate holding company upon registration **No**

If yes, provide the following details of the ultimate holding company

Company name

ACN/ARB/ABN

Country of incorporation if not Australia

Declaration by applicant

Name **Hoa Viet To**

Is the address of the applicant the same as the lodging party? **YES**

I/we apply for registration of a company on the basis of the information in this form and any attachments. I/we have the necessary written consents and agreements referred to in this application concerning the members and officeholders and I/we shall give the consents and agreements to the company after the company becomes registered. The information provided in this application and in any annexures is true and correct at the time of signing.

Signature

If the applicant is a natural person - 1 signature required.

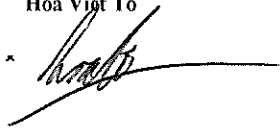
If the applicant is a corporation - at least 1 director or secretary to sign.

If the applicant is acting in the capacity of 'agent' for a natural person or a corporation he/she may sign on their behalf and state their capacity as agent.

name **Hoa Viet To**

capacity

sign here



Date: **17/09/2013**



Toxiq Investments Pty Ltd

C/- Qeen Xi & Hoa To
11 Jennifer Court
Derrimut, VIC, 3030 Australia
(ACN 165 865 510)

Circulating Resolution of Directors

Notice of circulating resolution

- 1 **Noted** that the requirements for notice of the circulating resolution have been satisfied.

Company registered

- 2 **Noted** that Toxiq Investments Pty Ltd was registered under the *Corporations Act* and is deemed to have been registered in VIC on 17/09/2013. A copy of the Certificate of Registration is attached to this resolution.

Directors

- 3 **Noted** that the following persons had been appointed in accordance with the Application for Registration of the Company signed by the applicant and dated 17 September 2013 as the first directors of the company.

Qui Qeen Xi
Hoa Viet To

Secretary

- 4 **Resolved** to appoint the following person as secretary of the company, and to receive and record the signed Consent to act as Secretary.

Qui Qeen Xi

Public officer

- 5 **Resolved** to appoint Hoa Viet To as public officer of the company, and to receive and record the signed Consent to act as Public Officer and to notify the Deputy Commissioner of Taxation of the appointment.

Registered office

- 6 In accordance with the notification to the Australian Securities and Investments Commission, **resolved** that, as from the date of registration of the company, the registered office of the company is:

C/- Qeen Xi & Hoa To
11 Jennifer Court
Derrimut, VIC 3030
Australia

Shareholders

7 **Noted** that the following, in accordance with the Application for Registration of the company signed by the applicant and lodged on 17/09/2013 are the first members of the company. Their shares are deemed to have been allotted on the date of registration.

Qui Qeen Xi as trustee for Qui Qeen Xi

Hoa Viet To as trustee for Hoa Viet To

8 **Resolved:**

- to record the names of the members in the Register of Members in accordance with the *Corporations Act*;
- to prepare numbered Share Certificates in the name of each member recording the number and type of shares allotted to that member; and
- to execute each Share Certificate in accordance with section 127(1) of the *Corporations Act*.

Register of option holders

9 **Resolved** to establish, and keep up to date, a register of option holders in accordance with sections 168(1)(b) of the *Corporations Act*.

Register of debenture holders

10 **Resolved** to establish, and keep up to date, a register of debenture holders in accordance with sections 168(1)(c) of the *Corporations Act*.

Financial records

11 **Resolved** to do everything necessary to establish, and keep up to date, the financial records of the company, as required by the *Corporations Act*.

Common seal

12 **Resolved** not to adopt a common seal.

Records

13 **Resolved** to notify the relevant authorities and update the company's records in relation to the business.

Signed as a true record:


Date: 17-09-2013.

Signed by a majority of the directors of the company in accordance with the requirements of clause 38 of the company Constitution:

x 

Qui Qeen Xi

on 17-09-2013.

x 

Hoa Viet To

on 17-09-2013.

Share Certificate for Ordinary Shares

Certificate number	1		
Company name	Toxiq Investments Pty Ltd	ACN	165 865 510
	The company is registered under the <i>Corporations Act 2001</i> (Cth)		
Registered office	C/- Qeen Xi & Hoa To 11 Jennifer Court Derrimut, VIC 3030		

This certifies that (subject to the company's Constitution) Qui Qeen Xi of 11 Jennifer Court Derrimut, VIC 3030 as trustee for Qui Qeen Xi is the registered holder of 6 **Ordinary** shares.

The shares are numbered 1 to 6 inclusive.

The total number of shares under this certificate is 6.

Issued on 17 September 2013.

Signed by

x

Signature of director
Qui Qeen Xi

x

Signature of director
Hoa Viet To

Share Certificate for Ordinary Shares

Certificate number	2		
Company name	Toxiq Investments Pty Ltd	ACN	165 865 510
	The company is registered under the <i>Corporations Act 2001</i> (Cth)		
Registered office	C/- Qeen Xi & Hoa To 11 Jennifer Court Derrimut, VIC 3030		

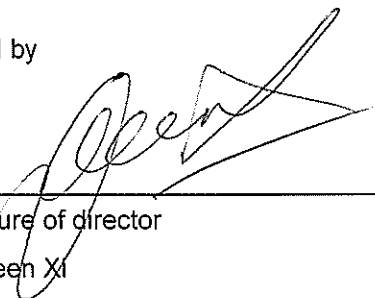
This certifies that (subject to the company's Constitution) Hoa Viet To of 11 Jennifer Court Derrimut, VIC 3030 as trustee for Hoa Viet To is the registered holder of 6 **Ordinary** shares.

The shares are numbered 7 to 12 inclusive.

The total number of shares under this certificate is 6.

Issued on 17 September 2013.

Signed by


x

Signature of director
Qui Qeen Xi


x

Signature of director
Hoa Viet To

Consent to act as Public Officer

11 Jennifer Court
Derrimut, VIC 3030
Australia

17 September 2013

To the directors

Toxiq Investments Pty Ltd

ACN 165 865 510

Registered office C/- Qeen Xi & Hoa To
11 Jennifer Court
Derrimut, VIC 3030

I consent to act as public officer of Toxiq Investments Pty Ltd with effect from 17 September 2013.

My personal details are as follows:

Full name	Hoa Viet To
Former given names and family names (if any)	
Usual residential address	11 Jennifer Court Derrimut, VIC 3030 Australia
Occupation	Project Analyst
Date of birth	05-09-1985
Place of birth	Kowloon

Signature:  x

Hoa Viet To

Toxiq Investments Pty Ltd

C/- Qeen Xi & Hoa To

11 Jennifer Court
Derrimut, VIC 3030
(ACN 165 865 510)

Issued on 17 September 2013

Deputy Commissioner of Taxation
Registry Division (Business)
PO Box 1198
Newcastle NSW 2300

Dear Deputy Commissioner:

Notice of appointment of public officer

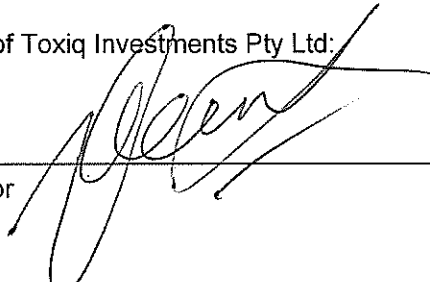
In accordance with section 252 of the *Income Tax Assessment Act 1936*, we give notice that Hoa Viet To whose date of birth was 05-09-1985 was appointed public officer of Toxiq Investments Pty Ltd, ACN 165 865 510 on 17 September 2013.

The registered address and address of service of the company is:


C/- Qeen Xi & Hoa To
11 Jennifer Court
Derrimut, VIC 3030

Yours faithfully,

Signed on behalf of Toxiq Investments Pty Ltd:

Signature:  _____
Director

Signed by the public officer:

Signature:  _____
Hoa Viet To

Toxiq Investments Pty Ltd

ACN 165 865 510

Register of Members

Register of shares issued to, and transferred by, a shareholder (based on Register of Shares allotted and Register of Shares transferred) (Section 169 *Corporations Act 2001*).

Name of shareholder, and ACN if applicable: Qui Qeen Xi as trustee for Qui Qeen Xi

Address: 11 Jennifer Court Derrimut, VIC 3030

Date	Allotment or transfer	Class of share	Certificate number	Serial numbers (from and to)	Shares acquired	Shares transferred	Balance held	Amount paid per share	Amount unpaid per share
17/09/2013	Allotment	Ordinary	1	1 to 6	6	-		1.00	0.00

Toxiq Investments Pty Ltd

ACN 165 865 510

Register of Members

Register of shares issued to, and transferred by, a shareholder (based on Register of Shares allotted and Register of Shares transferred) (Section 169 *Corporations Act 2001*).

Name of shareholder, and ACN if applicable: Hoa Viet To as trustee for Hoa Viet To

Address: 11 Jennifer Court Derrimut, VIC 3030

Date	Allotment or transfer	Class of share	Certificate number	Serial numbers (from and to)	Shares acquired	Shares transferred	Balance held	Amount paid per share	Amount unpaid per share
17/09/2013	Allotment	Ordinary	2	7 to 12	6	-		1.00	0.00



Certificate of Registration of a Company

This is to certify that

TOXIQ INVESTMENTS PTY LTD

Australian Company Number 165 865 510

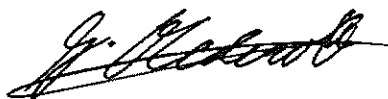
is a registered company under the Corporations Act 2001 and
is taken to be registered in Victoria.

The company **is limited by shares.**

The company is a **proprietary** company.

The day of commencement of registration is
the seventeenth day of September 2013.

Issued by the
Australian Securities and Investments Commission
on this seventeenth day of September, 2013.



Greg Medcraft
Chairman



CERTIFICATE

Toxiq Super Fund

Minutes of the Initial Meeting of the Directors of the Trustee of the Toxiq Super Fund

Venue	11 Jennifer Court, DERRIMUT VIC 3030
Date	17 September 2013
Present	Qui Qeen Xi Hoa Viet To
Chair	Hoa Viet To

Establishment of the Toxiq Super Fund

- 1 **Agreed** that it is the desire of the persons present to establish and maintain a fund of which the sole or primary purpose is to provide old age pensions and other benefits to members of the fund on their retirement.
- 2 **Noted** that the persons present have agreed to act as first directors of the trustee of the fund in accordance with the proposed trust deed establishing the fund.
- 3 **Resolved unanimously** that:
 - the fund that is to be known and identified by the name the Toxiq Super Fund be established as a superannuation fund;
 - the trust deed be executed by the trustee's directors in accordance with section 127(1) of the *Corporations Act 2001*;
 - the fund be established as from the day the deed is executed;
 - the fund be a regulated superannuation fund under the *Superannuation Industry (Supervision) Act 1993*;
 - an 'Application to Register for The New Tax System Superannuation Entities' in respect of an Australian Business Number and an election to be a regulated superannuation fund be lodged with the Australian Taxation Office.

Membership

- 4 **Noted** that an application for membership had been received from:
 - Qui Qeen Xi
 - Hoa Viet To

5 **Resolved unanimously that:**

- the membership applications be approved;
- the members be advised;
- that information be given to the members that the trustee reasonably believes the members would reasonably need for the purpose of understanding the main features of the fund; the management and financial condition of the fund; and the investment performance of the fund.

Appointment of fund accountant

6 **Resolved unanimously that:**

- be appointed fund accountant and be the contact address for the fund.

Fund bank account

7 **Resolved unanimously that:**

- a bank account named the Toxiq Super Fund be established; and that the account and all dealings with the bank be operated by one or more of the directors of the trustee who will be the signatories to the account.

Documents

8 **Resolved unanimously that:**

- any of the directors of the trustee may sign receipts, acceptances, applications, contracts and other documents on the fund's behalf.

Contributions

9 **Resolved unanimously that:**

- contributions be received in respect of the members.

Fund auditor

10 **Resolved unanimously that:**

- be appointed auditor of the fund.

There being no further matters to discuss, the meeting was closed.

Signed as a true record of the meeting

Chairperson: x *HVT*
 Hoa Viet To

Date: 17-09-2013

Toxiq Super Fund

Minutes of the Meeting of the Directors of the Trustee

Venue	11 Jennifer Court, DERRIMUT VIC 3030
Date	17 September 2013
Present	Qui Qeen Xi Hoa Viet To
Chair	Hoa Viet To

Investment objectives

- 1 **Resolved** that the fund have the following investment objectives:
 - an investment return in excess of inflation, that is, in excess of the Consumer Price Index (All Groups Weighted Average);
 - to hold assets in a form to enable the Fund to discharge existing and future liabilities in a manner which satisfies the members.


Investment objectives strategy

- 2 **Resolved** that the fund will have the ability to invest in the following areas:
 - direct equities and stocks, including participation in dividend reinvestment programs and rights issues or any other similar investments offered in this area;
 - property trusts and associated investments;
 - managed investments and associated products;
 - direct property investments; and
 - any other investment that is legal under the laws of the Commonwealth of Australia and its States and Territories.
- 3 **Noted** that in determining this strategy, the trustees considered whether to hold a contract of insurance for each of the members, and **resolved** to consider this requirement separately as soon as practicable.
- 4 **Resolved** that in giving effect to this strategy, the trustees will consider, in respect of each of the fund's investments, the aspects of the investment being in accordance with the fund's investment objectives and relevant legislation.
- 5 Further, the trustees will consider in respect of each investment, the risk to the fund and its members of acquiring it, the diversification of the investment vis a vis all of the other investments owned by the fund, the liquidity requirements of the fund in meeting its liabilities and the effect that each investment will have on those requirements and all

matters relating to the prudential nature of the investment after having assessed the entire financial position of the members.

- 6 The trustee will ensure that all the fund's investments are monitored and continue to comply with this strategy and the relevant legislation, and will ensure that this investment strategy is regularly reviewed.
- 7 The trustee reserve the right to alter this strategy at any time.

Signed as a true record of the meeting

Chairperson:  _____
Hoa Viet To

Date: 17-09-2013

Toxiq Super Fund

Advice to the Directors of the Trustee

One of the most important duties of a trustee of a superannuation fund is the investment of the fund's assets.

The earnings achieved on the investment of the fund's assets plus the concessional tax rate of 15% that is applied to those earnings helps to maximise the entitlement on retirement.

There are 5 guiding rules that trustees should follow:

1. ESTABLISH AND IMPLEMENT AN INVESTMENT STRATEGY

The SIS Act requires that all funds **must** have an investment strategy. Once the trustee has agreed to an investment strategy, the fund's investments should be consistent with that strategy.

2. INVEST IN ASSETS THAT ARE PERMITTED BY THE TRUST DEED

The trust deed may place some restriction on the type and class of asset in which the fund may invest. Ensure that the trust deed gives the trustee power to make an investment that may be proposed.

3. AVOID PROHIBITED INVESTMENTS

The SIS Act prohibits certain investments. Restrictions are placed upon:

- the acquisition of assets from related entities;
- investing in, giving loans to and entering leases and lease arrangements with related parties (in house assets);
- borrowing; and
- lending to members.

In addition, all investment activities must be on an arm's length basis.

Ensure that all investments do not contravene the requirements of the SIS Act.

4. CONSIDER ETHICAL INVESTMENTS

In the Product Disclosure Statement, trustees are required to disclose whether labour standards or environmental, social or ethical considerations are, or will be, taken into account when the trustees select, retain or realise an investment. While the Product Disclosure Statement states that, at this stage, the trustees do not take any such considerations into consideration when selecting, retaining or realising an investment, the trustees should consider incorporating such considerations into its investment strategy.

5. AVOID INVESTMENTS THAT ARE TOTALLY SPECULATIVE

While any investment may be regarded as speculative, as trustees are expected to act prudently, the acquisition of assets that are totally speculative should be avoided, as they may be so speculative so as not to be regarded as an investment.

The trustees are required to develop an investment strategy and invest in a manner that satisfies these guidelines and which takes account of the particular needs of fund members.

Toxiq Super Fund

Director of Trustee Declarations

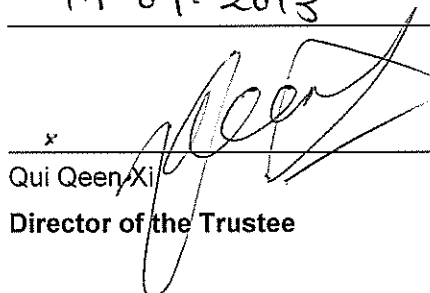
I make the following declarations:

- I am unaware, or have no reasonable grounds to suspect, that a person who is, or is acting as, a responsible officer of the trustee is a disqualified person as defined in section 120(1) of the *Superannuation Industry (Supervision) Act 1993*.
- Neither a receiver, or a receiver and manager, has been appointed in respect of property beneficially owned by the trustee.
- Neither an administrator nor a liquidator nor a provisional liquidator has been appointed in respect of the trustee.
- The trustee has not commenced to be wound up.

Date:

17-09-2013

Signed:


x
Qui Qeen Xi

Director of the Trustee

Toxiq Super Fund

Director of Trustee Declarations

I make the following declarations:

- I am unaware, or have no reasonable grounds to suspect, that a person who is, or is acting as, a responsible officer of the trustee is a disqualified person as defined in section 120(1) of the *Superannuation Industry (Supervision) Act 1993*.
- Neither a receiver, or a receiver and manager, has been appointed in respect of property beneficially owned by the trustee.
- Neither an administrator nor a liquidator nor a provisional liquidator has been appointed in respect of the trustee.
- The trustee has not commenced to be wound up.

Date: 17-09-2013

Signed: x 

Hoa Viet To

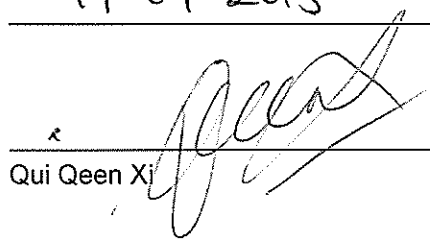
Director of the Trustee

Toxiq Super Fund

Consent to Appointment as Director of the Trustee

I consent to being appointed a director of the trustee of the Toxiq Super Fund.

Date: 17.09.2013

Signed: 
Qui Qeen Xi

Toxiq Super Fund

Consent to Appointment as Director of the Trustee

I consent to being appointed a director of the trustee of the Toxiq Super Fund.

Date: 17-09-2013.

Signed: x 
Hoa Viet To

Application to become a Member

This Application Form contains undertakings which must be made by you. It is also accompanied by the Product Disclosure Statement relevant to the fund contained in Annexure A.

Part 1 Application and undertakings

- I apply to become an initial member of this fund under the trust deed.
- I make each of the following undertakings:
 - I am not in an employment relationship with another member.
 - I am not a disqualified person under superannuation law from being a director of the trustee of the fund.
 - I will comply with the trust deed.
 - Upon request, I will fully disclose in writing any information required by the trustee in respect of my membership of the fund. This includes disclosing:
 - Any circumstance which may lead to my entering into an employment relationship with any other member of the fund who is not also a relative of mine.
 - That I may become disqualified under superannuation law from being a director of the trustee of the fund.
 - Any information in relation to my medical condition.
- I will act as a director of the trustee of the fund.
- I understand the trust deed, particularly its terms concerning the benefits payable under it, and I have read and understood the attached Product Disclosure Statement, annexed and marked 'A'.
- I have read and understand the prescribed information relating to the collection of Tax File Numbers by the trustees of superannuation funds.

I attach a completed ATO Individual Tax File Number Notification form.

Applicant name	Qui Qeen Xi
Applicant address	11 Jennifer Court, DERRIMUT VIC 3030
Applicant occupation	Accountant
Date of birth	07 September 1985
Applicant place of birth	Melbourne

Part 2 Death benefit arrangements

In a separate document, I have entered into a Death Benefit Agreement with the trustee.

First Notice: The types of death benefit arrangements and the order in which they take effect

The Fund's Deed allows three types of death benefit payment arrangements. They, and the order in which they take effect, are as follows:

- a ***death benefit agreement*** — which binds the trustee and which does not expire, see Part H of the Deed;
- ***binding death benefit notices or binding nomination forms*** — which bind the trustee but which expire after 3 years or earlier if replaced or revoked; and
- ***non-binding nomination forms*** — which do not bind the trustee but which do not expire until replaced or revoked.

Death benefit agreements take priority over ***binding death benefit notices*** and ***non-binding nomination forms***.

What you need to consider

When you, as a member, are considering signing a binding death benefit notice or a non-binding nomination form it is important to consider that:

- a death benefit agreement takes priority over any binding death benefit notice or any non-binding nomination form;
- to the extent permitted by superannuation law, the trustee must pay or apply the relevant benefit in accordance with the death benefit agreement. Therefore if you sign a binding death benefit notice or a non-binding nomination form, then they will have no effect on any earlier or later death benefit agreement that you sign; and
- if any part of a death benefit agreement is invalid, then the trustee (as required by the Fund's Deed) will pay or apply the "invalid" part of the death benefit in accordance with any binding death benefit notice, or by reference to any non-binding nomination form, you have signed.

Second Notice: Consistency of death benefit arrangements with pension terms

It is important to consider how any death benefit nomination or death benefit agreement interacts with the arrangements for payment of a pension to a reversionary beneficiary. The terms of the pension, and the terms of the death benefit nomination or death benefit agreement should be considered together.

For instance, if the pension terms require an automatic reversionary pension, then the death benefit nomination or death benefit agreement has no effect in relation to that pension. If the member wants to ensure all these arrangements – under pension terms, a death benefit nomination or death benefit agreement – are consistent, or to deliberately vary from one to the other, then careful drafting is required and the member should seek professional advice.

Part 3 Provision of member's tax file number to regulated superannuation fund

To the directors of the trustee of the Toxiq Super Fund.

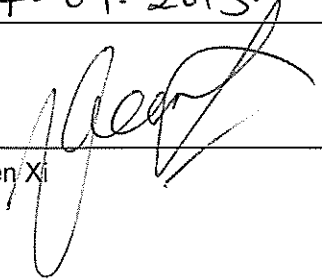
I have been informed of the reasons why my TFN is sought by the fund.

My TFN is 363773568.

Date: 17-09-2013

Signed: x

Qui Qeen Xi



Important information about providing your tax file number (TFN) to the fund

Under the *Superannuation Industry (Supervision) Act 1993*, the fund is required to request your TFN. **Your TFN is confidential: you don't have to provide it.**

What your TFN may be used for

If you provide your TFN, it will be used for legal purposes only. The purposes for which your TFN may be used may change in the future. At present, they include:

- searching for other benefits that may exist for you in the fund;
- calculating reduced tax rates on eligible termination payments (ETPS) when benefits are paid;
- reporting payments to ATO for reasonable benefit limits (RBL) purposes;
- reporting contributions to ATO for contributions tax (surcharge) purposes which may not otherwise be subject to the surcharge;
- passing to other regulated superannuation fund, ADFs and RSAs if your benefits are rolled over. You may revoke this authority later in writing;
- passing on with other details if you become lost and your benefits are paid to the ATO as unclaimed money.

What might happen if you don't provide your TFN

If you do not provide your TFN, the following may happen:

- other benefits existing for you in the fund may be more difficult to locate and amalgamate;
- higher tax rates may apply to ETPs paid to you. (This may be recovered with lodgement of your next income tax return);
- your benefits may be subject to an extra 15% contribution tax (surcharge). This may be reclaimed on application to the ATO;
- your TFN will not be passed to other regulated superannuation funds, ADFs and RSAs if your benefits are rolled over;

your benefits may be more difficult to locate if benefits are paid to the ATO as unclaimed money.

Annexure A

Product Disclosure Statement

Toxiq Super Fund

Qui Qeen Xi

11 Jennifer Court

DERRIMUT, VIC, 3030

Here you need to attach a copy of the Product Disclosure Statement in Schedule 6 to the Deed.

Application to become a Member

This Application Form contains undertakings which must be made by you. It is also accompanied by the Product Disclosure Statement relevant to the fund contained in Annexure A.

Part 1 Application and undertakings

- I apply to become an initial member of this fund under the trust deed.
- I make each of the following undertakings:
 - I am not in an employment relationship with another member.
 - I am not a disqualified person under superannuation law from being a director of the trustee of the fund.
 - I will comply with the trust deed.
 - Upon request, I will fully disclose in writing any information required by the trustee in respect of my membership of the fund. This includes disclosing:
 - Any circumstance which may lead to my entering into an employment relationship with any other member of the fund who is not also a relative of mine.
 - That I may become disqualified under superannuation law from being a director of the trustee of the fund.
 - Any information in relation to my medical condition.
- I will act as a director of the trustee of the fund.
- I understand the trust deed, particularly its terms concerning the benefits payable under it, and I have read and understood the attached Product Disclosure Statement, annexed and marked 'A'.
- I have read and understand the prescribed information relating to the collection of Tax File Numbers by the trustees of superannuation funds.

I attach a completed ATO Individual Tax File Number Notification form.

Applicant name	Hoa Viet To
Applicant address	11 Jennifer Court, DERRIMUT VIC 3030
Applicant occupation	Project Analyst
Date of birth	05 September 1985
Applicant place of birth	Kowloon

Part 2 Death benefit arrangements

In a separate document, I have entered into a Death Benefit Agreement with the trustee.

First Notice: The types of death benefit arrangements and the order in which they take effect

The Fund's Deed allows three types of death benefit payment arrangements. They, and the order in which they take effect, are as follows:

- a ***death benefit agreement*** — which binds the trustee and which does not expire, see Part H of the Deed;
- ***binding death benefit notices or binding nomination forms*** — which bind the trustee but which expire after 3 years or earlier if replaced or revoked; and
- ***non-binding nomination forms*** — which do not bind the trustee but which do not expire until replaced or revoked.

Death benefit agreements take priority over binding death benefit notices and non-binding nomination forms.

What you need to consider

When you, as a member, are considering signing a binding death benefit notice or a non-binding nomination form it is important to consider that:

- a death benefit agreement takes priority over any binding death benefit notice or any non-binding nomination form;
- to the extent permitted by superannuation law, the trustee must pay or apply the relevant benefit in accordance with the death benefit agreement. Therefore if you sign a binding death benefit notice or a non-binding nomination form, then they will have no effect on any earlier or later death benefit agreement that you sign; and
- if any part of a death benefit agreement is invalid, then the trustee (as required by the Fund's Deed) will pay or apply the "invalid" part of the death benefit in accordance with any binding death benefit notice, or by reference to any non-binding nomination form, you have signed.

Second Notice: Consistency of death benefit arrangements with pension terms

It is important to consider how any death benefit nomination or death benefit agreement interacts with the arrangements for payment of a pension to a reversionary beneficiary. The terms of the pension, and the terms of the death benefit nomination or death benefit agreement should be considered together.

For instance, if the pension terms require an automatic reversionary pension, then the death benefit nomination or death benefit agreement has no effect in relation to that pension. If the member wants to ensure all these arrangements – under pension terms, a death benefit nomination or death benefit agreement – are consistent, or to deliberately vary from one to the other, then careful drafting is required and the member should seek professional advice.

Part 3 Provision of member's tax file number to regulated superannuation fund

To the directors of the trustee of the Toxiq Super Fund.

I have been informed of the reasons why my TFN is sought by the fund.

My TFN is 343858706.

Date: 17-09-2013.

Signed: x 
Hoa Viet To

Important information about providing your tax file number (TFN) to the fund

Under the *Superannuation Industry (Supervision) Act 1993*, the fund is required to request your TFN. Your TFN is confidential: you don't have to provide it.

What your TFN may be used for

If you provide your TFN, it will be used for legal purposes only. The purposes for which your TFN may be used may change in the future. At present, they include:

- searching for other benefits that may exist for you in the fund;
- calculating reduced tax rates on eligible termination payments (ETPS) when benefits are paid;
- reporting payments to ATO for reasonable benefit limits (RBL) purposes;
- reporting contributions to ATO for contributions tax (surcharge) purposes which may not otherwise be subject to the surcharge;
- passing to other regulated superannuation fund, ADFs and RSAs if your benefits are rolled over. You may revoke this authority later in writing;
- passing on with other details if you become lost and your benefits are paid to the ATO as unclaimed money.

What might happen if you don't provide your TFN

If you do not provide your TFN, the following may happen:

- other benefits existing for you in the fund may be more difficult to locate and amalgamate;
- higher tax rates may apply to ETPs paid to you. (This may be recovered with lodgement of your next income tax return);
- your benefits may be subject to an extra 15% contribution tax (surcharge). This may be reclaimed on application to the ATO;
- your TFN will not be passed to other regulated superannuation funds, ADFs and RSAs if your benefits are rolled over;

your benefits may be more difficult to locate if benefits are paid to the ATO as unclaimed money.

Annexure A

Product Disclosure Statement

Toxiq Super Fund

Hoa Viet To

11 Jennifer Court

DERRIMUT, VIC, 3030

Here you need to attach a copy of the Product Disclosure Statement in Schedule 6 to the Deed.

SPARE COPY

Toxiq Super Fund

Instructions for use of Certificate of Compliance

Used when the member "rolls over" (transfers) benefits from another fund to the Toxiq Super Fund.

What is the certificate for?

If a member transfers money from another super fund into the member's SMSF, then the other fund may require one of these certificates.

What is certified?

By signing the Certificate the trustee(s) of the Fund certifies that:

- 1 It is a regulated superannuation fund under the SIS Act;
- 2 It is a complying superannuation fund under the SIS Act;
- 3 It is not subject to a direction under Section 63 of the SIS Act; and
- 4 Its trust deed permits the receipt of rolled over or transferred benefits.

What should the trustee do before signing?

IMPORTANT: Before the fund's trustee(s) sign the certificate they must make sure that:

- items 1-4 above are true; and
- the Fund must both have chosen to be regulated by the Australian Taxation Office (ATO) and have told the ATO of that choice — which the Fund does on the form used to apply for an ABN (Australian Business Number).

Toxiq Super Fund (Fund)

To whom it may concern

Trustee Certificate of Compliance —

(This is not the “Notice of Compliance” that the Australian Taxation Office provides)

This Trustee’s Certificate of Compliance is to be used when the member “rolls over” (transfers) benefits from another fund to the Toxiq Super Fund.

The Trustee(s) of the Fund certify/ies that the Fund:

- 1 Is a regulated superannuation fund under the *Superannuation Industry (Supervision Act) 1993 (SIS Act)*.
- 2 Is a complying superannuation fund within the meaning of section 42A of the SIS Act.
- 3 Is not subject to a direction under Section 63 of the SIS Act and is therefore able to accept employer contributions.
- 4 Is empowered by the Fund's trust deed to receive rolled over or transferred benefits.
- 5 Has received consent to the rollover from the relevant member, as set out below, in accordance with r6.28(i)(b) of the *Superannuation Industry (Supervision) Regulations 1994*.

Signed for and on behalf of the Trustee(s):

Signature of Trustee:

Name:

Date:

Member’s Consent to the “rollover”

I, _____ (member name), by signing this form, consent to the rollover of my benefits into the **Toxiq Super Fund**.

Signature of Member:

Date:

Toxiq Super Fund (Fund)

Death Benefit Agreement

- This Agreement, executed as a deed, is between the Fund's Trustee listed below and the Fund's member listed below.
- This Agreement is an addition to the "Superannuation Trust Deed for a Self-Managed Fund" for the Fund (**Deed**). It has effect in the way described in Part H of that Deed. This Agreement is not a binding death benefit notice given in accordance with regulation 6.17A of the *Superannuation Industry (Supervision) Regulations*. Therefore:
 - 1 it continues in force until amended or terminated; and
 - 2 it does not end after 3 years as binding death benefit notices are required to do by the law.
- On execution, this Agreement forms part of the Deed.
- The member directs the trustee that, on the member's death, the persons named in the following table are to receive the proportion specified in that table of any benefit that is payable:

Person	Relationship to member	Proportion of death benefit
Hoa Viet To	Spouse	100%
Total (which must total 100%)		100%

- If every person named in the table above predecease the member, then the member directs the trustee to pay the member's benefit in accordance with Part H of the Deed.
- The trustee consents to acting on this direction as evidenced by it executing this Agreement.
- If the member's death benefit is paid to the member's legal personal representative in accordance with this Agreement, then the member directs the representative to apply the funds for the sole benefit of the member's estate.
- If compliance with superannuation law prevents any part of the benefit being paid to the named persons then that part of the benefit will be dealt with under Part H of the Deed.
- The parties agree that:
 - 1 the member may terminate this Agreement by serving a notice terminating the Agreement on the trustee;

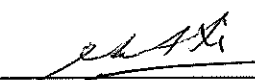
- 2 this Agreement may be replaced by the trustee and the member executing a later death benefit agreement at which time this Agreement terminates; and
- 3 this Agreement is not terminated, varied or otherwise affected by any variation to the Fund's Deed from time to time, unless the trustee and the member expressly agree to the contrary.

- The details of the trustee are:
 - 1 Trustee Company Name: Toxiq Investments Pty Ltd
 - 2 Trustee ACN: 165865510
 - 3 Trustee's Address: 11 Jennifer Court
DERRIMUT, VIC 3030
- The member's name is: Qui Qeen Xi of 11 Jennifer Court
DERRIMUT, VIC 3030

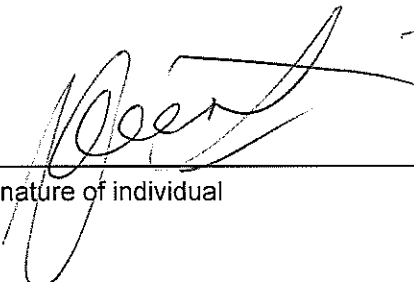
Executed by the parties as a deed:

Dated: 17-09-2013.

Signed sealed and delivered by
Qui Qeen Xi
in the capacity of member in the presence of:



Signature of witness

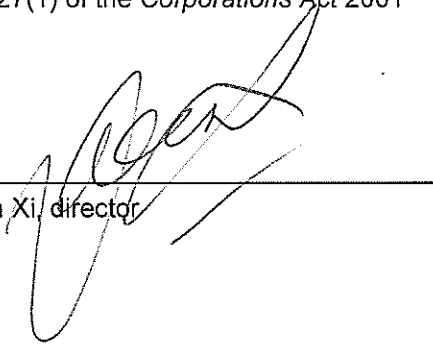
x 

Signature of individual


QUINTIAT XI

Name of witness (please print)

Executed by
Toxiq Investments Pty Ltd ACN 165865510,
in its capacity as trustee, in accordance with
section 127(1) of the *Corporations Act* 2001
(Cwth):

x 

Qui Qeen Xi, director

x 

Hoa Viet To, director

First Notice: The types of death benefit arrangements and the order in which they take effect

The Fund's Deed allows three types of death benefit payment arrangements. They, and the order in which they take effect, are as follows:

- the above form of **death benefit agreement** — which binds the trustee and which does not expire, see Part H of the Deed;
- **binding death benefit notices or binding nomination forms** — which bind the trustee but which expire after 3 years or earlier if replaced or revoked; and
- **non-binding nomination forms** — which do not bind the trustee but which do not expire until replaced or revoked.

Death benefit agreements take priority over binding death benefit notices and non-binding nomination forms.

What you need to consider

When you, as a member, are considering signing a binding death benefit notice or a non-binding nomination form it is important to consider that:

- a death benefit agreement takes priority over any binding death benefit notice or any non-binding nomination form;
- to the extent permitted by superannuation law, the trustee must pay or apply the relevant benefit in accordance with the death benefit agreement. Therefore if you sign a binding death benefit notice or a non-binding nomination form, then they will have no effect on any earlier or later death benefit agreement that you sign; and
- if any part of a death benefit agreement is invalid, then the trustee (as required by the Fund's Deed) will pay or apply the "invalid" part of the death benefit in accordance with any

binding death benefit notice, or by reference to any non-binding nomination form, you have signed.

Second Notice: Consistency of death benefit arrangements with pension terms

It is important to consider how any death benefit nomination or death benefit agreement interacts with the arrangements for payment of a pension to a reversionary beneficiary. The terms of the pension, and the terms of the death benefit nomination or death benefit agreement should be considered together.

For instance, if the pension terms require an automatic reversionary pension, then the death benefit nomination or death benefit agreement has no effect in relation to that pension. If the member wants to ensure all these arrangements – under pension terms, a death benefit nomination or death benefit agreement – are consistent, or to deliberately vary from one to the other, then careful drafting is required and the member should seek professional advice.

Toxiq Super Fund (Fund)

Death Benefit Agreement

- This Agreement, executed as a deed, is between the Fund's Trustee listed below and the Fund's member listed below.
- This Agreement is an addition to the "Superannuation Trust Deed for a Self-Managed Fund" for the Fund (**Deed**). It has effect in the way described in Part H of that Deed. This Agreement is not a binding death benefit notice given in accordance with regulation 6.17A of the *Superannuation Industry (Supervision) Regulations*. Therefore:
 - 1 it continues in force until amended or terminated; and
 - 2 it does not end after 3 years as binding death benefit notices are required to do by the law.
- On execution, this Agreement forms part of the Deed.
- The member directs the trustee that, on the member's death, the persons named in the following table are to receive the proportion specified in that table of any benefit that is payable:

Person	Relationship to member	Proportion of death benefit
Qui Qeen Xi	Spouse	100%
Total (which must total 100%)		100%

- If every person named in the table above predecease the member, then the member directs the trustee to pay the member's benefit in accordance with Part H of the Deed.
- The trustee consents to acting on this direction as evidenced by it executing this Agreement.
- If the member's death benefit is paid to the member's legal personal representative in accordance with this Agreement, then the member directs the representative to apply the funds for the sole benefit of the member's estate.
- If compliance with superannuation law prevents any part of the benefit being paid to the named persons then that part of the benefit will be dealt with under Part H of the Deed.
- The parties agree that:
 - 1 the member may terminate this Agreement by serving a notice terminating the Agreement on the trustee;

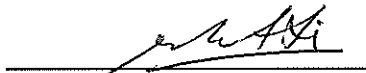
- 2 this Agreement may be replaced by the trustee and the member executing a later death benefit agreement at which time this Agreement terminates; and
- 3 this Agreement is not terminated, varied or otherwise affected by any variation to the Fund's Deed from time to time, unless the trustee and the member expressly agree to the contrary.

- The details of the trustee are:
 - 1 Trustee Company Name: Toxiq Investments Pty Ltd
 - 2 Trustee ACN: 165865510
 - 3 Trustee's Address: 11 Jennifer Court
DERRIMUT, VIC 3030
- The member's name is: Hoa Viet To of 11 Jennifer Court
DERRIMUT, VIC 3030


Executed by the parties as a deed:

Dated: 17.09.2013

Signed sealed and delivered by
Hoa Viet To
in the capacity of member in the presence of:



Signature of witness

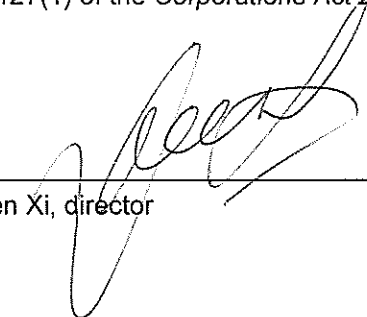
x 

Signature of individual


QUINHAT XI

Name of witness (please print)

Executed by
Toxiq Investments Pty Ltd ACN 165865510,
in its capacity as trustee, in accordance with
section 127(1) of the *Corporations Act 2001*
(Cwth):

x 

Qui Qeen Xi, director

x 

Hoa Viet To, director

First Notice: The types of death benefit arrangements and the order in which they take effect

The Fund's Deed allows three types of death benefit payment arrangements. They, and the order in which they take effect, are as follows:

- the above form of **death benefit agreement** — which binds the trustee and which does not expire, see Part H of the Deed;
- **binding death benefit notices or binding nomination forms** — which bind the trustee but which expire after 3 years or earlier if replaced or revoked; and
- **non-binding nomination forms** — which do not bind the trustee but which do not expire until replaced or revoked.

Death benefit agreements take priority over binding death benefit notices and non-binding nomination forms.

What you need to consider

When you, as a member, are considering signing a binding death benefit notice or a non-binding nomination form it is important to consider that:

- a death benefit agreement takes priority over any binding death benefit notice or any non-binding nomination form;
- to the extent permitted by superannuation law, the trustee must pay or apply the relevant benefit in accordance with the death benefit agreement. Therefore if you sign a binding death benefit notice or a non-binding nomination form, then they will have no effect on any earlier or later death benefit agreement that you sign; and
- if any part of a death benefit agreement is invalid, then the trustee (as required by the Fund's Deed) will pay or apply the "invalid" part of the death benefit in accordance with any

binding death benefit notice, or by reference to any non-binding nomination form, you have signed.

Second Notice: Consistency of death benefit arrangements with pension terms

It is important to consider how any death benefit nomination or death benefit agreement interacts with the arrangements for payment of a pension to a reversionary beneficiary. The terms of the pension, and the terms of the death benefit nomination or death benefit agreement should be considered together.

For instance, if the pension terms require an automatic reversionary pension, then the death benefit nomination or death benefit agreement has no effect in relation to that pension. If the member wants to ensure all these arrangements – under pension terms, a death benefit nomination or death benefit agreement – are consistent, or to deliberately vary from one to the other, then careful drafting is required and the member should seek professional advice.

Trustee declaration

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



Read this declaration in conjunction with *Self-managed super funds – key messages for trustees* (NAT 71128).



WHO SHOULD COMPLETE THIS DECLARATION?

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

You must also complete the declaration if you are a legal personal representative who has been appointed as trustee (or director of a corporate 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.

INFORMATION YOU NEED TO READ

Make sure you read *Self-managed super funds – key messages for trustees* (NAT 71128). It highlights some of the key points from the declaration and some important messages for you.

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 www.ato.gov.au/smsf
- phone us on 13 10 20.

If you are not familiar with some of the terms used in this declaration or you need more information, refer to *Running a self-managed super fund* (NAT 11032).

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.

We recommend that you keep a copy of your completed declaration and refer to it and *Self-managed super funds – key messages for trustees* (NAT 71128), which is available on the ATO website, when making important decisions, such as those relating to choosing investments, accepting contributions and paying benefits.

🚫 Do not send your completed declaration to us.



Self-managed super fund trustee declaration

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

Fund name

TOXIQ INVESTMENTS PTY LTD atf
TOXIQ SUPER FUND

I am responsible for ensuring that the fund complies 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 the fund's 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
- 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 only 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 interests of all the members of the fund
- ensure that members only access their super benefits if they have met a legitimate condition of release
- refrain from entering into transactions that circumvent restrictions on the 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.

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:

- lending money of the fund to, or providing financial assistance 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 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)

- having more than 5% of the market value of the fund's total assets at the end of the income year as in-house assets (these 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 on behalf of the fund 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).

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.

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)
 - 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
- 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
- ensure that an approved auditor is appointed within the prescribed period (currently this is no later than 31 days before the due date for lodgment of the fund's annual return but this may change to 45 days) to audit the fund for each income year, and provide that auditor with documents as requested
- lodge the fund's annual return, completed in its entirety, by the due date
- 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 28 days of the fund being wound up or after becoming aware that the fund has ceased to be an SMSF.

DECLARATION

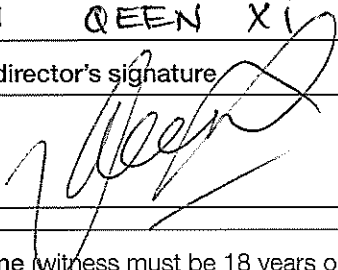
By signing this declaration I acknowledge that I understand my duties and responsibilities as a trustee or director of the corporate trustee of the self-managed superannuation fund named on this declaration (or if the fund's name changes, that name). I understand that:

- 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.
- 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 Australian Prudential Regulation Authority (APRA) regulated funds in the case of financial loss due to fraudulent conduct or theft.

Trustee's or director's name

QUI QUEEN XI

Trustee's or director's signature

x 

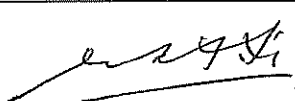
Date

Day: 17 / Month: 09 / Year: 2013

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

QUINHAT XI

Witness' signature



Date

Day: 17 / Month: 09 / Year: 2013

Trustee declaration

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



Read this declaration in conjunction with *Self-managed super funds – key messages for trustees* (NAT 71128).



WHO SHOULD COMPLETE THIS DECLARATION?

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

You must also complete the declaration if you are a legal personal representative who has been appointed as trustee (or director of a corporate 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.

INFORMATION YOU NEED TO READ

Make sure you read *Self-managed super funds – key messages for trustees* (NAT 71128). It highlights some of the key points from the declaration and some important messages for you.

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 www.ato.gov.au/smsf
- phone us on 13 10 20.

If you are not familiar with some of the terms used in this declaration or you need more information, refer to *Running a self-managed super fund* (NAT 11032).

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.

We recommend that you keep a copy of your completed declaration and refer to it and *Self-managed super funds – key messages for trustees* (NAT 71128), which is available on the ATO website, when making important decisions, such as those relating to choosing investments, accepting contributions and paying benefits.

ⓘ Do not send your completed declaration to us.



Self-managed super fund trustee declaration

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

Fund name

TOXIQ INVESTMENTS PTY LTD atf

TOXIQ SUPER FUND

I am responsible for ensuring that the fund complies 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 the fund's 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
- 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
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- 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
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- 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.

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- acquiring assets (other than business real property, listed securities, certain in-house assets and acquisitions made under mergers allowed by special determinations or acquisitions 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)

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- lodge the fund's annual return, completed in its entirety, by the due date
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 - 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 28 days of the fund being wound up or after becoming aware that the fund has ceased to be an SMSF.

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.
- 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 Australian Prudential Regulation Authority (APRA) regulated funds in the case of financial loss due to fraudulent conduct or theft.

Trustee's or director's name

HOA VIET TO

Trustee's or director's signature

x 

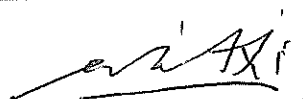
Date

Day: 17 / Month: 09 / Year: 2013

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

QUINHAT XI

Witness' signature



Date

Day: 17 / Month: 09 / Year: 2013

Superannuation Trust Deed for a Self-Managed Fund

for

Toxiq Super Fund

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accounting@axleedge.com.au
www.axleedge.com.au

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Melbourne VIC 3000
Tel: 03 9288 0555
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www.maddocks.com.au

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Overview

For the convenience of users, this superannuation trust deed is written in plain language. It contains only those clauses that are appropriate for the particular form of self-managed superannuation fund that you have chosen. *It is not suitable for any other form of fund.*

If you decide to change the trustees of the fund, for example, replace individual trustees with a corporate trustee or replace a corporate trustee with individual trustees, you will have to use the Cleardocs system to create a replacement deed that incorporates the necessary clauses for the new form of fund.

You cannot change the form of the fund in any other way.

A Establishment of the fund

The establishment of the fund

- 1 The person named in Schedule 1 as the 'person establishing the fund' establishes the Toxiq Super Fund as a self-managed superannuation fund under the SIS Act. It is an indefinitely continuing superannuation fund.

Purpose of the fund

- 2 The sole or primary purpose of the fund is to provide old age pensions and other benefits to members on their retirement.

Trustee of the fund

- 3 The initial trustee is named in Schedule 1 of this deed. The trustee accepts the appointment. The fund is vested in the trustee. No other person (including a member) has any legal or beneficial interest in any asset of the fund except to the extent expressly stated elsewhere in this deed. The trustee must manage the fund in accordance with this deed.

Method of decision by trustee under this deed

- 4 The trustee may only make decisions under this deed in the manner set out in the trustee's constitution.

Deed subject to superannuation law

- 5 This deed is to be interpreted so as to comply with superannuation law. In particular, it is to be construed so that the fund it establishes qualifies as a self managed superannuation fund under superannuation law and so that it qualifies for, and payments from it qualify for, concessional tax treatment under the Tax Act. To the extent that anything in this deed is inconsistent with superannuation law, it is to be severed from the deed. Any obligation imposed by superannuation law in respect of the fund established by this deed that is not expressed in this deed is nonetheless to be regarded as incorporated in it by reference.

Trustee must comply with law

- 6 The trustee must not do or fail to do anything as trustee of the fund that would result in either of the following:
 - a breach of law, including superannuation law; or
 - the fund ceasing to qualify as a self managed superannuation fund under superannuation law or to qualify for, or for payments made from the fund to qualify for, concessional tax treatment under the Tax Act.

B Membership

Initial members of the fund

- 7 The initial members of the fund are named in Schedule 1. Each of them has completed and signed the 'Application to become a Member' in a form that is equivalent to the form set out in Schedule 2.

Trustee may appoint additional members

- 8 The trustee may appoint a person as an additional member of the fund if he or she has completed and signed an 'Application to become a Member' in a form that is equivalent to the form for initial members set out in Schedule 2, or on another form approved by the trustee.

The additional member must consent to doing all things necessary to become a director of the trustee of the fund upon appointment unless the additional member is unable to become a director of a trustee under superannuation law.

Beneficiaries as additional members

- 9 Subject to clause 13, a person who is to receive a death benefit from the fund in the form of a pension becomes a member of the fund when:
- the trustee has accepted that person as an additional member; and
 - that person has received a pension payment from the fund.

Applicant to provide information to trustee

- 10 On written request by the trustee, a member or applicant for membership of the fund must supply the trustee with information that the trustee thinks necessary for any purpose. This extends to submitting to a medical examination by a doctor who is acceptable to the trustee.
- 11 If a member fails to do so, the trustee may refuse to accept further contributions in respect of that member.
- 12 If an applicant fails to do so, the trustee may decline to accept the applicant as a member.

Conditions must be met

- 13 Subject to clause 28, a person does not become an additional member of the fund, and the trustee must not accept a person as an additional member of the fund, unless each of the following conditions is met:
- the total number of members would be no more than 4;
 - the person is not disqualified from being a director of the trustee of the fund;
 - the person is not in an employment relationship with another member of the fund except another member who is also a relative of that person;
 - the trustee is satisfied that the person will become a director of the trustee of the fund on being accepted as a member of the fund.

Effect of becoming member

- 14 An additional member becomes bound by this deed on being accepted as an additional member.

Date of commencement of membership of additional member

- 15 An additional member's membership commences on the date the trustee specifies, when accepting the person as a member. If the trustee does not specify a date, then the additional member's membership commences on the date the trustee received his or her application or the date referred to in clause 9 (if applicable).

Date of additional member's commencement as trustee

- 16 An additional member becomes director of the trustee of the fund on the date his or her membership commences provided that the trustee has done everything necessary to appoint the additional member as a director of the trustee.

Back-dating of membership

- 17 With the trustee's consent, the relevant participating employer may back-date the commencement of an additional member's membership for any period the employer thinks fit. Unless the employer decides otherwise with the agreement of the trustee, that additional period will count as a period of membership.

Conditions on membership

- 18 The trustee may impose any conditions the trustee thinks fit on the membership of an additional member and the additional member's rights and duties. The trustee may remove or vary any condition at any time.

Trustee must notify new member

- 19 As soon as practicable after a person becomes a member of the fund (and not later than 3 months after the person becomes a member), the trustee must ensure that the member is given a product disclosure statement (in the form set out in Schedule 6, updated as required) which the superannuation law requires to be given to new members of the fund.

Trustee must disclose and report

- 20 The trustee must ensure that members, former members and beneficiaries are provided with information in writing, or copies of accounts, records and documents of the fund, that the superannuation law requires them to be given.

Trustee must notify exiting member

- 21 As soon as practicable after a person ceases to be a member of the fund, the trustee must ensure that that person (or his or her legal personal representative) is given a written statement of the information the superannuation law requires to be given to persons who cease to be members of the fund.

Limit on disclosure

- 22 A dependant of a member is not entitled to any additional information relating to the operation or conduct of the fund which the trustee thinks it is inappropriate to disclose.

Members must inform trustee of change affecting fund compliance

- 23 A member must immediately inform the trustee if the member becomes aware that either of the following may happen:

- the member may enter into an employment relationship with another member who is not also a relative of the member; or
- the member may be disqualified from being a director of the trustee of the fund.

Members and trustee must ensure fund compliance

- 24 A member and the trustee must ensure that the member ceases to be a member of the fund within 6 months after either of the following happens:

- the member enters into an employment relationship with another member who is not also a relative of the member; or
- the member is disqualified from being a director of the trustee of the fund.

Trustee and members must rectify non-compliance

- 25 If a member of the fund enters into an employment relationship with another member who is not also a relative of the member, or becomes disqualified from being a director of the trustee of the fund, the trustee and the members must do whatever is necessary to ensure that, within 6 months after the member entered into the employment relationship or became disqualified:

- no member of the fund is in an employment relationship with another member who is not also a relative of the member; and
- no member of the fund is disqualified from being a director of the trustee of the fund.

Types of compliance arrangement

- 26 The types of things that may be done to ensure compliance include each of the following:

- a member may request the member's benefits or entitlement in the fund to be paid in accordance with this deed or to be transferred or rolled over to an approved benefit arrangement under clause 150.
- the trustee may transfer a member's benefits or entitlement in the fund to an eligible roll over fund under clause 151.

Ceasing to be a member

- 27 A person ceases to be a member of the fund as soon as the first of the following happens:

- the person dies.

- the person ceases to be a director of the trustee of the fund.
- when payment of all the member's benefits is made to the member or to an approved benefit arrangement for the member.
- when benefits payable to or for the member cease to be payable.

When a person ceases to be a member of the fund, the person ceases to be a director of the trustee of the fund, if he or she has not already ceased to act in that role.

Minor as a member

28 A minor, being a person who is under 18 years of age, may be a member of the fund provided the superannuation law is complied with. In relation to a member who is a minor:

- the minor's parent or guardian must make the application for the minor to become a member in the form set out in Schedule 5 or in the form otherwise approved by the trustee;
- decisions in relation to the minor's membership must be made by the minor's parent or guardian until:
 - the minor turns 18; or
 - after the minor turns 16, the time at which the parent or guardian notifies the fund that the minor will be making decisions in relation to the minor's membership;
- when the minor turns 16, any parent or guardian acting as a director of a corporate trustee in place of the member, may continue acting in that role; and
- when the minor turns 18, the parent or guardian acting as a director of the trustee of the fund must do everything necessary to procure that the minor be appointed as a director of the trustee of the fund in place of them acting in that role.

C Accounts of the fund

Trustee must establish certain types of account

29 The trustee must establish:

- an accumulation account or a pension account, or a combination of both, in respect of each member or beneficiary for each class; and
- an income account.

Credits to accumulation accounts

30 The trustee may credit (and in the case of clause 30.11, allot and credit) each of the following to the accumulation account of a member according to the class to which they are relevant:

- 30.1 Contributions made by a member.
- 30.2 Contributions made in respect of the member or a beneficiary of that member by an employer.

- 30.3 Other contributions allowed under this deed and superannuation law that are made in respect of the member.
- 30.4 Positive earnings transferred from the income account.
- 30.5 A shortfall component paid in respect of that member after any tax that is payable in relation to it has been deducted from it.
- 30.6 An amount paid to the trustee as a transfer or roll over payment in respect of that member which the trustee thinks it appropriate to credit to the account.
- 30.7 A forfeited amount allocated to the member or beneficiary under clause 125.
- 30.8 An amount transferred from the pension account of a beneficiary of the member.
- 30.9 The proceeds of an annuity or insurance policy effected by the trustee in respect of the member or a beneficiary of the member which the trustee thinks it appropriate to credit to the account.
- 30.10 Financial assistance under part 23 of the SIS Act which the trustee thinks it appropriate to credit to the account.
- 30.11 An amount deducted from the accumulation account of another member pursuant to a contributions-split request made by that other member and accepted by the trustee.
- 30.12 Any other amount the trustee thinks it appropriate to credit to the account.

Debits to accumulation accounts

- 31 The trustee may debit each of the following from the accumulation account of a member according to the class to which they are relevant:
- 31.1 The proportion that the trustee thinks appropriate of the expenses of the fund.
- 31.2 The proportion that the trustee thinks appropriate of either of the following:
- tax payable in respect of contributions or any shortfall component that are paid to the fund; or
 - any earnings of the fund credited to the accumulation account or arising as a result of a roll over payment.
- 31.3 A payment of a benefit to or in respect of the member or a beneficiary of the member except a payment from a pension account.
- 31.4 An amount paid out of the fund in respect of the member or a beneficiary of the member as a transfer or roll over payment.
- 31.5 The cost of any annuity or policy of insurance effected by the trustee in respect of the member or a beneficiary of the member; and the proportion that the trustee thinks equitable of any group policy effected by the trustee in respect of the member or beneficiary and another member or beneficiary.
- 31.6 The amount of a lien in respect of an indemnity exercised by the trustee in accordance with this deed.
- 31.7 An amount forfeited in accordance with this deed.
- 31.8 The proportion that the trustee thinks appropriate of any negative earnings of the fund determined in accordance with this deed.

- 31.9 An amount paid to indemnify the trustee in accordance with this deed.
- 31.10 An amount credited to the pension account of a beneficiary.
- 31.11 The proportion that the trustee thinks appropriate of a levy.
- 31.12 The amount of tax attributable to the member or a beneficiary of the member.
- 31.13 An amount to be allotted and credited to the accumulation account of another member pursuant to a contributions-split request made by the member whose accumulation account is to be debited and accepted by the trustee.
- 31.14 Any other amount the trustee thinks it appropriate to debit.

Contributions-split requests

- 32 A member may ask the trustee (in a way that satisfies the requirements of superannuation law) that contributions made to the fund in respect of that member in the previous financial year be:
- 32.1 allotted to the accumulation account of that member's spouse; or
- 32.2 rolled-over or transferred to the trustee of an approved benefit arrangement of which that member's spouse has joined or is eligible to join.
- 33 The trustee must allot, roll-over or transfer the relevant contributions pursuant to a request received under clause 32 provided:
- The request satisfies the requirements of superannuation law.
 - The trustee is satisfied that the allotment, roll-over or transfer complies with superannuation law; and
 - The amount of the contributions that the trustee allots, rolls-over or transfers does not exceed the amount in the member's accumulation account, taking into account any amount that the trustee otherwise determines to debit from the member's accumulation account.

Credits to the income account

- 34 The trustee may credit each of the following to the income account of the fund:
- 34.1 Income and profits of the fund.
- 34.2 Adjustment credits made in accordance with clause 37.
- 34.3 The proceeds of an insurance policy which the trustee decides not to credit to a member's or beneficiary's accumulation or pension account.
- 34.4 A surplus resulting from a valuation under clause 41.
- 34.5 Financial assistance received by the fund under part 23 of the SIS Act which the trustee decides not to credit to a member's or beneficiary's accumulation or pension account.

Debits to the income account

- 35 The trustee may debit each of the following to the income account of the fund:

- 35.1 The expenses of the fund, except those the trustee debits from a member's or beneficiary's accumulation or pension account.
- 35.2 Tax payable or likely to become payable in respect of contributions, shortfall components, or income and profits of the fund, except tax the trustee debits from a member's or beneficiary's accumulation or pension account.
- 35.3 Adjustment debits made in accordance with clause 37.
- 35.4 The cost of an insurance policy which the trustee decides not to debit from a member's or beneficiary's accumulation or pension account.
- 35.5 A deficiency resulting from a valuation under clause 41.
- 35.6 The amount of a levy, except an amount the trustee debits from a member's or beneficiary's accumulation or pension account.
- 35.7 Any loss on the disposal of an investment of the fund.

Tax on income

- 36 The trustee must make provision for the payment of any tax payable in relation to the taxable income of the fund and must deduct any tax that is payable and that has not already been deducted from the income account or an accumulation or pension account.

Distribution from income account

- 37 At the end of each fund year, the trustee must determine the fund earning rate. The trustee must allocate amounts from the income account to each accumulation or pension account in proportion to the amount standing to the credit of that account at the beginning of the relevant fund year. The trustee must make an appropriate adjustment for any amount credited or debited to the account since the beginning of that year.

Trustee may establish equalisation account

- 38 The trustee may establish an equalisation account which the trustee may use for any of the following purposes:
 - 38.1 To give effect to the reserving strategy the trustee establishes to smooth the investment earnings of the fund.
 - 38.2 To increase the fund earning rate.
 - 38.3 To pay tax payable by the fund.
 - 38.4 To pay the expenses of the fund.
 - 38.5 To provide for any contingencies the trustee decides to provide for.
 - 38.6 To provide an amount to or for a member, former member, pensioner, beneficiary, including adding to an accumulation or pension account, provided there is no breach of superannuation law.
 - 38.7 To do anything else the trustee decides to do, provided there is no breach of trust or superannuation law.

Credits to equalisation account

- 39 The trustee may credit the equalisation account with any of the following:
- the portion the trustee thinks fit of an amount paid into the fund as a transfer or roll over payment.
 - an amount transferred from the forfeiture account under clause 125.
 - an amount transferred from a pension account under clause 88.

Trustee may establish or maintain other accounts or reserves

- 40 The trustee may establish or maintain any other account for or reserve of the fund that the trustee thinks necessary or desirable or that is required or permitted by superannuation law. The trustee may use such accounts or reserves for any purpose permitted by superannuation law and may credit or debit amounts from such accounts or reserves as the trustee sees fit.

Valuation of fund

- 41 The trustee must value the assets of the fund at market value when superannuation law requires it and when the trustee thinks it appropriate to do so. The trustee may also determine whether there is a surplus or deficiency which it is equitable in the trustee's opinion to transfer to the income account.

Interim fund earning rate

- 42 If the trustee is required to establish an interim fund earning rate, the trustee must do so in accordance with superannuation law on a basis the trustee believes to be equitable. If the Regulator or superannuation law requires it, the trustee must inform members of that basis.

D Contributions

Member contributions

- 43 With the trustee's consent, a member may make any contributions to the fund that the member decides to. With the member's and the participating employer's consent, contributions can be paid by deduction from wages or salary. In that case, the member's employer must pay them to the fund in the way the trustee directs.

Employer contributions

- 44 A participating employer of a member may make any contributions to the fund in respect of that member that the trustee and the employer agree to.

Other contributions

- 45 With the consent of the trustee and the member, any other person including:
- a spouse of that member;

- another member;
- another trustee of a regulated superannuation fund (including pursuant to a contributions-split requested by the member's spouse);
- any State, Territory or Federal government (including under the Federal government's co-contribution scheme);

may make contributions to the fund in respect of that member.

Participating employers

- 46 The trustee may allow an employer to become a participating employer and to make contributions in respect of a member or an eligible person who wishes to become a member. The trustee may require the employer to apply in the form in Schedule 3 'Application to become a Participating Employer'. The employer becomes a participating employer either on the date appointed by the trustee or the date it begins making contributions on behalf of a member, whichever is the earlier.

How contributions to be made

- 47 A contribution to the fund must be made in the way the trustee directs. It must be made within the time specified by superannuation law. It may be made in cash, or by the transfer of assets in accordance with superannuation law. The only assets that may be transferred are those that are authorised investments under clause 61.

Late contributions

- 48 Despite clause 47, if the trustee agrees then an employer may make an employer contribution after the time the superannuation law requires the payment to be made. If the trustee agrees, and the employer makes the payment, this does not relieve the employer's liability to pay any additional charges or penalties arising under superannuation law because of the late payment.

Failure to contribute

- 49 In the absence of an agreement, neither a member nor his or her employer is under an obligation to make a contribution to the fund in respect of that member. A failure to do so does not affect the member's membership of the fund.

Contributions etc not accepted

- 50 The trustee must not accept any of the following:
- a contribution that is not permitted by superannuation law;
 - a contribution or shortfall component the acceptance of which would prevent the fund from qualifying as a complying superannuation fund; and
 - an employer contribution or shortfall component which the regulator lawfully directs the trustee not to accept.

Breach of clause headed 'Contributions etc not accepted'

51 If the trustee becomes aware that a contribution or shortfall component has been accepted in breach of clause 50, the trustee must refund the amount within any time specified by, and only as permitted by, superannuation law. However, the trustee may deduct each of the following from that amount:

- any amount which an insurer may have charged in respect of any extra cover provided on the basis of the contribution or shortfall charge;
- reasonable administration charges; and
- any other amount the trustee considers appropriate, acting reasonably.

The trustee may reduce the benefits of the member to those which the member would have had if the contribution or shortfall component had not been accepted.

Other contributions not accepted

52 The trustee may refuse to accept:

- a contribution that the trustee has determined not to accept because the trustee has not been informed of the relevant member's tax file number;
- excess contributions.

Permissible actions if excess contributions accepted

53 If excess contributions are made to the fund by or in respect of a member, then the trustee may:

- release funds to the member if the trustee has received a member release authority;
- release funds to the Commissioner of Taxation where the trustee has received an ATO release authority; and
- release funds in any other circumstances, and to such persons, as is permitted under superannuation law.

Allocation of contributions

54 If the trustee receives a contribution in a month, the trustee must allocate the contribution to the relevant member of the fund:

- within 28 days after the end of the month, or any other period as required by superannuation law (**relevant period**); or
- if it is not reasonably practicable to allocate the contribution to the relevant member of the fund within the relevant period – within any longer period as is reasonable in the circumstances.

Reduction of contributions by employer

55 An employer who is under an obligation to make contributions in respect of a member may, with the trustee's consent, reduce the amount of those contributions to the extent that it

becomes required to make contributions in respect of that member to another fund of which the member is also a member.

Tax on contributions and shortfall components

56 Either the trustee or the employer or other appropriate body must deduct any tax that is payable in relation to any contribution or shortfall component before it is credited to the member's accumulation account.

Surcharge

57 The trustee must make provision for any surcharge or other amount that is payable under the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* and related legislation, and must deduct the amount from the relevant contributions.

Termination of employer's contributions

58 A participating employer ceases being a participating employer and may cease making contributions to the fund if any of the following occurs to the employer:

- an administrator, receiver, receiver and manager, controller or similar officer is appointed to the employer (or its property) or a resolution is passed to appoint such an officer;
- an order is made to appoint a liquidator or provisional liquidator of the employer;
- the employer, being a corporation, gives the trustee a written notice that it is, or under applicable legislation the employer is taken to be, unable to pay its debts as and when they fall due;
- the employer, being an individual, commits an act of bankruptcy or becomes insolvent;
- the employer gives the trustee written notice that it is permanently terminating its contributions to the fund.

Effect of termination on member's contributions

59 A member whose participating employer has ceased to make contributions under this deed under the previous clause may not make any contributions without the trustee's consent.

No termination on transfer of business to another employer

60 If a participating employer amalgamates with another participating employer or disposes of its business to another participating employer, members who were employees of the former participating employer are deemed for the purposes of this deed to have become employees of the latter participating employer, which may then make contributions in respect of them.

E Investment

Authorised investments

- 61 The trustee must invest any assets of the fund that are not required for payment of benefits or other amounts under this deed. The trustee must do so in accordance with the current investment strategy or strategies. The following are the types of investment in which the assets may be invested:
- 61.1 Investments in which it is permissible to invest trust funds under the law of any jurisdiction in Australia.
 - 61.2 Securities in any company incorporated anywhere, whether carrying on business in Australia or not.
 - 61.3 Deposit (whether secured or not) with a bank, friendly society, building society, credit co-operative, trustee company, or other registered financial institution.
 - 61.4 Real or personal property, including an improvement to that property.
 - 61.5 Units (including sub-units) in a unit trust established or situated anywhere in the world by subscription or purchase (including joint subscription or purchase). Whether the units are fully paid or partly paid, and whether their issue involves a contingent or reserve liability is irrelevant.
 - 61.6 Futures, options or any other synthetic investment.
 - 61.7 Hedging, swapping or any similar arrangement, even though it is not linked to any property of the fund.
 - 61.8 Deposit (whether secured or not) with, or loan (whether secured or not) to, any person (including an employer) on any terms the trustee thinks reasonable. The fact that the trustee has a direct or indirect interest in the deposit or borrowing or may benefit directly or indirectly from it is irrelevant.
 - 61.9 A policy or annuity with an insurer, whether by proposal or purchase.
 - 61.10 Instalment warrants or receipts.
 - 61.11 By way of a limited recourse borrowing arrangement in accordance with clause 141.
 - 61.12 Any other investment allowed by superannuation law that the trustee thinks appropriate.

Forbidden investments

- 62 The trustee must not invest in any investment that is forbidden by superannuation law. The trustee must not make an investment in the form of a loan or other financial assistance to a member or a relative of a member.

Strategy

- 63 The trustee must formulate one or more investment strategies for the fund in accordance with superannuation law. The trustee must inform members and beneficiaries of the strategies adopted by the trustee. The trustee may review and change a strategy at any

time. The trustee must continually monitor the strategies to ensure that they remain appropriate.

Power to deal with investments

64 The trustee may sell, transfer or vary any investment at the trustee's absolute discretion in accordance with this deed. The trustee must do so in the interests of members and beneficiaries. The trustee must continually monitor the investments to ensure that they remain appropriate.

Investment choice by members

65 The trustee may decide to allow one or more members or beneficiaries to choose between investment strategies. If the trustee does this, the trustee must establish a range of possible investment strategies, and may designate particular assets for those strategies. The trustee must provide the members or beneficiaries with information concerning the strategies and the relevant investment objectives to enable the member or beneficiary to choose between them on an informed basis. The trustee must also provide them with information concerning their rights under this deed.

Member or beneficiary may choose strategy

66 A member or beneficiary who has been offered investment choice by the trustee may choose one or more of the strategies prepared by the trustee by completing any documents the trustee requires. On having done so, the member or beneficiary may direct the trustee to invest any part of the fund that is held for that person in accordance with those strategies. Any direction must be in accordance with superannuation law.

Member or beneficiary may not choose particular investments within strategy

67 A member or beneficiary who has directed the trustee to invest any part of the fund that is held for that person in accordance with those strategies may not direct the trustee to invest in any particular investment. However, the member or beneficiary may request the trustee to develop an investment specific strategy and to make it available to that member or beneficiary. The trustee may accept or reject the request.

Chosen strategies to be monitored

68 The trustee may continually monitor any strategies adopted by members or beneficiaries for investment choice to ensure that they remain appropriate for the members or beneficiaries to whom they are available.

Sub-accounts etc for investment choice

69 If a member adopts a strategy for investment choice, the trustee may do each of the following:

69.1 Establish a sub-account of the income account in respect of that strategy.

69.2 Credit and debit that sub-account in relation to any amount attributable to that strategy as if it were the income account itself.

- 69.3 Allocate earnings attributable to that strategy to the member's or beneficiary's accumulation account or pension account in a way that the trustee thinks equitable.
- 69.4 Determine a fund earning rate for that sub-account.

Power to deal with investment choice investments

- 70 The trustee may sell, transfer or vary any investment made in accordance with a strategy for investment choice, at the trustee's absolute discretion in accordance with this deed. The trustee must do so in the interests of the relevant members or beneficiaries. The trustee must continually monitor the investments to ensure that they remain appropriate.

F Benefits: general

Limit on payment of preserved payment benefits

- 71 The trustee must not pay out to a member or a dependant of a member any preserved payment benefit that superannuation law does not allow the trustee to pay out.

When payment of preserved payment benefits allowed

- 72 The trustee may pay a member or, if applicable, a dependant of a member, a preserved payment benefit in any of the following circumstances:
- 72.1 The member reaches the relevant preservation age and takes a transition to retirement pension in accordance with Part G.
 - 72.2 The member retires from gainful employment on or after reaching the relevant preservation age.
 - 72.3 The member becomes totally and permanently disabled.
 - 72.4 The member becomes totally and temporarily disabled.
 - 72.5 The member reaches age 65.
 - 72.6 The member dies.
 - 72.7 Any other circumstance allowed by superannuation law.

Payment of non-preserved amount

- 73 With the trustee's consent, a member may withdraw any part of the non-preserved amount in the member's accumulation account. The member must apply to the trustee in writing for the withdrawal in a form acceptable to the trustee. The trustee may set a minimum withdrawal amount by notifying the members of the fund.

Vesting and compulsory payment

- 74 A member's benefit entitlement will vest in accordance with superannuation law. The trustee must cash or commence to cash a member's benefit entitlement as soon as practicable after the member dies or the entitlement has vested. If a lump sum is payable, the trustee may pay it in several stages: an initial payment and then subsequent payments.

Possible addition to entitlement when member ceases to be member

- 75 If a member ceases to be a member of the fund, the trustee may pay an amount that the trustee thinks appropriate from the equalisation account (if any) into the member's accumulation account.

Anti-detriment payments (section 295-485 of the *Income Assessment Act 1997*)

- 76 Where the trustee is to make a payment because a member has died (a **death benefit**), the trustee may pass on to the recipient of that payment any benefit that would accrue to the fund if a deduction were allowed under section 295-485 of the *Income Tax Assessment Act 1997*.

Trustee may retain benefit in fund

- 77 If a member or beneficiary requests it, the trustee may retain any part of a benefit in the fund. The trustee may do so until one of the following occurs:

- 77.1 The member or beneficiary decides otherwise.
- 77.2 The member or beneficiary dies.
- 77.3 The amount has to be paid under this deed or superannuation law.
- 77.4 The trustee decides otherwise.

Subject to Part H, the payment the trustee then makes must be the amount standing to the credit of the member's or beneficiary's accumulation and pension account at that time.

Transfer of insurance policy

- 78 If a member or beneficiary is entitled to a benefit which includes an interest in an insurance policy, the trustee may assign that policy to the member or beneficiary, or to any of the dependants of the member the trustee thinks fit. The trustee must debit the value of the policy to the relevant accumulation or pension account. Neither the trustee nor an employer is liable for any further payment of premiums in relation to the policy.

Information to be provided to trustee

- 79 On written request by the trustee, an applicant, member or beneficiary must supply the trustee with information that the trustee thinks necessary for any purpose. This extends to submitting to a medical examination by a doctor who is acceptable to the trustee.

If an applicant, member or beneficiary fails to do so, the trustee may suspend collection of contributions in respect of that person, may withhold benefits from that person, and may impose conditions on the person, as the trustee thinks fit.

Trustee may adjust benefits for wrong information

- 80 The trustee may adjust any benefit payable to or in respect of a member if an applicant, member or beneficiary has supplied false or misleading information to the trustee, or has deliberately withheld information from the trustee, that affects or is likely to affect benefits payable to or in respect of that member.

G Pensions: general

Trustee's power to pay pension

81 When any part of a benefit becomes payable to a member under this deed or in accordance with superannuation law, the trustee has a discretion to decide whether to pay one or more pensions to the member or to use the benefit payable to acquire one or more annuities in the name of the member. The pensions or annuities may be of any type permitted by superannuation law (including, without limitation, an account-based pension) and will be in substitution for the relevant part of any lump sum benefit that was payable to the member for the amounts credited to the member's pension account as a transfer of a roll over payment under clause 87.2.

Member or beneficiary may choose type of pension

82 The relevant member or beneficiary may choose the type of pension that is to be paid, including a transition to retirement pension. However, the pension must be of a type that is allowed by superannuation law or is acceptable to the Regulator. It may include a pension wholly determined by reference to policies of life assurance purchased or obtained by the trustee of a regulated superannuation fund solely for the purposes of providing benefits to members of that fund. The pension must be paid in accordance with the requirements of the superannuation law.

Actuarial certificate

83 The trustee must obtain an actuarial certificate in accordance with superannuation law in relation to any pension that the trustee decides to pay, unless either section 295-390 (or any other provision) of the *Income Tax Assessment Act 1997* (Cth) provides otherwise in which case the trustee has a discretion as to whether to obtain an actuarial certificate.

Funding pension through annuity

84 The trustee may fund a person's pension by purchasing an annuity payable to the trustee.

Trustee may allocate benefit between 2 or more spouses

85 If there are 2 or more spouses of a member, the trustee may decide in what proportion each is entitled to a benefit payable under this deed to the member's spouse.

Trustee must establish pension account

86 If the trustee decides to pay a pension to a person in accordance with this deed, the trustee must establish a pension account in the name of that person.

Credits to pension account

87 The trustee may credit each of the following amounts to the person's pension account, subject to superannuation law:

87.1 The amount the trustee believes necessary to fund the pension.

- 87.2 The amount paid into the fund in respect of the pensioner as a transfer or roll over payment which the trustee thinks it appropriate to credit to that account.
- 87.3 Earnings of the fund which the trustee thinks it appropriate to credit to that account.
- 87.4 A shortfall component paid in respect of the pensioner.
- 87.5 Contributions lawfully paid in respect of the relevant member.
- 87.6 Adjustment credits made in accordance with clause 37.
- 87.7 The proceeds of an annuity or insurance policy effected by the trustee in respect of the pensioner which the trustee thinks it appropriate to credit to the account.
- 87.8 Financial assistance under part 23 of the SIS Act which the trustee thinks it appropriate to credit to the account.
- 87.9 Any other amount the trustee thinks it appropriate to credit to the account.

Debits to pension account

- 88 The trustee may debit each of the following amounts to the person's pension account, subject to superannuation law:
 - 88.1 The proportion that the trustee thinks appropriate of the expenses of the fund.
 - 88.2 The proportion that the trustee thinks equitable of any negative earnings of the fund determined in accordance with clauses 37, 69 or 89.
 - 88.3 The proportion of the loss on the disposal of investments of the fund that the trustee thinks equitable.
 - 88.4 Amounts transferred from the fund in respect of the pensioner as a transfer of a roll over payment which the trustee thinks it appropriate to debit to the account.
 - 88.5 Payments made to or in respect of the pensioner or a reversionary beneficiary under this deed.
 - 88.6 The cost of an insurance policy or annuity effected by the trustee in respect of the pensioner which are not debited from the member's accumulation account.
 - 88.7 The proportion of an amount payable as taxation in respect of the earnings of the fund that are credited to the pensioner's account or arise from a roll over payment that the trustee thinks equitable.
 - 88.8 The proportion of an amount paid in respect of an indemnity to the trustee or other person under this deed that the trustee thinks equitable.
 - 88.9 The amount of a levy that the trustee thinks equitable.
 - 88.10 An amount transferred to the accumulation account of a beneficiary.
 - 88.11 Any other amount that the trustee thinks it appropriate to debit from the account.

Adjustment based on fund earning rate

- 89 In determining the amount standing to the credit of an accumulation account at the time a benefit or pension is calculated or becomes payable, the trustee must make an adjustment to the account that the trustee thinks equitable on the basis of the interim fund earning rate

at that date. The adjustment must be made in respect of the period from the beginning of the current fund year to the relevant date. The income account must be credited or debited accordingly.

Segregation of assets and valuation

90 The trustee may segregate from other assets those assets which are to fund the pension of a person under this deed. The trustee must value those assets as required by superannuation law. If they are insufficient or more than sufficient to fund the pension, the trustee must do anything that superannuation law requires. The trustee must obtain any certificate of adequacy that the trustee considers necessary in respect of those assets in order to comply with the Tax Act or superannuation law.

Pensions: residue in account

91 On the death of a pensioner being paid a pension the trustee must, subject to superannuation law:

- act in accordance with the terms on which the relevant pension is paid, including as to the payment of the pension to a reversionary beneficiary; and
- then, if there is no reversionary beneficiary, or if there is any residue in the pension account for any other reason, pay that residue as a death benefit in accordance with Part H of this deed.

Trustee's right to commute pensions generally

92 On written request by a pensioner, or in accordance with superannuation law or this deed, the trustee may commute all or any part of a pension and apply the proceeds of that commutation in accordance with superannuation law, including by commuting it to a lump sum and paying it to the relevant person or his or her estate. The following general conditions apply in respect of all types of pension:

- The commutation must be allowed by, and be in accordance with, superannuation law.
- The commutation must not disadvantage the fund, an employer, a member or pensioner.

If the trustee commutes only part of a pension, the trustee must then adjust the amount of the pension payable as required by superannuation law.

Qualification of pensions as asset test exempt income streams

93 The trustee may decide that a pension should qualify as an asset test exempt income stream (as that term is defined by the *Social Security Act 1991*). If the trustee so decides:

- 93.1 the superannuation law prevails over the terms of this deed to the extent of any inconsistency;
- 93.2 this deed is deemed to contain any provision that is required by superannuation law; and
- 93.3 this deed is deemed not to contain any provision that is required to be excluded by superannuation law.

H Death, disability and retirement benefits

Death benefit payments

94 The trustee may pay the death benefit on the death of a current member of the fund. The trustee can do that under:

- 94.1 a death benefit agreement, clause 96;
- 94.2 a binding death benefit notice, clause 98; or
- 94.3 a non-binding death benefit notice, clause 99.

95 In the ways set out in this Part H, the trustee must pay the full amount standing to the credit of the accumulation account, and any pension account residue referred to in clause 91, either as a lump sum, or as one or more pensions or annuities, or both.

Death benefit agreement payment arrangements

96 On the death of a member or beneficiary who has a death benefit agreement:

- 96.1 the death benefit agreement prevails over clause 98 and over any binding death benefit notice or non-binding nomination form;
- 96.2 the trustee must pay, or apply, the relevant benefit in accordance with the rules set out in the death benefit agreement; and
- 96.3 Part I of this deed applies to the payment of the relevant benefit.

97 A death benefit agreement need be executed only by the trustee and the relevant member or beneficiary. On execution, the terms of any death benefit agreement form part of this deed. They are to be read together with this deed and in accordance with the following rules:

- 97.1 a death benefit agreement replaces any previous death benefit agreement;
- 97.2 if there is a death benefit agreement, then any binding death benefit notice is to be treated as not in effect for the purposes of this deed and of regulation 6.17A(4) of the SIS Regulations (but see also clause 97.4 which can overrule this clause);
- 97.3 if there is any inconsistency between the death benefit agreement and the remaining provisions of this deed, then the terms of the death benefit agreement prevail to the extent of that inconsistency — except that clause 5 of this deed prevails over the agreement; and
- 97.4 if part of the death benefit agreement is invalid because it directs the trustee to pay part, or all, of the benefits to a person to whom those benefits may not be paid in accordance with superannuation law (**disallowed benefits**) then:
 - clause 97.2 does not apply in respect of the disallowed benefits;
 - clauses 96 and 97.1 to 97.3 apply to any part of the death benefit agreement which remains valid (and to the payment of death benefits other than disallowed benefits); and

- clauses 97.1 to 97.3 apply for the purpose of determining the disallowed benefits, and the disallowed benefits must be paid in accordance with the remainder of this Part H.

Binding death benefit notice payment arrangements

98 After the death of a member or beneficiary who has given the trustee a binding death benefit notice, the trustee must comply with that notice subject to clauses 96 and 97.

Non-binding death benefit notice payment arrangements

99 If after the death of a member or beneficiary, not all death benefits have been paid or applied in accordance with a death benefit agreement or binding death benefit notice, then the trustee must pay or apply the relevant benefit in the way the trustee thinks fit in accordance with the following rules:

99.1 If the member or beneficiary has left dependants, then the trustee must pay or apply the benefit to or for the benefit of any one or more of the dependants of the member or beneficiary and the legal personal representatives of the member or beneficiary. The trustee may do so in any proportions the trustee thinks fit and may take into account a member's wishes contained in a non-binding nomination form.

99.2 If the member or beneficiary has not left any dependants but does have a legal personal representative, then the trustee must pay the benefit to the legal personal representatives of the member or beneficiary.

99.3 If the member or beneficiary has not left any dependants and has no legal personal representative, then the trustee may pay or apply the benefit to or for the benefit of any individual at the trustee's discretion. The trustee may do so in any proportions the trustee thinks fit.

99.4 If the trustee has not paid or applied the benefit to or for the benefit of any person under the preceding sub-clauses 99.1 to 99.3, then the trustee must treat the benefit as a forfeited benefit entitlement.

Death of member or former member

100 If a member or former member who has become entitled to a lump sum benefit dies before the payment is made, then the trustee must pay the amount in accordance with clauses 96 to 99.

Discharge of trustee

101 If a dependant, legal personal representative, relative or other person receives any part of a benefit in accordance with clauses 96 to 100, then that discharges the trustee from liability in relation to the benefit. The trustee is not responsible for seeing how the benefit is applied.

Total and permanent disablement benefit

102 The trustee must pay a benefit to a member whom the trustee believes to be totally and permanently disabled unless requested otherwise by the member. The benefit may be either of the following:

- A lump sum equal to the full amount standing to the credit of the accumulation account of the member; or
- One or more pensions or annuities representing that amount.

Temporary total disablement benefit

103 The trustee must pay a benefit to a member whom the trustee believes to be temporarily totally disabled unless requested otherwise by the member. The benefit must be in the form of a pension or annuity that represent the following amounts:

- In the case where the trustee is entitled to a benefit under an insurance policy in relation to the member's temporary total disablement, the amount payable to the trustee.
- In any other case, the amount decided by the trustee, provided it does not reduce the minimum withdrawal benefit of the member under superannuation law.

The member is not entitled to commute any part of this benefit.

Period of payment: temporary total disablement

104 The trustee must cease paying the benefit for temporary total disablement:

- In a case where the trustee is entitled to benefit under an insurance policy in relation to the member's temporary total disablement, when the trustee ceases to be entitled to that benefit.
- In any other case, when the member ceases to be temporarily totally disabled, or reaches normal retirement age, or becomes entitled to another benefit under this deed or requests that the benefit ceases to be paid.

Method of payment: temporary total disablement

105 The trustee must pay the benefit in respect of temporary total disablement in the following way:

- In a case where the trustee is entitled to benefit under an insurance policy in relation to the member's temporary total disablement, in the way the benefit is paid by the insurer.
- In any other case, in the way the trustee decides.

Member contributions may be suspended: temporary total disablement

106 A member may suspend his or her contributions during a period while he or she is receiving a benefit in relation to temporary total disablement.

Membership not affected by temporary total disablement

107 A member does not cease being a member because he or she is receiving a benefit in respect of temporary total disablement.

Retirement benefit

108 The trustee may pay a member the retirement benefit at the member's request if either of the following applies:

- the member retires from employment on or after reaching normal retirement age; or
- the member becomes entitled under superannuation law to the payment of a benefit despite still being employed.

The trustee must pay the benefit in any form permitted by superannuation law, including in the form of one or more lump sums representing the amount standing to the credit of the member's accumulation account. However, the trustee may also use part, or all, of that amount to purchase one or more pensions or annuities decided on in consultation with the member. The trustee must immediately inform members of the election.

Early retirement

109 On request by a member, the trustee must pay a benefit to that member in each of the following cases:

- the member ceased to be employed before normal retirement age, but has reached the relevant preservation age.
- the member retired from an arrangement under which the member was gainfully employed and has reached 60 or another age prescribed by superannuation law.
- in any other case as permitted by superannuation law.

The trustee must pay the benefit in any form permitted by superannuation law, including in the form of one or more lump sums representing the amount standing to the credit of the member's accumulation account. However, the trustee may also use part, or all, of that amount to purchase one or more pensions or annuities decided on in consultation with the member. The trustee must immediately inform members of the election.

I Payment of benefit

Trustee must notify that benefit is payable

110 The trustee must give notice that a benefit is payable to the following persons:

- If the benefit is payable to a member, to that member.
- If the benefit is payable on the death of a member, to the nominated beneficiary, the reversionary beneficiary, the legal representatives of the member, known dependants of the member and any other person the trustee reasonably believes may have an entitlement or interest in the benefit.
- In any other case, any persons the trustee reasonably believes may have an entitlement or interest in the benefit.

Method of notice

- 111 The trustee must give a person written notice of the time within which that person may claim an entitlement to the benefit and of how to make that claim. If the person satisfies the trustee that he or she is entitled to a benefit, the trustee must notify any persons to whom a notice was required to be sent under clause 110 to enable them to object to a payment to that person. If no objection is received or the specified period for objecting has passed, the trustee must pay the relevant part of the benefit to that person.

Claim out of time

- 112 If a person makes a claim out of time to an entitlement to a benefit, the trustee is not bound to make any payment to that person.

Unclaimed benefit

- 113 The trustee must give the Regulator a statement of any unclaimed benefits and must pay them to the Regulator as required by superannuation law.

Tax on benefit

- 114 Either the trustee or an insurer or other appropriate body must deduct any tax that is payable in relation to a benefit before that benefit is paid.

Where benefit is payable

- 115 A benefit is payable at the trustee's principal office, or at a substitute place the trustee notifies to the member or beneficiary.

Trustee may send benefit to person entitled

- 116 The trustee may send a benefit to the postal address that the person entitled to it has last notified to the trustee, or to the bank account into which that person has asked the benefit to be paid, or to some other place the trustee decides on.

Notification of address etc

- 117 A person to whom a benefit becomes payable must notify the trustee of his or her full residential address, and of any change in that address. He or she must also notify the trustee of a bank account into which he or she asks the benefit to be paid.

Receipt to be given

- 118 On request by the trustee, a person to whom a benefit is paid must give the trustee a receipt and release for the payment in the form required by the trustee.

Person under legal disability

- 119 If a person to whom the trustee is to pay any part of a benefit is under a legal disability, or the trustee believes that it would be in that person's best interests for the trustee not to

make the payment to that person, the trustee may make the payment in any of the following ways as the trustee thinks fit:

- To or for the maintenance, education, advancement, support or benefit of the person on any conditions.
- To, and for the benefit of, another person who appears to the trustee to be any of the following: the trustee, spouse, child, parent or guardian of the person, or a person having custody of that person.

Discharge of trustee

120 The receipt by a person of a payment in accordance with clause 119 discharges the trustee from liability in relation to it. The trustee is not responsible for seeing to its application.

Transfer of assets

121 With the consent of a member or beneficiary to whom a benefit is payable, the trustee may, instead of paying or transferring cash, transfer investments of equivalent value to the member or beneficiary or to the trustee of the relevant approved benefit arrangement.

J Forfeiture of benefit entitlements

Note: Forfeiture accounts are now generally prohibited. Maddocks recommends that you seek professional advice before establishing such an account.

Forfeiture account

122 The trustee may establish or maintain a forfeiture account into which the trustee must pay any amount forfeited under this deed. Money held in that account does not form part of an accumulation account. The trustee must credit any income from that money to the forfeiture account.

Circumstances of forfeiture

123 All benefit entitlements of a person are forfeited in each the events in 123.1-123.6 — unless the trustee has determined otherwise within six months after the relevant event. The trustee's determination has effect from the date specified by the trustee which may be a date before the date of the event.

123.1 The person assigns or charges, or attempts to assign or charge a benefit entitlement, except in accordance with superannuation law.

123.2 The person's interest in a benefit entitlement becomes payable to or vested in another person or a government or public authority.

123.3 The person is or becomes insolvent or has committed or commits an act of bankruptcy.

123.4 The person is unable personally to receive or enjoy any part of the entitlement.

123.5 In the trustee's opinion, the person is incapable of managing his or her affairs.

123.6 In the trustee's opinion, the person is guilty of fraud or dishonesty.

This clause does not apply to the extent that it would be made ineffective by the *Bankruptcy Act 1966* or superannuation law.

Forfeiture of residue

124 A person forfeits the residue in an accumulation account if the trustee is satisfied that the person has been paid all benefits that he or she is entitled to be paid under this deed.

Application of forfeiture account

125 The trustee may pay or apply forfeited money held in the forfeiture account in any one or more of the following ways in accordance with superannuation law:

125.1 To or for the benefit of the relevant person or the dependants of the relevant member in any proportions the trustee decides on.

125.2 To the trustee of the relevant member's estate.

125.3 To or for the benefit of other members or their dependants who have rights to receive benefits under this deed.

125.4 To provide additional benefits to other members or their dependants in accordance with superannuation law.

125.5 To the equalisation account (if any).

125.6 To any employees of the member or former member the trustee thinks appropriate.

125.7 To any other person or entity the Regulator approves in writing.

Limit in relation to payments to member or dependants

126 The trustee must not make a payment under clause 125 to a member who is still being employed by an employer, except for the purpose of relieving the hardship of that member or his or her dependants.

Possible adjustment to entitlements

127 If the event that gave rise to forfeiture of an entitlement in respect of a member ceases to affect that member, the trustee may re-establish any rights in the member that the trustee thinks fit. They must not be greater than they were before the forfeiture.

K Provisions relating to the *Family Law Act*

Payment splits

128 If the trustee receives a splitting agreement or court order under Part VIII B of the *Family Law Act*, then provided the agreement or court order has been properly served and subject to superannuation law, the trustee may:

- vary the relevant member's benefit or benefit entitlement on such bases (including by commutation of any pension having regard to the advice of an

actuary) and at any time the trustee determines from time to time, to the extent permitted by superannuation law; and

- make a payment to the non-member spouse or a transfer in respect of the non-member spouse in accordance with clause 132.

Rules for payment splits

129 The trustee may as it determines from time to time subject to superannuation law, make rules dealing with:

- the valuation of a non-member spouse's benefit or benefit entitlement (including any adjustments);
- the timing of the calculation of the non-member spouse's benefit or benefit entitlement;
- other matters relating to the payment split or the non-member spouse's benefit or benefit entitlement.

Deferred payment splits

130 If the trustee is required by superannuation law or considers that it is appropriate to defer giving effect to a payment split, then provided the splitting agreement has been served properly, the trustee must:

- record the existence of the agreement or court order; and
- keep a record of the non-member spouse's benefit or benefit entitlement on such basis (including a notional basis) and in such manner as the trustee determines from time to time subject to superannuation law.

Flagging agreements

131 If the trustee receives a flagging agreement or court order under Part VIII B of the *Family Law Act*, then provided the agreement or court order has been properly served, the trustee must:

- record the existence of the agreement or court order; and
- defer payment of the benefit to or in respect of the relevant member until the agreement or court order is lifted.

Transfer of non-member spouse interests

132 If the trustee receives a splitting agreement or court order under Part VIII B of the *Family Law Act*, the agreement or court order has been validly served, then if any amount becomes payable in respect of the non-member spouse under that agreement or order:

- the trustee must pay that amount to the non-member spouse – if the non-member asks for that payment in writing; or
- the trustee must transfer that amount to another fund (including an eligible rollover fund) in respect of that non-member spouse if the non-member asks for that transfer in writing.

Any payment amount under this clause must be in accordance with superannuation law. The receipt by the non-member spouse or the trustee of that other fund will sufficiently discharge the trustee of its liability in respect of that non-member spouse.

Refusal to admit as member

- 133 Provided that the trustee acts in accordance with superannuation law, the trustee may refuse to admit a non-member spouse as a member of the fund.

L Trustee's powers

All the powers of an individual

- 134 The trustee has all the powers in relation to the assets of the fund that the trustee would have if the trustee were the legal and beneficial owner of those assets. It also has all the powers that a trustee has at law and the powers specifically conferred on the trustee by this deed.

Trustee's discretion

- 135 The trustee has an absolute discretion in relation to exercising or not exercising any power under this deed or at law, and in relation to the way in which any power is exercised. The trustee's decision on such a matter is final and binding.

Delegation of power

- 136 The trustee may delegate to another person, including one or more directors of the trustee, any power or duty on any terms the trustee thinks fit, including by appointing an attorney under a power of attorney. The trustee may alter or revoke any delegation including any power of attorney.

Trustee not subject to direction

- 137 The trustee is not subject to direction in exercising any power under this deed or at law, except to the extent indicated under superannuation law.

Specific powers

- 138 To exclude any possible doubt, the trustee has the power to do any of the following to the extent allowed by superannuation law:
- 138.1 To underwrite or sub-underwrite risks, contingencies or liabilities under a superannuation arrangement conducted by an employer under an agreement for the transfer of employees to the fund.
 - 138.2 To indemnify a person.
 - 138.3 To open and operate bank accounts in the usual way, and to draw, make, accept, endorse, discount, execute, issue or otherwise deal with all forms of negotiable or transferable instruments and to enter into any bill facilities or other form of banking facilities.

- 138.4 To do anything the trustee considers necessary or desirable in connection with performing its obligations under this deed.

Limit on borrowing

- 139 The trustee must not (except as provided by this deed in clause 141 and superannuation law):
- 139.1 borrow money; or
 - 139.2 maintain an existing borrowing of money.

Trustee may grant security over asset

- 140 The trustee may, to the extent allowed by superannuation law, mortgage, pledge, charge, assign or otherwise provide as security, any asset of the fund for the purpose of the trustee borrowing or maintaining a borrowing of money including (without limitation) for the purpose of a "limited recourse borrowing arrangement" referred to in clause 141.3.

Note: There are strict requirements which must be met for a borrowing, and any associated mortgaging or charging of assets, to be lawful (see Part 7 of the SIS Act). A breach of those requirements is a strict liability offence (see Part 7 of the SIS Act). Maddocks recommends that you seek professional advice before entering into any arrangements under which the fund borrows money or mortgages or charges its assets.

When borrowing is allowed (including "limited recourse borrowing arrangements")

- 141 The trustee may borrow or maintain a borrowing of money in any one or more of the following cases:
- 141.1 to enable the trustee to pay a surcharge or advance instalment which the trustee is required to pay under the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* — as long as the borrowing complies with section 67(2A) of the SIS Act;
 - 141.2 to enable the trustee to settle a transaction to acquire any one or more of the securities listed in section 67(3)(a) of the SIS Act — as long as the borrowing complies with all of the requirements of section 67(3) of the SIS Act;
 - 141.3 under an arrangement (a "limited recourse borrowing arrangement") which the trustee enters, or has entered into, in which the money borrowed is, or has been, used to acquire an asset that superannuation law allows the trustee to acquire — as long as the borrowing complies with Part 7 of the SIS Act.
- 142 Clause 141 does not limit the circumstances in which the trustee may borrow or maintain a borrowing of money.

Note: There are strict requirements which must be met for a borrowing to be lawful (see Part 7 of the SIS Act). A breach of those requirements is a strict liability offence (see Part 7 of the SIS Act). Maddocks recommends that you seek professional advice before entering into any arrangements under which the fund borrows money.

Trustee's power to effect insurance

- 143 The trustee may arrange one or more insurance policies with one or more insurers to secure the benefit of a member. A policy may be a group policy or an individual policy.

Trustee bound to exercise power in limited cases

- 144 The trustee is not bound to arrange one or more insurance policies, except where the trustee has informed the member or beneficiary that the trustee will arrange a policy of a specified type and amount and the member or beneficiary has not asked the trustee in writing not to do so, or has withdrawn his or her request for the trustee to arrange that policy.

Even so, the trustee is not bound to arrange a policy that the trustee is unable to arrange.

Inconsistent conditions in policy

- 145 If an insurer will only insure a member or beneficiary on conditions that are inconsistent with the conditions in respect of a benefit payable in respect of the member or beneficiary, the trustee may impose the policy conditions on that benefit despite the conditions stated in this deed.

Powers not affected by conflict of interests

- 146 The trustee may exercise any power under this deed or at law despite the fact that the trustee, or a director of the trustee, has a direct or indirect interest in the exercise of that power, or may benefit directly or indirectly from its exercise. An indirect interest or benefit includes, without limitation, where the trustee, or a director of the trustee, obtains or may obtain an interest or benefit as a director, officer, shareholder, partner, unitholder or beneficiary of a third party with whom the trustee enters into a transaction or arrangement.

Disclosure of conflict of interest

- 147 The trustee and any director of the trustee must disclose conflict of interests of the type described in clause 146 in accordance with superannuation law.

Trustee's power to effect transfer on written request

- 148 On written request by a member or beneficiary, the trustee may transfer to the trustee of an approved benefit arrangement any part of the amount in the fund that represents the member's or beneficiary's benefit or benefit entitlement. The trustee may only do so if the following conditions are met:
- The member or beneficiary is eligible to join or has joined the arrangement.
 - The trustee is satisfied that the transfer complies with superannuation law.
 - The amount the trustee transfers must not exceed the amount in the member's or beneficiary's accumulation account, except to the extent of any amount that the trustee decides to add to that account from the equalisation account (if any) under clause 38.

Form and effect of transfer

- 149 The member or beneficiary must complete and execute any documents required by the *Tax Act* for the transfer to be completed as a roll over payment. A receipt from the approved benefit arrangement discharges the trustee from all liability in respect of the amount transferred. The trustee is not responsible for seeing to the application of that amount by the approved benefit arrangement. On completion of the transfer, the member or beneficiary (and anyone entitled to claim in any way in respect of that person) ceases to have any rights against the trustee or the fund in respect of the relevant amount.

Trustee's power to transfer to successor fund

- 150 The trustee may transfer to the trustee of an approved benefit arrangement that is a successor fund to the fund under superannuation law any part of the amount in the fund that represents a benefit entitlement. The consent of the member or beneficiary is not required. Nor is it necessary that the member already be a member of the successor fund.

Trustee's power to transfer to eligible roll over fund

- 151 In accordance with superannuation law, the trustee may transfer to an eligible roll over fund any part of the amount in the fund that represents a member's or beneficiary's benefit entitlement. The trustee must do so if superannuation law requires it.

Transfer of assets

- 152 With the consent of a member or beneficiary to whom or in respect of whom a transfer is to be made under clauses 150 or 151, the trustee may, instead of paying or transferring cash, transfer investments of equivalent value to the member or beneficiary or to the trustee of the relevant approved benefit arrangement.

The trustee's power to receive transfer

- 153 The trustee may take over or acquire by transfer from an approved benefit arrangement any part of the assets of that arrangement that represent the interest of a participant in that arrangement who has become or is to become a member or beneficiary of the fund. The trustee will hold the amount on trust for that person in the relevant accumulation or pension account. The person will have rights in respect of that amount that are equivalent to the rights he or she had under the approved benefit arrangement. The trustee may decide that the person is to be treated as having been a member of the fund from the time he or she became a member of the approved benefit arrangement.

M Administration of fund

Dealing with money received

- 154 The trustee must ensure that any money received by the fund is dealt with as soon as practicable in one of the following ways:
- Deposited to the credit of the fund in an account kept with a bank, friendly society, building society, or other similar body chosen by the trustee.

- Paid to the credit of an insurer for the payment of premiums in relation to a policy of insurance effected by the trustee for the purposes of the fund.
- Paid into the trust account of a lawyer, accountant or investment manager appointed in accordance with this deed.

Effect of receipts

- 155 A receipt given by the trustee or the secretary of the fund or another person authorised by the trustee in writing to issue receipts is a sufficient discharge to the person by whom money is paid to the fund.

Employers to provide information to trustee

- 156 On written request by the trustee, an employer must give the trustee any information which it has or can obtain that is, in the trustee's opinion, necessary or desirable for managing and administering the fund. The trustee may act on that information and is not required to verify it.

Compliance

- 157 The trustee must comply with superannuation law and with any directions of the Regulator in relation to the fund.

Trustee may not charge fees

- 158 The trustee must not charge any fees in relation to acting as trustee under this deed or performing any services in respect of the fund.

Trustee entitled to be reimbursed for expenses

- 159 The trustee is entitled to be reimbursed from the fund for all expenses, taxes, levies, charges, fees and other amounts necessarily or reasonably incurred in acting as trustee under this deed.

Trustee to keep records and accounts

- 160 The trustee must keep proper records and accounts of all money received by the fund and paid out by it, including adequate details of all dealings by the fund in connection with that money.

Trustee to collect money owing to the fund

- 161 The trustee must ensure that money owing to the fund is collected promptly and dealt with in accordance with this deed.

Trustee to keep records, accounts, books etc

- 162 The trustee must ensure that all records, books, accounts, minutes, reports and other documents are maintained and kept safe in accordance with superannuation law for the period required by that law.

Documents to be prepared

163 The trustee must ensure that each of the following is prepared in respect of the fund in accordance with superannuation law:

- A statement of its financial position.
- An operating statement.
- Any other account or statement required by superannuation law.

Annual return

164 The trustee must ensure that an annual return and any other documents required under superannuation law are prepared and lodged with the Regulator in accordance with that law.

Audit

165 The trustee must arrange for the books, accounts and records of the fund to be audited annually or as required by superannuation law by an auditor qualified in accordance with superannuation law.

Disclosure requirements

166 The trustee must ensure that information and documents are provided to each of the following persons if required by, and in accordance with the requirements of, superannuation law:

- employers.
- the Regulator.
- the actuary (if one is appointed).
- the auditor.
- any other person.

Availability of books and records

167 The trustee must ensure that the books of the fund and information relating to it are available for inspection and copying, and that access is provided to premises where the books and information are available to be inspected and copied, in accordance with superannuation law.

Availability of deed and documents

168 The trustee must ensure that this deed and any other documents (or copies of the deed and documents) are made available for inspection by a member, or by a beneficiary on the beneficiary's request, as required by superannuation law. It is sufficient if they are available for inspection at the trustee's office while that office is open.

Appointment of auditor

169 The trustee may appoint a suitably qualified person as auditor of the fund.

Appointment of actuary

170 The trustee may appoint as actuary of the fund:

- an actuary who is a Fellow of the Institute of Actuaries of Australia;
- a member of a firm or company of which at least one member or director is a Fellow of the Institute of Actuaries of Australia; or
- an auditor who is appropriately qualified and is independent according to criteria specified by superannuation law.

Appointment of administration manager

171 The trustee may appoint one or more suitably qualified persons to act as administration manager of the fund or a specified part of the fund.

Appointment of investment manager

172 The trustee may appoint one or more suitably qualified persons to act as investment manager of the fund or a specified part of the fund in accordance with superannuation law.

Appointment of custodian

173 The trustee may appoint one or more suitably qualified persons to act as custodian of the fund or a specified part of the fund, including (without limitation) as part of a limited recourse borrowing arrangement referred to in clause 141.3.

Superannuation law to be observed

174 Any appointment by the trustee must be in accordance with superannuation law.

Trustee may remove person from office

175 The trustee may remove from office a person the trustee has appointed to an office.

Trustee not bound by advice

176 Except to the extent required by superannuation law, the trustee is not bound to follow the advice of a person the trustee has appointed.

Liability of the trustee is limited

177 To the extent allowed by superannuation law, neither the trustee nor any of its directors, officers or employees is liable for anything done or not done in connection with acting as trustee, unless at least one of the following applies:

- The person fails to act honestly.
- The person intentionally or recklessly fails to exercise the degree of care and

diligence the person is required to exercise.

- The person incurs a monetary penalty under a civil penalty order made in accordance with superannuation law.

Indemnity

178 To the extent allowed by superannuation law, the trustee and each of its directors, officers and employees are entitled to an indemnity from the fund in all cases where the person is not liable under the preceding clause. The trustee has a lien on the assets of the fund for this purpose.

Other persons who may act

179 Subject to superannuation law, the trustee may appoint the following persons to act as director of the trustee of the fund.

- the legal personal representative of a deceased member, from the date of the member's death until the member's death benefits begin to be paid;
- the legal personal representative of a member, while he or she holds an enduring power of attorney in respect of the member or while the member is under a legal disability;
- the legal personal representative, parent or guardian of a member who is a minor; or
- any other person if the superannuation law allows that person to be a director of the trustee and the fund would remain a self managed superannuation fund.

Appointment of members as trustee

180 The trustee may appoint the members of the fund as trustees in place of the trustee by executing a deed to that effect. It may only do so if immediately afterwards it executes another deed which provides the mechanisms to enable the members of the fund to act as trustees.

Appointment of replacement corporate trustee

181 The trustee may appoint as a replacement trustee a corporation of which the members of the fund are the only directors. The trustee must do everything necessary to vest the fund in the replacement trustee and must deliver all records and other books to the replacement trustee.

Continuity of office

182 When a person ceases to be a trustee or becomes a trustee, any other person acting as trustee must do everything necessary to vest the fund in the new or remaining trustees and must deliver all records and other books to the new or remaining trustees.

Appointment and resignation of trustee

183 The trustee will determine who acts as trustee in accordance with this deed and superannuation law for the fund to continue as a self managed superannuation fund and will take the necessary steps to appoint or remove the persons or body to or from the office of trustee. The trustee may accept the trustee's resignation in writing for this purpose.

- The appointment or removal of a trustee must be in writing and must immediately be advised to any other trustee.
- Where the trustee is unable or unwilling to determine who will act as trustee then the majority of members of the fund will determine who will act as trustee. If there are no members in the fund, the former members of the fund (or their legal personal representatives) will determine who acts as trustee of the fund.
- To the extent permitted by law, these provisions apply to the exclusion of any statutory provisions relating to the appointment of new trustees, including statutory provisions which may otherwise require registration of the relevant deed or instrument.

N Miscellaneous

Trustee may elect to wind up fund

184 The trustee may elect to wind up the fund on a specified date in either of the following cases:

184.1 The trustee decides to wind up the fund.

184.2 There are no longer any members of the fund.

The trustee must elect to wind up the fund on a specified date if the Regulator requires the fund to be wound up.

Notice of winding up

185 The trustee must give notice to each participating employer and member that the fund is to be wound up on the specified date.

Payment etc on winding up

186 After deducting from the assets of the fund the costs of administering and winding up the fund, the trustee must pay the benefits in the following order to the extent that the assets of the fund are sufficient to do so:

- Benefits to which members, former members or their dependants are entitled but which they have not been paid on the day before the termination date.
- Additional benefits to members, former members or their dependants as the trustee thinks appropriate.
- Payment to the participating employers that have made contributions in respect of members or former members as the trustee thinks appropriate.

Employment relationship not affected by this deed

187 Nothing in this deed affects any powers an employer has in relation to a contract of employment. An actual or prospective right under this deed, or the ending of such a right, is not to be taken into account in relation to any legal action, including one based on termination of employment.

Legal rights of member not affected by this deed

188 Nothing in this deed affects any right a person may have to claim compensation or damages at common law or under statute.

Variation

189 Subject to clauses 190 to 192, the trustee may vary this deed either prospectively or retrospectively. The trustee may do so by oral declaration, written resolution or deed. If superannuation law requires it, the trustee must promptly give a certified copy of the resolution or a copy of the deed to the Regulator.

Limits on effect of variation

190 If one or more death benefit agreements are in place under this deed, then any variation of the deed does not vary any death benefit agreement or clauses 96 or 97 – unless that variation expressly states that it does vary any one or more of those things. Instead, those agreements and clauses continue to apply in respect of the fund.

191 If one or more agreements or arrangements are in place in respect of the fund relating to payment of a pension, then any variation of the deed does not vary those agreements or arrangements – unless that variation expressly states that it does vary one or more of those things. Instead, those agreements and arrangements continue to apply in respect of the fund.

Limits on power to vary

192 The trustee does not have power to vary this deed so as to do either of the following:

- Reduce or adversely affect the rights of a member to accrued entitlements that arise before the variation is effected.
- Reduce the amount of any other entitlement that is or may become payable in relation to a time before the date of the variation.

However, this (the rule in the previous sentence with the 2 dot points) does not apply if the reduction is necessary to enable the fund to comply with superannuation law or if each affected member, or the Regulator, consents in writing to the reduction.

The trustee also does not have power to vary this deed in a way that would have either of the following effects:

- unless the trustee is a corporation, altering the purpose of the fund so that it is no longer solely or primarily the provision of old age pensions under superannuation law.
- unless the sole or primary purpose of the fund is to provide old age pensions to

members, allowing any person except a corporation to be appointed trustee of the fund.

Notice of variation

193 If superannuation law requires it, the trustee must inform members and beneficiaries in writing of the nature and purpose of the variation and its effect on their entitlements or rights. The trustee must do so in accordance with superannuation law.

Dispute resolution

194 If superannuation law requires it, the trustee must establish a system complying with that law for dealing with enquiries and complaints from members, beneficiaries and dependants.

Interpretation

195 A reference in this deed to:

- a statute includes regulations under it and consolidations, amendments, re-enactments or replacements of any of them;
- a person includes a firm, partnership, joint venture, association, corporation or other corporate body;
- a person includes the legal personal representatives, successors and assigns of that person;
- any body which no longer exists or has been reconstituted, renamed, replaced or whose powers and functions have been removed or transferred to another body or agency, whether expressly or impliedly, is a reference to the body which most closely serves the purpose or objects of the first-mentioned body;
- a clause, schedule or appendix is reference to a clause, schedule or appendix in or to this deed;
- this or any other document includes the document as varied or replaced regardless of any change in the identity of the parties;
- the singular includes the plural and vice versa; and
- a gender includes the other gender.

Proper law

196 This deed is governed by the law of Victoria. The parties consent to the exercise of jurisdiction by the courts of that place.

Toxiq Super Fund

Schedule 1 to this deed

Date deed established

17 September 2013

Name and address and ACN of trustee

Toxiq Investments Pty Ltd, ACN 165865510
11 Jennifer Court
DERRIMUT, VIC 3030

Name and address of members

Qui Qeen Xi
11 Jennifer Court
DERRIMUT, VIC 3030

Hoa Viet To
11 Jennifer Court
DERRIMUT, VIC 3030

Name of person establishing the fund (Principal)

Hoa Viet To
11 Jennifer Court
DERRIMUT, VIC 3030

{The fields in all of the following schedules to this deed are left intentionally 'blank' as the schedules are to be used as 'pro-forma' documents if the fund wishes to add members etc. in the future. These schedules are to be bound in and form part of this Deed.}

Schedule 2 to this deed

Application to become a Member

This Application Form contains your Death Benefit Nomination and undertakings which must be made by you. It is also accompanied by the Product Disclosure Statement relevant to the fund contained in Annexure A.

Part 1 Application and Undertakings

- I apply to become an [*Either* initial *Or* additional] member of this fund under the trust deed.
- I make each of the following undertakings:
 - [*Either* I am not in an employment relationship with another member. *Or* I am not in an employment relationship with another member who is not a relative of mine.]
 - I am not a disqualified person under superannuation law from being a [*Either* trustee *Or* director of the trustee] of the fund.
 - I will comply with the trust deed.
 - Upon request, I will fully disclose in writing any information required by the trustee in respect of my membership of the fund. This includes disclosing:
 - Any circumstance which may lead to my entering into an employment relationship with any other member of the fund who is not also a relative of mine.
 - That I may become disqualified under superannuation law from being a [*Either* trustee *Or* director of the trustee] of the fund.
 - Any information in relation to my medical condition.
 - I will act as a [*Either* trustee *Or* director of the trustee] of the fund.
 - I understand the trust deed, particularly its terms concerning the benefits payable under it, and I have read and understood the attached Product Disclosure Statement, annexed and marked 'A'.
 - I have read and understand the prescribed information relating to the collection of Tax File Numbers by the trustees of superannuation funds.

I attach a completed ATO Individual Tax File Number Notification form.

Applicant name [Insert applicant's name]
 Applicant address [Insert applicant's address]
 Applicant occupation [Insert applicant's occupation]
 Date of birth [Insert applicant's date of birth]
 Applicant place of birth [Insert applicant's place of birth]

Part 2: Death Benefit: Beneficiary Nomination

If death benefit nomination is to be binding This is a binding death benefit notice. By completing and signing it you are requiring the trustee to provide any benefit payable on or after your death to the person or persons you mentioned in this notice, being one or more dependants or your legal personal representative. *Or If death benefit notice is to be non binding* This is a direction to the trustee as to how to apportion any benefit payable on your death. It is a non binding death benefit notice and the trustee retains the discretion as to how to apply any benefit payable on your death.

I direct [Either the trustees Or the directors of the trustee] that the person[s] named in the following table [are/is] to receive the proportions specified in that table of the benefit that is payable if I die.

Person	Relationship to member	Proportion of death benefit
[Insert beneficiary's name]	[Insert beneficiary's relationship to member]	[Insert proportion of the death benefit to be paid to this person] %
[Add rows to table as required]		

[If death benefit nomination is to be binding (Please note, that this beneficiary direction is valid for only 3 years.)]

Signed by the applicant: _____

Date: _____

[Insert member's name]

[If the death benefit is not binding]

Witness: _____ Name: _____

Or

If the death benefit is to be binding The following persons declare that:

- they are 18 years of age or older;
- they are not persons otherwise mentioned in this notice; and
- this form was signed by or on behalf of the member in their presence.

Date: _____ Date: _____

Witness: _____ Witness: _____

Witness name: _____ Witness name: _____

First Notice: The types of death benefit arrangements and the order in which they take effect

The Fund's Deed allows three types of death benefit payment arrangements. They, and the order in which they take effect, are as follows:

- **death benefit agreement** — which binds the trustee and which does not expire, see clauses 96 and 97;
- **binding death benefit notices or binding nomination forms** — which bind the trustee but which expire after 3 years or earlier if replaced or revoked; and
- **non-binding nomination forms** — which do not bind the trustee but which do not expire until replaced or revoked.

Death benefit agreements take priority over binding death benefit notices and non-binding nomination forms.

What you need to consider

When you, as a member, are considering signing a binding death benefit notice or a non-binding nomination form it is important to consider that:

- a death benefit agreement *takes priority* over any binding death benefit notice or any non-binding nomination form;
- to the extent permitted by superannuation law, the trustee must pay or apply the relevant benefit in accordance with the death benefit agreement. Therefore if you sign a binding death benefit notice or a non-binding nomination form, then they will have no effect on any earlier or later death benefit agreement that you sign; and
- if any part of a death benefit agreement is invalid, then the trustee (as required by the Fund's deed) will pay or apply the "invalid" part of the death benefit in accordance with any binding death benefit notice, or by reference to any non-binding nomination form, you have signed.

Second Notice: Consistency of death benefit arrangements with pension terms

It is important to consider how any death benefit nomination or death benefit agreement interacts with the arrangements for payment of a pension to a reversionary beneficiary. The terms of the pension, and the terms of the death benefit nomination or death benefit agreement should be considered together.

For instance, if the pension terms require an automatic reversionary pension, then the death benefit nomination or death benefit agreement has no effect in relation to that pension. If the member wants to ensure all these arrangements – under pension terms, a death benefit nomination or death benefit agreement – are consistent, or to deliberately vary from one to the other, then careful drafting is required and the member should seek professional advice.

Annexure A to Application to become a member

[Here you need to attach the Product Disclosure Statement from Schedule 6.]



Schedule 3 to this deed

Application to become Participating Employer

[Insert name and address, and ACN if applicable, of applicant] applies to become a participating employer in the Toxiq Super Fund. The applicant agrees to comply with the trust deed.

Signed by the applicant's authorised officer

_____ Date: _____
[Name of authorised officer]

Annexure A to Application to become Participating Employer

[Here you need to attach the Product Disclosure Statement from Schedule 6.]

Schedule 4 to this deed

Application to become an Employer-Sponsor

This Application form is accompanied by the Product Disclosure Statement relevant to the fund contained in Annexure A.

[Insert name and address, and ACN if applicable, of applicant] applies to become an employer-sponsor of the *[name of fund]*. The applicant agrees to comply with the trust deed.

Signed by the applicant's authorised officer

_____ Date: _____
[Name of authorised officer]

Annexure A to Application to become an Employer-Sponsor

[Here you need to attach the Product Disclosure Statement from Schedule 6.]

Schedule 5 to this deed

Application to become a member (if member is a minor)

This Application Form contains your Death Benefit Nomination and undertakings which must be made by you. It is also accompanied by the Product Disclosure Statement relevant to the fund contained in Annexure A.

Part 1 Application and undertakings

- I apply, as the parent or guardian of, and on behalf of, the person listed below (**Applicant**), that the Applicant become an initial member of this fund under the trust deed.
- I make each of the following undertakings:
 - *[Either* The Applicant is not in an employment relationship with another member.
Or The Applicant is not in an employment relationship with another member who is not a relative of the Applicant.]
 - I am not disqualified under superannuation law from being a *[Either trustee Or* director of the trustee] of the fund.
 - I will comply with the trust deed.
 - Upon request, I will fully disclose in writing any information required by the trustee in respect of the Applicant's my membership of the fund. This includes disclosing:
 - Any circumstance which may lead to the Applicant entering into an employment relationship with any other member of the fund who is not also a relative of the Applicant.
 - That I may become disqualified under superannuation law from being a *[Either trustee Or* director of the trustee] of the fund.
 - Any information in relation to the Applicant's medical condition.

[If the parent or guardian is NOT also separate member of the fund in their own right, then]

- *[Either* I will act as a trustee of the fund. *Or* I will act as a director of the trustee of the fund.]

[If the parent or guardian IS a separate member of the fund, then]

- *[Either* I am a member of the fund myself and I will act as a trustee of the fund.
Or I am a member of the fund myself and will act as a director of the trustee of the fund.]
- I understand the trust deed, particularly its terms concerning the benefits payable under it, and I have read and understood the attached Product Disclosure Statement, annexed and marked 'A'.
- I have read and understand the prescribed information relating to the collection of Tax File Numbers by the trustees of superannuation funds.

In consideration of the Applicant's status as a minor, I have not attached a completed ATO Individual Tax File Number Notification form.

Applicant name [Insert applicant's name]
 Applicant address [Insert applicant's address]
 Applicant occupation [Insert applicant's occupation]
 Date of birth [Insert applicant's date of birth]
 Applicant place of birth [Insert applicant's place of birth]
 Parent or guardian name [Insert parent or guardian's name]
 Parent or guardian address [Insert parent or guardian's address]
 Parent or guardian date of birth [Insert parent or guardian's date of birth]
 Parent or guardian place of birth [Insert parent or guardian's place of birth]

Part 2: Death Benefit: Beneficiary Nomination

If death benefit nomination is to be binding This is a binding death benefit notice. By completing and signing it you are requiring the trustee to provide any benefit payable on or after the Applicant's death to the person or persons you mentioned in this notice, being one or more of the Applicant's dependants or the Applicant's legal personal representative. *Or If death benefit notice is to be non binding* This is a direction to the trustee as to how to apportion any benefit payable on the Applicant's death. It is a non binding death benefit notice and the trustee retains the discretion as to how to apply any benefit payable on the Applicant's death.

On behalf of the Applicant, I direct [*Either the trustees Or the directors of the trustee*] that the person[s] named in the following table [*are/is*] to receive the proportions specified in that table of the benefit that is payable if I die.

Person	Relationship to member	Proportion of death benefit
[Insert beneficiary's name]	[Insert beneficiary's relationship to member]	[Insert proportion of the death benefit to be paid to this person] %
[Add rows to table as required]		

If the death beneficiary nomination is binding (Please note that this beneficiary direction is valid for only 3 years.)

Signed by the
parent/guardian: _____

Date: _____

[Insert parent or guardian's name]

[If the death benefit is not binding]

Witness: _____ Name: _____

Or

If the death benefit is to be binding The following persons declare that:

- they are 18 years of age or older;
- they are not persons otherwise mentioned in this notice; and
- this form was signed by or on behalf of the member in their presence.

Date: _____ Date: _____

Witness: _____ Witness: _____

Witness name: _____ Witness name: _____

Witness name: _____ Witness name: _____

First Notice: The types of death benefit arrangements and the order in which they take effect

The Fund's Deed allows three types of death benefit payment arrangements. They, and the order in which they take effect, are as follows:

- **death benefit agreement** — which binds the trustee and which does not expire, see clauses 96 and 97;
- **binding death benefit notices or binding nomination forms** — which bind the trustee but which expire after 3 years or earlier if replaced or revoked; and
- **non-binding nomination forms** — which do not bind the trustee but which do not expire until replaced or revoked.

Death benefit agreements take priority over binding death benefit notices and non-binding nomination forms.

What you need to consider

When you, as a member, are considering signing a binding death benefit notice or a non-binding nomination form it is important to consider that:

- a death benefit agreement *takes priority* over any binding death benefit notice or any non-binding nomination form;
- to the extent permitted by superannuation law, the trustee must pay or apply the relevant benefit in accordance with the death benefit agreement. Therefore if you sign a binding death benefit notice or a non-binding nomination form, then they will have no effect on any earlier or later death benefit agreement that you sign; and
- if any part of a death benefit agreement is invalid, then the trustee (as required by the Fund's deed) will pay or apply the "invalid" part of the death benefit in accordance with any binding death benefit notice, or by reference to any non-binding nomination form, you have signed.

Second Notice: Consistency of death benefit arrangements with pension terms

It is important to consider how any death benefit nomination or death benefit agreement interacts with the arrangements for payment of a pension to a reversionary beneficiary. The terms of the pension, and the terms of the death benefit nomination or death benefit agreement should be considered together.

For instance, if the pension terms require an automatic reversionary pension, then the death benefit nomination or death benefit agreement has no effect in relation to that pension. If the member wants to ensure all these arrangements – under pension terms, a death benefit nomination or death benefit agreement – are consistent, or to deliberately vary from one to the other, then careful drafting is required and the member should seek professional advice.

Annexure A to Application to become a Member (where member is a minor)

[Here you need to attach the Product Disclosure Statement from Schedule 6.]

Schedule 6 to this deed

Form of Product Disclosure Statement

Product Disclosure Statement

Toxiq Super Fund

[Date]

[Name of member]

[Address of member]

[Contact details of member – PDS may be sent by email, fax or post]

[Name of trustee or trustees]

[Address]

[Contact details]

The details of the Product Disclosure Statement (PDS) start on the next page. Attach that page and the following pages of the PDS to the Member Application form and to any Employer-Sponsor Application form.

Introduction

This PDS contains a summary of the important provisions of the fund's deed and the effects which those provisions may have on you. The *Corporations Act* requires that you be given this PDS within 3 months after you become a member of the fund.

If you have any questions at any time, you should refer those to the trustee. However, the trustee can only provide you with information – so you will need to seek your own legal, accounting and financial advice.

Terms which are capitalised in this PDS are either defined in the fund's deed or are contained in Schedule 1.

You should consider getting professional advice about the fund

Your decision to become a member of the fund is important and involves issues including retirement planning, estate planning, taxation, and social security. The trustee strongly recommends that you consider consulting an appropriately qualified adviser before you decide to become a member or to have contributions made to the fund on your behalf.

This PDS is prepared for your general information only and is not, and is not intended to be, a recommendation to become a member of the fund. This PDS does not take into account your investment objectives, financial situation or retirement planning needs. You should not base a decision whether to become a member solely on the information in this PDS. You need to consider,

and obtain advice on, the suitability of the fund in view of your investment objectives, financial situation and retirement planning needs.

Information about your potential benefits

1 Details of potential lump sum benefits

1.1 On your retirement

On your retirement, you will become entitled to a lump sum benefit, equal to the amount in your Accumulation Account on your retirement. As the definition of retirement in Schedule 1 suggests, there will be some circumstances in which you will become entitled to payment of a retirement benefit while you are still employed or when you retire and have reached the relevant Preservation Age. Your trustee will be able to advise you further in this regard at the relevant time.

1.2 Total and permanent disability

If you become totally and permanently disabled, you may become entitled to a lump sum benefit from your Accumulation Account. Your trustee will be able to advise you further in this regard at the relevant time.

1.3 Temporary total disability

If you become totally disabled temporarily, you may become entitled to payment of a pension or annuity representing the amount:

- decided by the trustee, provided it does not infringe the limit set out in the superannuation law; or
- payable to the trustee under an insurance policy which the trustee may have purchased and which covers the disability you suffer. (Premiums for these insurance policies are generally paid by the trustee from your Accumulation Account but may be paid out of other Accounts of the fund (such as the Income Account)).

1.4 On death

On your death, the trustee may choose to or may be required to pay a pension or lump sum benefit from your Accumulation Account and any pension account to the persons named in your 'Death Benefit: Beneficiary Nomination' (which is on your Application for Membership) or to your dependants. The trustee may have also taken out a life insurance policy for you which may also entitle your dependants, or some other person, to a pension or lump sum benefit. Your 'Death Benefit: Beneficiary Nomination' can be binding or non-binding on the trustee (you can choose). Binding nominations need to be renewed every 3 years.

To overcome the requirement to renew binding nominations every 3 years, you can also choose to implement a 'death benefit agreement' under the fund's deed. The form of death benefit agreement is set out in Schedule 7 to the fund's deed.

Your death benefits will also include any residue in a pension account previously established for you, unless the arrangements in respect of that pension are that the pension will revert on your death to a Pension Dependant.

Generally speaking, you should seek professional advice concerning what plans need to be made in respect of your death benefits and what options are available to you.

The Deed provides for:

- **death benefit agreements** (which binds the trustee and which do not expire, see clauses 96 and 97);
- **binding death benefit notices** (which bind the trustee but which expire after 3 years or earlier if replaced or revoked); and
- **non-binding nomination forms** (which do not bind the trustee and which do not expire until replaced or revoked).

Death benefit agreements take priority over binding death benefit notices and non-binding nomination forms.

What you need to consider

When you, as a member, are considering signing a death benefit agreement, a binding death benefit notice or a non-binding nomination form it is important to consider that:

- a death benefit agreement *takes priority* over any binding death benefit notice or any non-binding nomination form;
- to the extent permitted by superannuation law, the trustee must pay or apply the relevant benefit in accordance with the death benefit agreement. Therefore if you sign a binding death benefit notice or a non-binding nomination form, then they will have no effect on any earlier or later death benefit agreement that you sign; and
- if any part of a death benefit agreement is invalid, then the trustee (as required by the fund's deed) will pay or apply the "invalid" part of the death benefit in accordance with any binding death benefit notice, or by reference to any non-binding nomination form, you have signed.

1.5 Other circumstances

'Severe Financial Hardship' – in the case of severe financial hardship, you may be able to apply to have all benefits owing to you, paid to you by the trustee.

There are certain conditions to be met and the benefits can only be paid to you to meet expenses in the nature of treatment of life-threatening illnesses, prevention of foreclosure under a mortgage, medical transport costs, palliative care costs and so on.

2 Details of potential income benefits

Income benefits where you retire or reach your preservation age

When you become entitled to payment of a **lump sum benefit**, the trustee may allow you to choose to receive that lump sum in the form of regularly paid income. This is called a pension. The fund can only provide you with an 'account-based pension'.

The rules for an 'account-based pension' include:

- **Minimum annual amount:** a minimum amount of the capital funding the pension must be paid to the pensioner each year. The minimum, which is expressed as a percentage of the capital, is determined by reference to the pensioner's age. You should speak to your adviser about relief from minimum pension payment amounts as the government does provide relief from time to time.
- **No maximum:** there will be no maximum amount that can be paid in a year, reflecting the fact that pensions and lump sums will be taxed in the same way. RBLs do not apply from 1 July 2007.
- **But a maximum for transition to retirement pensions:** pensioners being paid a transition to retirement pension will only be able to be paid a maximum of 10% of the capital per annum.
- **Transfer on death:** on death, the pension may only be transferred to a Pension Dependant or cashed as a lump sum to the pensioner's dependants or estate.

Existing pensions

If this PDS is being provided as a consequence of an update to the fund's existing deed, and the fund is presently paying you a pension, then:

- the pension will be deemed to meet the current rules provided that it was commenced before 20 September 2007 in accordance with the rules that applied at that time;
- if the pension is a complying pension (such as a life pension) then it will only be able to be terminated pursuant to the rules as they were in force before 1 July 2007; and
- if the pension is an allocated pension then it may be transferred to an 'account-based' pension without having to first be commuted.

Social Security Eligibility

Your eligibility for a government age pension is means tested.

The assets test reduces the amount of any aged pension payments to which a member may be eligible by \$1.50 per fortnight for every \$1,000 of the member's assets. This will

give you a part pension, which will reduce to zero once your assets reach the amount set out in the current asset tables specified by the Government. The current asset tables are available [here](#).

Income benefits where you may not have retired but you have reached your preservation age.

In some circumstances, you may be able to be paid a pension before you actually retire but after you have reached your preservation age. In the fund's deed these are referred to as 'Transition to retirement pensions'.

2.1 Transition to retirement pensions

Once you reach your preservation age you may still be restricted from accessing your superannuation benefits (because, for instance, you may not have retired). However, once you reach your preservation age you may access a non-commutable pension, or what the fund's deed refers to as a transition to retirement pension.

So you may receive an 'account-based' pension as a 'transition to retirement pension', but additional restrictions apply if you want to commute (or cash out) that pension. Essentially the transition to retirement pensions are 'non-commutable' but there are some very limited exceptions. If you are interested in a transition to retirement pension, you should discuss this in detail with the trustee before requesting the payment of such a pension.

3 Taxation of benefits

3.1 Seek advice

This section is general only. You must seek professional advice concerning your own circumstances and how tax will impact on your participation in the fund and on amounts payable to you.

3.2 Benefits paid to you

Superannuation benefits paid to persons **aged less than 60** are taxed as follows:

- **Lump sum benefits** have two components: an exempt component and a taxed component. The exempt component is tax free (it includes amounts such as pre-1983 contributions and undeducted contributions). The taxed component is tax free up to a low rate threshold (initially in 2008-2009 \$145,000, in 2010-2011 \$160,000, in 2011-2012 \$165,000, in 2012-2013 \$175,000). After that threshold, it is taxed at 16.5% (incl Medicare levy) — except where the recipient is aged less than 55, in which case the whole taxed component is taxed at 21.5% (incl Medicare levy).
- **Pension benefits** are taxed in a similar manner to lump sums at the moment, though overall tax can be less in some circumstances. Once the recipient turns 60, the pension is tax free.
- **Proportional drawdown:** In both cases, payments are deemed to include both exempt and taxable components, paid in proportion to the amount these components constitute of the recipient's total benefit.

3.3 Death benefits

Benefits paid in the event of your death are taxed as follows:

- **Lump sum benefits** to a member's dependant are tax free, as long as they are also a death benefits dependant as defined in section 302-195 of the ITAA97. Lump sum benefits paid to a dependant (who is not a death benefits dependant for ITAA97 purposes) have the taxable component taxed at 16.5% (incl Medicare levy).
- **Reversionary pensions** are taxed according to the age of the primary and reversionary beneficiaries. If the primary beneficiary was aged 60 or over at the time of death, then the payments to the reversionary will be tax free. If the primary beneficiary was aged less than 60, then the payments will be taxed at the reversionary beneficiary's marginal tax rate until the reversionary turns 60 (then it will be tax-free). However, a reversionary pension will only be payable to a Pension Dependant. Also a pension paid to a Pension Dependant who is a child will have to be cashed to a lump sum when the child turns 25 (unless they're permanently disabled).
- Pensions can only revert to a Pension Dependant: simply being a dependant is not sufficient. Therefore, these benefits must be paid as a lump sum to a dependant or the member's estate.

Information about risks associated with the fund

4 Details of risks: General

The assets of the fund must be invested in accordance with an appropriate investment strategy as devised by the trustee. Although the trustee decides on an investment strategy aimed at increasing the value of the fund's assets, this value can be reduced by movements in the underlying value of the fund's assets, for instances movement in share or property prices. This may mean the value of the assets held in the fund for your benefit, or to pay you a pension, may be reduced. Indeed, if the performance of the fund's assets is very poor, the value of the assets held in the fund for your benefit, or to pay you a pension, may be less than the value of the contributions made to the fund on your behalf. Poor investment performance may also affect the trustee's capacity to make payments to you or to sustain the level of payments made to you. More information about risks associated with the fund borrowing in order to invest are set out under "Investment of fund assets" at paragraph 10 below.

If you choose to receive a pension then the amounts you receive are calculated by reference to the value of the assets in the fund. Therefore, if the value of the assets decreases, there may be a corresponding decrease in benefit or pension amounts payable to you and you effectively bear the risk associated with potentially poor investment performance of those assets. Broadly speaking, 100% of the amount used to fund the pension will be taken into account for the aged pension means test.

Finally, if a benefit payable to you is commuted so that the trustee may purchase:

- an annuity from a third party (such as a life assurance company), then you will have a regular income stream and the associated risk will be born by the third party; or

- an 'account-based' pension from a third party (such as a life assurance company), then the situation is the same as for an 'account-based' pension from the trustee and you effectively bear the risk associated with the variations in the value of the assets which fund the pension.

5 Regulatory Risk

The fund is a self-managed superannuation fund regulated by the ATO. As a member, you will also have to be a trustee, or a director of the corporate trustee. These persons are responsible for ensuring the fund complies with all relevant superannuation laws, as enforced by the ATO.

Serious consequences flow if the fund is operated in a manner inconsistent with these rules. The consequences include prosecution by the ATO or a determination by the ATO that the fund is non-complying, with the result that the concessional tax treatment of the fund ends.

You must ensure that you are familiar with, and understand these rules. If you are not confident of this, then you should seek professional advice as to whether you will be in a position to comply with these obligations on joining the fund as a member.

Information about amounts paid to the fund for or by you

6 Contributions

If you have an employer, who is an Employer-Sponsor or a Participating Employer of the fund, then they must contribute a certain portion of your income to the fund. In this situation, contributions made personally by you are unlikely to be deductible for taxation purposes although if you are on a smaller wage, you may be entitled to a co-contribution from the Federal Government (that is, the Government will match your payments to set units in certain circumstances which are described generally under "Superannuation co-contributions" below).

If you are unemployed or self-employed, then you may make contributions to the fund yourself. These contributions are deductible for tax purposes, subject to the caps discussed immediately below.

Alternatively you may make contributions, or another person may make contributions on your behalf.

Superannuation co-contributions

You will be eligible to receive a co-contribution from the Federal Government if you satisfy the following criteria:

- you make a personal super contribution by 30 June of a financial year;
- your total income is less than the prescribed amount (\$61,920 for the 2011-2012 financial year). The Government has announced that it will freeze this amount for the 2012 to 2013 financial year— for updates on this announcement see the ATO's Updates [here](#));
- 10% of your income is from employment sources, such as an employer or running your own business;
- you are 71 years or younger; and
- you lodge your income tax return.

If you are eligible, the Federal Government will match the value of your personal super contributions up to certain thresholds, which can be found [here](#).

Tax on concessional contributions: A tax of 15% applies to superannuation contributions by individuals who receive an annual income up to \$300,000. From 1 July 2012, if an individual's income is \$300,000 or greater, the tax levied on their contributions is 30%. You should seek advice concerning what amounts are included in your income for the purposes of this assessment.

Caps on concessional contributions: This paragraph sets out the cap for the 2013-2014 financial year. You may make, or have made on your behalf, up to \$25,000 in concessional contributions (they used to be referred to as 'deductible contributions') in a year across all of your superannuation accounts. Concessional contributions are taxed at 15%. Members aged 50 years or over in the 5 years from 1 July 2007 (and who are eligible to contribute to super) may make, or have made on their behalf, up to \$50,000 per annum in concessional contributions for the 2009-2010, 2010-2011 and 2011-2012 financial years. These concessional contributions are only available until 30 June 2012, after which date the figure will revert to \$25,000 for all taxpayers. From 1 July 2013, members aged 59 years or over as at 30 June 2013 (and who are eligible to contribute to super) may make, or have made on their behalf, up to \$35,000 per annum in concessional contributions. From 1 July 2014, members aged 49 years or over as at 30 June 2014 (and who are eligible to contribute to super) may make, or have made on their behalf, up to \$35,000 in concessional contributions. Generally, concessional contributions can only be made by employers or persons who are self-employed.

From 1 July 2013, members who exceed their concessional contributions cap will be able to withdraw any excess concessional contributions from the fund and have the excess amount taxed at the member's marginal tax rate (plus an interest charge for the late payment of income tax).

Caps on non-concessional contributions: This paragraph sets out the cap for the 2012-2013 financial year and the cap may then be indexed from year to year (you will need to check this at the relevant time). You are entitled to make up to \$150,000 in non-concessional contributions (they used to be referred to as 'non-deductible contributions' and are contributions that are made from money on which you have already paid applicable income tax) in a year across all of your superannuation accounts.

In addition, if you are under 65 and eligible to contribute to super, then you may bring forward two years of contributions and contribute \$450,000 of non-concessional contributions in one year, and not make any contributions for the following two years.

Contributions-splitting

Spouses may split superannuation contributions between them. Contributions-splitting allows members to ask the trustee to transfer certain contributions made after 1 January 2006 (**Splittable contributions**) made in respect of the member to the superannuation fund, or account of that member's spouse.

The contributions splitting applications must be lodged with the fund by 30 June in the financial year.

At present, the split can only take place in respect of splittable contributions made in the previous financial year.

Information about amounts deducted from the fund

7 Debits from your Accumulation and Pension Accounts

The trustee can make deductions from your Accumulation or Pension Accounts to, for example, meet the fund's expenses, to pay taxes (or to set aside for anticipated taxes), to pay for an insurance policy or Annuity premiums or to pay an amount from your Pension Account to your Accumulation Account or vice versa.

8 Other application of income

The trustee also:

- maintains an income account: This is a general account of the fund and does not relate to a specific member. Amounts such as the income and profits of the fund or proceeds of insurance policies (which the trustee decides not to pay to a member or beneficiary) are paid into this account. From this income account the trustee can make payments to your Accumulation Account, but it may also make deductions from the income account to:
 - pay the expenses of the fund;
 - pay taxes due and payable, or likely to become due and payable;
 - pay costs of insurance policies;
 - meet losses suffered on disposal of an asset of the fund and so on.
- may maintain an Equalisation Account: This is also a general account of the fund. The trustee may decide to pay amounts into this account to:
 - smooth the investment earnings of the fund (that is, to even out years of good growth and performance with years of poor growth and performance);
 - provide for tax liabilities;
 - pay fund expenses;
 - otherwise provide for contingencies of the fund.

The trustee is not permitted to charge fees in relation to the services it provides to the fund.

Other significant information about the fund

9 Preservation Age

Set out below are the Preservation Ages relevant to members of the fund:

- for a person born before 1 July 1960 – 55 years
- for a person born during the year 1 July 1960 to 30 June 1961 – 56 years
- for a person born during the year 1 July 1961 to 30 June 1962 – 57 years
- for a person born during the year 1 July 1962 to 30 June 1963 – 58 years
- for a person born during the year 1 July 1963 to 30 June 1964 – 59 years
- for a person born after 30 June 1964 – 60 years.

10 Investment of fund assets

The trustee is permitted to make a wide range of investments provided that they accord with the trustee's investment strategy. The trustee is required to establish an investment strategy or strategies, outlining how the assets of the fund will be invested. The trustee

can alter the strategy or strategies provided they remain appropriate. If the trustee offers more than one strategy, you may choose the appropriate strategy but you cannot choose the investments the trustee is to make within the strategy.

The trustee cannot loan money from the fund to a member or a member's relative.

The trustee may borrow money to make any investment — but only in restricted circumstances. In such cases:

- the only fund asset that may be used as security for the borrowing is the asset that the fund is acquiring with the borrowed money;
- the asset acquired must be an asset which the fund could ordinarily and lawfully acquire (for example, the fund is prohibited from acquiring assets which do not satisfy the sole purpose test in section 62 of the SIS Act – this stays the same even though the fund is borrowing to acquire the asset);
- the terms on which the asset is acquired must meet strict requirements set out in superannuation law.

The risks associated with any investment (as described generally under "Details of risks: General" at paragraph 4 above) increase when made using borrowed money. You should always obtain professional advice before making any such investment.

11 Valuation of fund assets

The Trustee will ensure that the fund's assets are valued at their market value. Market value has the same meaning as in the SIS Act.

12 Taxation

12.1 Income of the fund

For tax purposes, the fund's income is divided into 2 components:

- **Special Component:** which includes the fund's special income (income such as private company distributions, non arms-length income, trust distributions), reduced by tax deductions relating to that special income.
- **Standard Component:** which is the total of all fund income, less the Special Component.

The Standard Component is taxed at the concessional rate of 15% in the hands of the trustee. The Special Component is taxed at the rate of 45%.

12.2 Pension earnings

In April 2013, the Federal Government announced that, with effect from 1 July 2014, earnings on superannuation assets supporting income streams (that is, pensions and annuities) will be tax free up to a threshold of \$100,000 in a year. Any earnings above \$100,000 will be taxed at the rate of 15%. This threshold will apply to each individual member, rather than to the capital supporting each pension or income stream held by that member.

12.3 Contributions

Contributions to the fund (made by your employer, yourself, your spouse, etc) are generally treated as contributions of capital and will not be included in the fund's Income. However, if the person making a contribution is entitled to a tax

deduction in relation to that contribution, then the contribution will usually be treated as fund Income and will be taxed as outlined in paragraph 12.1 above.

Information about the deductibility of contributions is in paragraph 6 above.

12.4 **Surcharge on High Income Earners**

With effect from 1 July 2005 the superannuation contributions surcharge was abolished in respect of all contributions made **on or after 1 July 2005**. However it still applies to contributions made before that date. From 1 July 2012 individuals with income of \$300,000 or more will be subject to a contributions tax of 30% on concessional contributions made to superannuation. You should seek advice concerning what amounts are included in your income for the purposes of this assessment.

12.5 **Low Income Spouse Rebate**

If a person makes a contribution on behalf of a member who is their low income (or no income) spouse, the person making the contribution may be entitled to a tax rebate.

Spouse's Assessable Income (AI)	Maximum Rebatable Contributions (MRC)	Maximum Rebate (18% of the lesser of)
\$0 - \$10,800	\$3,000	MRC or actual contributions
\$10,801 to \$13,799	\$3,000 – (AI - \$10,800)	MRC or actual contributions
\$13,800	\$0	\$0

For example, if the spouse's assessable income is \$5,000, the maximum amount of contributions which are rebatable is \$3,000. If actual contributions were \$2,700, then the rebate would be $18\% \times \$2,700 = \486 .

The current low-income spouse rebate figures, and other key superannuation rates, can be confirmed at:

<http://>

www.ato.gov.au/super/content.asp?doc=/content/60489.htm&mnu=26961&mfp=001/006; and

<http://www.ato.gov.au/individuals/content.asp?doc=/content/19144.htm>.

13 **Insurance**

As part of its investment strategy, the trustee will consider whether to hold a contract of insurance that provides insurance cover for one or more members of the fund.

14 **The fund deed**

The fund deed is written in plain English. Provisions that are not relevant to the particular fund of which you are a member have been excluded. For example, if individuals are

trustees of the fund, then all provisions relevant to a company being a trustee of the fund have been removed. Therefore, if a company is later appointed as trustee, the fund deed will have to be varied to include the relevant provisions.

You should read the trust deed and seek professional advice if you do not understand it.

15 Other considerations concerning investments made by the fund

The trustee is required to inform you of whether labour standards or environmental, social or ethical considerations are, or will be, taken into account when the trustee selects, retains or realises an investment. At this stage, the trustee does not take any such considerations into account. However, the trustee is obviously free to incorporate this into its investment strategy if it sees fit.

16 Contacting the trustee for additional information

If at any time you require further information including information concerning the fund, the fund deed, the fund's performance or your rights as a member, you can contact the trustee using the contact details at the beginning of this PDS.

Product Disclosure Statement – Schedule 1

Definitions

Where a term is capitalised in this PDS, the meaning is either explained below or is explained in the trust deed:

Accumulation Account means the account established for you by the trustee. Each member of the fund has an Accumulation Account, into which are paid that member's contributions or contributions made on behalf of that member, as well as other amounts specific to that member (such as the proceeds of an insurance policy taken out by the trustee for your benefit).

Annuity means what it means under superannuation law. Essentially, it refers to a financial product which is purchased by providing a lump sum (capital) to the financial product supplier who undertakes to pay you an income for a specified time. Unlike a pension, the capital disappears when you purchase the annuity and you receive a contractual right to receive income.

Commute has the same meaning as under superannuation law. Generally, it refers to when a right to receive a **regular payment** (like pension or annuity payments) is converted into the right to receive a **lump sum payment**.

Dependant – in relation to a member, former member or beneficiary (the 'primary person'), means each of the following:

- the spouse or widow or widower of that primary person.
- any child of that primary person, including a person who, in the trustee's opinion, is or was actually maintained by the primary person as the child of the primary person.
- any person with whom the primary person has an interdependency relationship.
- any other person who, in the trustee's opinion, was substantially dependent on the primary person at the relevant time.

Pension refers to a financial product which is purchased by providing a lump sum (capital) to the financial product supplier, who invests the lump sum, manages that investment, and pays you a regular income from the proceeds of those investments. As well as paying you the proceeds of the investments, the financial product supplier may include in your payments part of the initial capital you contributed.

Pension Dependant means a dependant of a member to whom a pension may be paid on the member's death, as defined by regulation 6.21(2A) of the SIS Regulations.

Preservation Age means what it means under superannuation law. Essentially it is the minimum age after which your benefit arising from a preserved payment may be paid to you. Those ages are set out in paragraph 9 above.

Preserved Payment means a payment made to the fund which is required to be preserved under superannuation law if the fund is to be a complying superannuation fund.

Retirement occurs:

- if you have reached a Preservation Age less than 60, and
 - an arrangement under which you were gainfully employed comes to an end; and

- the trustee is reasonably satisfied that you never intend to become gainfully employed (either full time or part time); or
- if you have reached age 60 and an arrangement under which you were gainfully employed has come to an end and either of the following circumstances apply;
 - you have attained that age on or before ending employment; or
 - the trustee is reasonably satisfied that you never intend to become gainfully employed (either full time or part time).

Superannuation Contributions Surcharge means an amount which you may be liable to pay if your taxable income is greater than the relevant superannuation surcharge level for a year of income.

Schedule 7 to this deed

Death Benefit Agreement – Toxiq Super Fund (Fund)

- 1 This Agreement, executed as a deed, is between the Fund's trustee listed below and the Fund's member listed below.
- 2 This Agreement is an addition to the "Superannuation Trust Deed for a Self-Managed Fund" for the Fund (**Deed**). It has effect in the way described in Part H of that Deed. This Agreement is not a binding death benefit notice given in accordance with regulation 6.17A of the *Superannuation Industry (Supervision) Regulations*. Therefore:
- 2.1 it continues in force until amended or terminated; and
- 2.2 it does not end after 3 years as binding death benefit notices are required to do by the law.
- 3 On execution, this Agreement forms part of the Deed.
- 4 The member directs the trustee that, on the member's death, the persons named in the following table are to receive the proportion specified in that table of any benefit that is payable:

Person	Relationship to member	Proportion of death benefit
[Insert beneficiary's name]	[Insert beneficiary's relationship to member]	[Insert proportion of the death benefit to be paid to this person] %
[Add rows to table as required]		
Total (which must total to 100%)		100%

- 5 The trustee consents to acting on this direction as evidenced by it executing this Agreement.
- 6 If compliance with superannuation law prevents any part of the benefit being paid to the named person, then that part of the benefit will be dealt with under Part H of the Deed.
- 7 The parties agree that:
- 7.1 the member may terminate this Agreement by serving a notice terminating the Agreement on the trustee;
- 7.2 this Agreement may be replaced by the trustee and the member executing a later death benefit agreement at which time this Agreement terminates; and
- 7.3 this Agreement is not terminated, varied or otherwise affected by any variation to the Fund's Deed from time to time, unless the trustee and the member expressly agree to the contrary.

[If the Fund's trustee is a company:

- 8 The details of the trustee are:
- 8.1 Trustee Company Name:
 - 8.2 Trustee ACN:
 - 8.3 Trustee Address:
.....

- 9 The member is:
- 9.1 Member's name and address:
.....
.....

[If the Fund's trustees are individuals:

- 10 The trustees are:
- 10.1 Trustee 1 Name and address:
.....
.....
 - 10.2 Trustee 2 Name and address:
.....
.....
 - 10.3 Trustee 3 Name and address:
.....
.....
 - 10.4 Trustee 4 Name and address:
.....
.....

- 11 The member is:
- 11.1 Member's name and address:
.....
.....

Executed by the parties as a deed:

Dated: _____

Signed sealed and delivered by
[Insert name of member making death benefit
arrangements]
in the capacity of member in the presence of:

Signature of witness

Signature of member

Name of witness (please print)

[If the Fund's trustee is a company and signs under common seal, then it uses this sort of signing clause:

The common seal of null
ACN null
in its capacity as trustee, was affixed in
accordance with section 127(2) of the
Corporations Act 2001 (Cwth) in the presence
of:

Signature of director/Sole director and sole
company secretary

Signature of director/secretary

Name of director/Sole director and sole
company secretary (please print)

Name of director/secretary (please print)

[If the Fund's trustee is a company then use this sort of signing clause:

Executed by
[Insert company name]
ACN [Insert ACN] in its capacity as trustee, in
accordance with section 127(1) of the
Corporations Act 2001 (Cwth):

Signature of director/Sole director and sole
company secretary

Signature of director/secretary

Name of director/Sole director and sole
company secretary (please print)

Name of director/secretary (please print)

[If the Fund's trustees are individuals, then each of them needs one of these signing clauses

Signed sealed and delivered by
[Insert trustee's name]
in the capacity of trustee in the presence of:

Signature of witness

Signature of trustee

Name of witness (please print)

First Notice: The types of death benefit arrangements and the order in which they take effect

The Fund's Deed allows three types of death benefit payment arrangements. They, and the order in which they take effect, are as follows:

- **death benefit agreement** — which binds the trustee and which does not expire, see clauses 96 and 97;
- **binding death benefit notices or binding nomination forms** — which bind the trustee but which expire after 3 years or earlier if replaced or revoked; and
- **non-binding nomination forms** — which do not bind the trustee but which do not expire until replaced or revoked.

Death benefit agreements take priority over binding death benefit notices and non-binding nomination forms.

What you need to consider

When you, as a member, are considering signing a binding death benefit notice or a non-binding nomination form it is important to consider that:

- a death benefit agreement *takes priority* over any binding death benefit notice or any non-binding nomination form;
- to the extent permitted by superannuation law, the trustee must pay or apply the relevant benefit in accordance with the death benefit agreement. Therefore if you sign a binding death benefit notice or a non-binding nomination form, then they will have no effect on any earlier or later death benefit agreement that you sign; and
- if any part of a death benefit agreement is invalid, then the trustee (as required by the Fund's deed) will pay or apply the "invalid" part of the death benefit in accordance with any binding death benefit notice, or by reference to any non-binding nomination form, you have signed.

Second Notice: Consistency of death benefit arrangements with pension terms

It is important to consider how any death benefit nomination or death benefit agreement interacts with the arrangements for payment of a pension to a reversionary beneficiary. The terms of the pension, and the terms of the death benefit nomination or death benefit agreement should be considered together.

For instance, if the pension terms require an automatic reversionary pension, then the death benefit nomination or death benefit agreement has no effect in relation to that pension. If the member wants to ensure all these arrangements – under pension terms, a death benefit nomination or death benefit agreement – are consistent, or to deliberately vary from one to the other, then careful drafting is required and the member should seek professional advice.

Superannuation Trust Deed Definitions

Annuity means what it means under superannuation law.

Approved benefit arrangement means an arrangement into which or from which assets of the fund can be transferred without a breach of superannuation law. It includes a roll over fund, a complying superannuation fund, an approved deposit fund and an annuity arrangement.

Approved deposit fund means a fund which is a complying ADF under the Tax Act.

Amount standing to the credit in relation to an accumulation account, includes an amount the trustee decides to pay to that account from the equalisation account (if any).

Assets means the cash, investments and other property of the fund held by the trustee (or by a nominee or custodian for the trustee) on the trusts established by or under this deed, including:

- any amount standing to the credit of the fund on or after the date when this deed commences.
- contributions made by a member.
- contributions made by an employer.
- contributions allowed by this deed that are superannuation lawfully made by another person.
- interest, dividends, distributions, profits and other benefits of any kind arising from investments and accumulation of income.
- the proceeds of any annuity or insurance policy effected by the trustee.
- the value of any annuity or insurance policy effected by the trustee.
- money, investments and other property received by the trustee as a roll over payment.
- shortfall components and financial assistance received by the trustee.

ATO release authority means a written authority given by the Commissioner of Taxation to the trustee to release funds in accordance with section 292-410 of the Tax Act.

Beneficiary means a person immediately and absolutely entitled to a benefit under this deed in respect of a member. It does not include a member except where that member is immediately and absolutely entitled to a benefit under this deed in respect of another member.

Benefit means an amount payable out of the fund to or in respect of a member or beneficiary.

Benefit entitlement means an amount in the fund which may become payable to a member, dependant or beneficiary, but to which that person has not become absolutely entitled. It includes a contingent right to payment.

Binding death benefit notice means a notice given by a member or beneficiary to the trustee in accordance with regulation 6.17A of the SIS Regulations and with this deed.

Business day means Monday to Friday excluding public holidays in the state or territory identified in clause 196.

Business hours means between 9:00 am and 5:00 pm on a business day.

Cash means what it means under superannuation law.

Complying superannuation fund means a complying superannuation fund under superannuation law.

Contributions means gross contributions made to the fund before tax in accordance with this deed.

Corporation means a constitutional corporation under superannuation law.

Death Benefit Agreement means all, or that part of, an agreement (in the form set out in Schedule 7 to this deed) describing the trustee's obligations concerning the payment of benefits on a member's death which:

- directs the trustee to pay the benefits to a person to whom those benefits may be paid in accordance with superannuation law;
- has been executed by the trustee and the member; and
- has not later been:
 - terminated by the member; or
 - replaced by a separate death benefit agreement with the agreement of the trustee and the member.

Dependant, in relation to a member, former member or beneficiary (the 'primary person'), means each of the following:

- the spouse or widow or widower of that primary person.
- any child of that primary person, including a person who, in the trustee's opinion, is or was actually maintained by the primary person as the child of the primary person.
- any person with whom the primary person has an interdependency relationship.
- any other person who, in the trustee's opinion, was substantially dependent on the primary person at the relevant time.

Doctor means a registered medical practitioner.

Eligible roll over fund means what it means in Part 24 of the SIS Act.

Employee means a person who is an eligible person under superannuation law for the purpose of an employer making contributions in order to avoid a liability for the superannuation guarantee charge under the *Superannuation Guarantee (Administration) Act 1992*.

Employer means what it means under superannuation law and includes a participating employer.

Employment relationship – an employment relationship exists between 2 persons if any of the following applies:

- one person is an employee of the other within the ordinary meaning of that term, or within the meaning of section 15A of the SIS Act, or is taken to be an employee under superannuation law.
- one person is the trustee of a trust of which the other person, or a relative of the other person, is a beneficiary.
- one person is a member of a partnership in which the other person, or a relative of the other person, is either a partner or a director of a body corporate that is a partner.
- one person is a member of a partnership in which the other person, or a relative of the other person, is a beneficiary of a trust, the trustee of which is a partner.

However, an employment relationship does not exist between 2 persons if superannuation law has the contrary effect.

Excess contributions means contributions by or on behalf of a fund member which exceed the annual cap amounts for concessional contributions and non-concessional contributions as defined in sections 292-20 and 292-85 respectively of the Tax Act.

Expenses of the fund means the expenses for which the trustee is entitled to be reimbursed under this deed.

Family Law Act means the *Family Law Act 1975* (Cth).

Fund earning rate means the positive or negative earning rate the trustee determines after taking account of any provision or reserve for future contingencies.

Fund year means the 12 month period ending on 30 June or a substitute date decided on by the trustee. At the beginning of the trust, and at the end of the trust, it means the lesser period ending on that date, or commencing on the following day.

Gainful employment means what it means under superannuation law. It includes gainful employment on a full-time basis and gainful employment on a part-time basis.

Insurance policy means an insurance policy effected on the life of the member or a beneficiary of the member or in respect of the member's or beneficiary's illness, accident or disablement.

Interdependency relationship has the same meaning as in the SIS Act.

Levy means a levy payable by the fund under superannuation law.

Life expectancy means the period which a person is expected to live in addition to their age, calculated in accordance with the life expectancy table published by the Australian Government Actuary.

Market value has the same meaning as in the SIS Act.

Member release authority means a written authority given by a member to the trustee to release funds in accordance with section 292-410 of the Tax Act.

Nominated dependant means a person nominated (except in a death benefit notice) by a member as his or her 'nominated dependant'. The nomination must, in the trustee's opinion, be in accordance with superannuation law.

Non-binding nomination form means a notice given by a member or beneficiary to the trustee in the form set out in Part 2 of Schedule 2, but which does not meet the requirements of regulation 6.17A of the SIS Regulations.

Non-member spouse means a person who is:

- a spouse or former spouse of a member; or
- a Non-Member Spouse within the meaning of that term under Part VIII B of the Family Law Act.

Non-preserved amount means an amount (including a roll over payment) that is payable to or in respect of a member that is not subject to cashing restrictions under superannuation law at the time of payment.

Normal retirement age means 65, or a substitute age that is at least 55 (or, if the trustee is not a corporation, 60) that is accepted or required by superannuation law and is agreed by the trustee.

Participating employer means an employer the trustee admits as a participating employer under clause 46 including the participating employer specified in schedule 1.

Payment flag means an agreement or court order referred to in clause 131.

Payment split means a payment split under Part VIII B of the Family Law Act.

Pension account means a pension account established under clause 86.

Pension age means what it means under superannuation law.

Pension dependant means a dependant of a member to whom a pension may be paid on the member's death, as defined by r6.21(2A) of the SIS Regulations.

Preservation age means what it means under superannuation law.

Preserved payment means a payment made to the fund which is required to be preserved under superannuation law if the fund is to be a complying superannuation fund.

Preserved payment benefit means a benefit arising from a preserved payment.

Regulator means the particular Commonwealth body responsible for the administration of the relevant aspect of superannuation. It may be the Regulator of Taxation, the Australian Prudential Regulation Authority, the Australian Securities and Investments Commission or some other body.

Relative for the purpose of the definition of 'employment relationship' and for the purpose of eligibility to be a director of the trustee, means each of the following in respect of a person:

- a parent, grandparent, child, grandchild, sibling, uncle, aunt, great aunt, great uncle, nephew, niece, first cousin or second cousin of the person;
- another person who has any such relationship to the person by reason of adoption or re-marriage;
- the spouse or former spouse of the person or of any of the persons listed in the previous bullet points.

For any other purpose, means each of the following in respect of a person:

- the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the spouse of the person;
- the spouse of the person or of any person listed in the previous bullet point.

Retires in relation to employment, means retirement for the purpose of the payment of benefits under superannuation law.

Reversionary beneficiary means an eligible dependant for the purpose of superannuation law, including a Pension Dependand, nominated by a pensioner at the commencement of the pension as his or her residuary beneficiary.

Roll over payment includes a transitional employment termination payment made or received by the trustee in accordance with superannuation law and an eligible benefit payment rolled out of or in to a complying superannuation fund.

Securities includes fully paid and partly paid shares, fully paid and partly paid stocks, debentures, notes, bonds, mortgages, options and other similar securities. Neither security nor registration is required.

Self managed superannuation fund means what it means under the SIS Act.

Shortfall component means what it means in section 64 of the *Superannuation Guarantee (Administration) Act* 1992 and regulations made under that Act.

SIS Act means the *Superannuation Industry (Supervision) Act* 1993, as amended from time to time.

SIS Regulations means the *Superannuation Industry (Supervision) Regulations* 1994, as amended from time to time.

Spouse means a person legally married to the member at any time; and a person who is not legally married to the member, but who, in the trustee's opinion, lives or lived with the member on a bona fide domestic basis as the partner of that member.

If there are 2 or more persons who are spouses within this definition, 'spouse' means that person or those persons whom the trustee decides to treat as the spouse or spouses.

Superannuation law means any law of the Commonwealth of Australia including the *Corporations Act* 2001 and the *Social Security Act* 1991, which deals with any aspect of superannuation or taxation in relation to superannuation, or any lawful requirement in relation to the fund by the Commissioner of Taxation, the Australian Taxation Office, APRA, ASIC or any other body that has responsibility in connection with the regulation of superannuation. It includes changes to any superannuation law after the date of this deed. It also includes any proposed law or lawful requirement that the trustee believes may have retrospective effect.

Tax includes any form of taxation, surcharge, levy, duty or other government charge that the trustee is required to pay out of the fund, or a member, former member or beneficiary is required to pay.

Tax Act means the *Income Tax Assessment Act* 1936 or the *Income Tax Assessment Act* 1997, as appropriate, and the regulations made under the relevant Act.

Taxation includes any tax, charge duty or levy of any type paid or payable by the trustee, or by a member, former member or beneficiary, in relation to any part of the fund.

Temporary total disablement means what it means in the relevant policy effected by the trustee.

If there is no such policy, it means total physical or mental disablement that is not total and permanent disablement that makes the relevant member incapable of continuing in the gainful employment that the member was in immediately before the incapacity.

Total permanent disablement means what it means in the relevant policy effected by the trustee.

If there is no such policy, it means such total physical or mental disablement that the trustee is reasonably satisfied that the relevant member is unlikely ever again to be able to engage in gainful employment for which the member is reasonably qualified by education, training or experience.

Transition to retirement pension means a transition to retirement income stream paid as a pension, as defined by r6.01(2) of the SIS Regulations.

Transitional employment termination payment means the same as it means in section 82-130 of the *Income Tax (Transitional Provisions) Act* 1997 (Cth).

Unclaimed benefits means benefits described as 'unclaimed money' under superannuation law.

Unrestricted non-preserved benefit means what it means under superannuation law.

Withdrawal benefit means the minimum benefit that must be paid to a member on withdrawal from the fund under superannuation law.

To the extent that a member's contributions have been applied towards an endowment or whole of life policy, the member's withdrawal benefit is the surrender value of that policy.

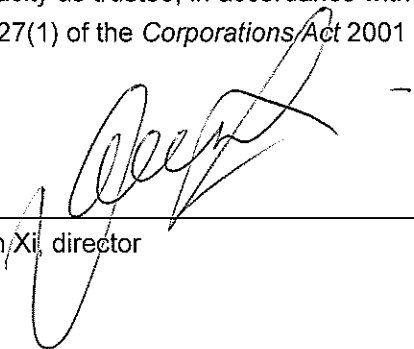


Execution


Executed as a deed.

Dated: 17.09.2013.

Executed by
Toxiq Investments Pty Ltd ACN 165865510,
in its capacity as trustee, in accordance with
section 127(1) of the *Corporations Act 2001*
(Cwth):

x 

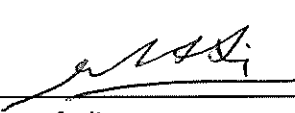
Qui Qeen Xi, director

x 

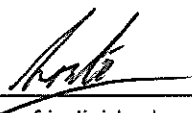
Hoa Viet To, director

Signed sealed and delivered

by Hoa Viet To in the capacity of principal in
the presence of:



Signature of witness

x 

Signature of individual

QUINHAT XI

Name of witness (please print)



PO BOX 9990
Chermside QLD 4032

1,163
09



Australian Government
Australian Taxation Office



THE TRUSTEE FOR TOXIQ SUPER FUND
11 JENNIFER COURT
DERRIMUT VIC 3030

Date of Issue
24 SEP 13

TAX FILE NUMBER ADVICE



Your tax file number (TFN) is:

951 206 223

Keep this notice in a safe place for further reference.

This TFN has been issued either in response to your recent application/enquiry, or at the discretion of the Commissioner of Taxation.

Under the law the Commissioner may issue a TFN as necessary, even if you did not apply for one. This only occurs after we have conducted a comprehensive search of our records and were unable to establish that any TFN belonged to you.

While our TFN searches are comprehensive, we appreciate that you may already have a TFN. If you do already have a TFN please call us on 13 28 66 between 8am and 6pm Monday to Friday so that we may amend our records.

Yours sincerely

Robert Ravanello
Deputy Commissioner of Taxation

PO Box 908
Albury NSW 2640



Australian Government
Australian Business Register



024

THE TRUSTEE FOR TOXIQ SUPER FUND
11 JENNIFER COURT
DERRIMUT VIC 3030

Date of Issue
20 September 2013

Telephone: 13 28 66

Dear Sir/Madam

We have registered you on the Australian Business Register

Your Australian business number (ABN) is **46 785 493 833**.

Your ABN registration is effective as of **17 September 2013**.

Please check that the enclosed ABN details recorded for your business or organisation are correct and advise us if they are not.

Your obligations

You're legally required to ensure your ABN details are kept up-to-date and you must notify the Registrar of any changes to your details within 28 days.

If you have an AUSkey you can update your ABN details online. AUSkey is a secure login that identifies you when you use participating government online services for business. If you don't have an AUSkey you can register at abr.gov.au/auskey. Alternatively, you can update your details by contacting us on **13 28 66** between 8.00am and 6.00pm Monday to Friday.

The Registrar will periodically review your ABN registration. Where there is evidence that you're no longer entitled to hold an ABN your registration may be cancelled. Evidence could include information related to your tax affairs such as not reporting business income or not lodging business activity statements.

If you've indicated that you require endorsement as a deductible gift recipient, income tax exempt fund or tax concession charity, an application will be sent to you shortly.

Starting or running a business

The Australian Government's dedicated business website business.gov.au is a one-stop shop for business information from all levels of government. The website provides a range of free tools including planning templates, checklists and how-to guides to help you work smarter, not harder. Find business information and support the easy way, visit business.gov.au today.

What you need if you phone us

We need to know we're talking to the right person before we can discuss your affairs. We'll ask you for details that only you or someone you've authorised would know. An authorised contact is someone who you've previously told us can act on your behalf. If you can, please have your ABN (which you will find at the top of this letter) with you.

Yours faithfully

Mark Jackson
Deputy Registrar of the Australian Business Register



Australian Business Register

Australian business number(ABN) : 46 785 493 833

Business name : THE TRUSTEE FOR TOXIQ SUPER FUND

ABN Status : Registered

ABN Registration Date : 17 September 2013

Postal Address : 11 JENNIFER COURT
DERRIMUT VIC 3030

Business Address : 11 JENNIFER COURT
DERRIMUT VIC 3030

Type of Entity : Regulated Self Managed Super Fund

Industry Code (ANZSIC) : 63300

Trustee Name : not applicable
(See reverse for additional trustee names.)



ASIC

Australian Securities & Investments Commission

Toxiq Investments Pty Ltd
C/- QUEEN XI & HOA TO
11 Jennifer Court
DERRIMUT VIC 3030

14 - 22 Grey Street, Traralgon
PO Box 4000
Gippsland Mail Centre VIC 3841

Customer Inquiries: 1300 300 630

Facsimile: (03) 5177 3999

ASIC website: www.asic.gov.au

17/09/2013

Dear Company Officeholder

TOXIQ INVESTMENTS PTY LTD
ACN 165 865 510

IMPORTANT INFORMATION

Corporate Key 93657091

We are writing to notify you that a corporate key has been issued for this company. A corporate key is an 8-digit number that is similar to the PIN on a bank account and is used to keep your company information secure.

The corporate key can be used to register for online access to manage your company details. This will allow you to quickly and easily check and update your company details on our records. For further information on how to register for online access see www.asic.gov.au/register-for-access.

If you are lodging forms with us in paper rather than online, some of our forms will require you to provide the corporate key on the form. If the corporate key is not provided, we will not be able to update the company record.

It is your responsibility to keep the corporate key number in a safe and secure location. This is important so that unauthorised persons cannot alter your company details. If at any time you feel that the security of the corporate key has been compromised, company officeholders or authorised registered agents can request a new corporate key. For further information on this process, see www.asic.gov.au/corporatekey.

The corporate key also appears on the top right hand corner of the annual company statement we send on your company's review date (usually the anniversary of your company's registration).

If you require further assistance or information, please visit our website at www.asic.gov.au, or telephone ASIC on 1300 300 630.

Yours faithfully

Margaret Boothman
Senior Manager Registry Services
Registry Services & Licensing



024

Our reference: 7101960791917

THE TRUSTEE FOR TOXIQ SUPER FUND
11 JENNIFER COURT
DERRIMUT VIC 3030

19 September 2013

Please send all future information about your superannuation fund to us

Dear Sir/Madam

We recently received information from you about THE TRUSTEE FOR TOXIQ SUPER FUND.

You have chosen to make this a regulated self-managed superannuation fund (SMSF). As we are responsible for regulating this type of fund, all future information you provide about THE TRUSTEE FOR TOXIQ SUPER FUND, including your SMSF annual return, should be sent to us.

More useful information

On the back of this letter you'll find some guidance and useful links for running a self-managed superannuation fund. If you'd like to discuss something with us you can phone us on **13 10 20** between 8.00am and 6.00pm, Monday to Friday. We'll be happy to help.

Yours faithfully

Robert Ravello
Deputy Commissioner of Taxation

What are my responsibilities as a fund trustee?

Generally, all members of self managed superannuation funds must also be the fund's trustees. Trustees have certain legal obligations and duties to fulfill.

One of your key responsibilities as a fund trustee will be to ensure that your fund meets the requirements of the *Superannuation Industry (Supervision) Act 1993* and related regulations (the Superannuation Industry (Supervision) Regulations 1994).

This includes informing us if any trustees or members join or leave the fund. You can do this at www.abr.gov.au or by lodging a *Change of details for superannuation entities* (NAT 3036) form, which can be ordered from our publication service on **1300 720 092**.

Where can I get more information?

If you would like more information about self managed superannuation funds, you can:

- go to our website at www.ato.gov.au/super and select the options listed under 'Self managed superannuation funds', or
- contact us by phoning **13 10 20** between 8.00am and 6.00pm, Monday to Friday.