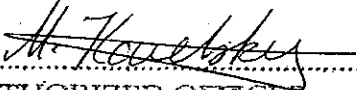


**Dated 14 December 2000**

**DEED ESTABLISHING  
The Nustart National  
Private SuperFund**

**NATIONAL AUSTRALIA  
TRUSTEES LIMITED  
("Trustee")**

**I CERTIFY THAT THIS IS  
A TRUE AND CORRECT COPY  
OF THE ORIGINAL DOCUMENT**

  
.....  
**AUTHORIZED OFFICER**

**Dated** 12 DEC **2002**

**The Nustart National Private  
SuperFund**

**Deed of Amendment**

**National Australia Trustees Limited  
(ABN 80 007 350 405)  
("Trustee")**

**THE NUSTART NATIONAL PRIVATE SUPERFUND**

This deed is made on the 14<sup>th</sup> of December 2000.

**By:** National Australia Trustees Limited (ACN 007 350 405) of Level 7,  
271 Collins Street, Melbourne ("Trustee")

**Recitals:**

- A. The Trustee has resolved to establish an indefinitely continuing superannuation fund ("Fund") to provide retirement and other benefits for the Members of the Fund.
- B. The Trustee shall be the initial Trustee of the Fund.

**Operative provisions:**

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*[Signature]*  
OFFICER  
NATIONAL AUSTRALIA TRUSTEES

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Practice Act 1996

- 1. The Fund is to be known as the Nustart National Private SuperFund.
- 2. The Fund comes into operation on the Commencement Date.

**Rules** means the Rules attached, as amended from time to time. The Rules have effect as if set out in the body of this Deed.

The Trustee shall hold the assets of the Fund upon trust to apply them in the manner set out in the Rules.

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**RULES**

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**1 Definitions and Interpretation**

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1.1 The following words and expressions have these meanings in these Rules unless the contrary intention appears:-

**Accumulated Credit** means for a Member the total amount standing to the credit of each Contribution Account of the Member.

**Act** means the Income Tax Assessment Act 1936 or the Income Tax Assessment Act 1997 as the case may be.

**Administration Fee** means the fee referred to in rule 4.1(b).

**Annual Review Fee** means the fee referred to in rule 4.1(c).

**Approved Fund** means:

- (a) an approved deposit fund as defined in the Relevant Requirements; or
- (b) a complying superannuation fund as defined in the Act or a fund which the Trustee considers would qualify as a complying superannuation fund; or

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... as defined in the Retirement

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The Legal Practice Act

Savings Account Act 1997.

Associate has the meaning given to that term in the Corporations Law.

Beneficiary means a person (other than a Member) who becomes entitled to a Benefit under the Rules.

Benefit means any benefit which is or may become payable under these Rules to or in respect of a Member and includes a pension or any other benefit payable under rule 11 or rule 13.3.

Benefit Request means a written notice given by a Member in a form approved by the Trustee, specifying:-

- (a) the person or persons (being one or more of the Member's Dependents and Legal Personal Representative) to whom the Member's Death Benefit is to be paid; and
- (b) if more than one person is specified in the notice, the proportion of the Death Benefit to be paid to each person.

Closure Date means the date on which the Fund is to be wound up under rule 13.2.

Commencement Date means the date on which the first contribution to the Fund is accepted by the Trustee.

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**Contribution Account** means an account referred to in rule 6.5 and rule 6.6.

**Death Benefit** means a Benefit payable under rule 9.5.

**Deed** means the deed to which these Rules are annexed, as amended from time to time.

**Dependant** in relation to a Member means:-

- (a) a spouse (including a person who, although not legally married to the Member, lives with the Member on a genuine domestic basis as the member's husband or wife);
- (b) a child (including adopted child, a step-child or an ex-nuptial child); or
- (c) any other person regarded by the Trustee as wholly or partly dependent on the Member for support.


**Eligible Spouse** means a spouse of a Member who is, in the opinion of the Trustee, an eligible spouse for the purposes of eligible spouse contributions in the Relevant Requirements.

**Employee** means a person who is in the permanent employment of an Employer, whether on a full-time or part-time basis, and if the Employer is a company, includes a director of the company.

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A current practitioner under  
The Legal Practice Act

participation is terminated under rule 7.11.

**Establishment Fee** means the fee referred to in rule 4.1(a).

**Exit Fee** means the fee referred to in rule 4.6.

**Fund** means the fund constituted under the Deed and the Rules.

**Financial Year** means a period of 12 calendar months ending on 30 June, or any part of such a period that may occur at the termination of the Fund.

**Gainfully Employed Person** means a person who is employed or self-employed for gain or reward in any business, trade, profession, vocation, calling, occupation or employment.

**GST** means a goods and services tax or any similar tax imposed in Australia.

**Investment Direction** means any current direction or authorisation to the Trustee given by or on behalf of the Member (including by a Member's Agent) in relation to the investment of assets of the Fund.

**Investment Portfolio** means a separate part of the Fund maintained under rule 6.13.



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**Legal Personal Representative** has the meaning given to that term by SISA.

**Manager** means a person appointed under rule 2.7.

**Member** means a person who has been admitted to membership under rule 7.3 and has not ceased to be a Member under rule 7.9.

**Member's Agent** means a person the Trustee believes in good faith has been appointed as agent of the Member, and includes:-

- (a) a solicitor;
- (b) a stockbroker;
- (c) an accountant;
- (d) an investment adviser.

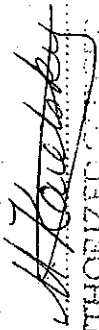
**Minimum Withdrawal Fee** means the fee referred to in rule 4.9.

**Regulations** means any regulations made under SISA.

**Relevant Requirements** means any requirements from time to time imposed under SISA or the Regulations or any other law, or by the Responsible Authority:

- (a) imposed on the Trustee; or

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A current practitioner under  
The Legal Practice Act 1992

- (b) which the Fund must satisfy to qualify for the most favourable taxation treatment available to superannuation funds.

**Required Payment Date** means in relation to a Member the date (if any) stipulated by the Relevant Requirements, having regard to the circumstances of the Member, at which the Member's Benefit must be paid or commence to be paid.

**Reserve Account** means the account which may be kept under rule 6.11.

**Responsible Authority** means as the case may require any one or more of:-

- (a) the Australian Prudential Regulation Authority;
- (b) the Australian Securities and Investments Commission;
- (c) the Commissioner of Taxation; or
- (d) any other governmental authority responsible for administering the laws, regulations or any other rules governing the operation of or the availability of income tax concessions to or in respect of superannuation funds.

**Retired from the Workforce** has the meaning given to any equivalent term imposed from time to time under the Relevant Requirements or

for the purposes of the Relevant Requirements by any statute, regulation or any other law or by any court of competent jurisdiction or the Responsible Authority for determining when a person has satisfied a condition of release for the payment of a benefit as a consequence of retirement, and subject thereto means having ceased full-time or largely full-time active service or work in any office or gainful activity.

**Reversionary Pension Request** means a written notice in a form approved by the Trustee, given by a Member who is entitled to a pension under rule 11.2, requesting the Trustee to pay the Member's Death Benefit:

- (a) as a pension; and
- (b) to the Dependant named in the notice.

Service in relation to a Member who is:

- (a) an Employee, means the most recent continuous service of a member as an Employee and includes:
  - (i) any period during which the Member is off work because of injury or illness and receives workers' compensation, sickness pay or other regular income from either the Employer or any insurance scheme sponsored by the Employer; and

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Collins Street  
Solicitor  
Solicitor Practitioner under  
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Service; or

not an Employee, means the most recent continuous period in which a Member was a Gainfully Employed Person other than as an Employee.

**Shortfall Component** has the same meaning as in the Superannuation Guarantee (Administration) Act 1992.

**SISA** means the Superannuation Industry (Supervision) Act 1993.

**Total and Permanent Disablement** in relation to a Member:

- (a) has the same meaning as that (or a corresponding) expression in any policy referred to in rule 3.3(f) effected by the Trustee under which proceeds may be payable upon the disablement of the Member; or
- (b) if (a) does not apply, has the same meaning as "permanent incapacity" in Part 6 of the Regulations.

**Trustee** means the trustee of the Fund for the time being.

1.2 In the Deed and the Rules unless the contrary intention appears:

- 
- (a) a reference to the Deed or the Rules or any other instrument includes any variation or replacement of any of them;
  - (b) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
  - (c) the singular includes the plural and vice versa;
  - (d) words importing a gender include any other gender;
  - (e) the word person includes a firm, a body corporate, an unincorporated association or an authority; and
  - (f) the word tax includes any duty or governmental impost.

- 1.3 Headings are inserted for convenience and do not affect the interpretation of these Rules.
- 1.4 If the whole or any part of the Deed or these Rules is void, illegal or unenforceable in a jurisdiction it is severed for that jurisdiction. The remainder of the Deed or Rules has full force and effect and its validity or enforceability in any other jurisdiction is not affected.
- 1.5 Rule 1.4 has no effect if the severance alters the basic nature of the Fund or is contrary to public policy.

## 2 Trustee

### Nature, appointment and removal

2.1 The Trustee must be:-

- (a) a body corporate which is a constitutional corporation within the meaning of SISA; and
- (b) appointed in writing in accordance with the Relevant Requirements.

A Trustee ceases to be a trustee:

- (a) on resigning that office by notice in writing to the Members and Employers, if any;
- (b) on a receiver of the Trustee being appointed or the Trustee going into liquidation or an order being made for its winding-up; or
- (c) when the Relevant Requirements so require.

2.3 If the Trustee ceases to be a trustee under rule 2.2, it must use reasonable endeavours to appoint a replacement trustee.

2.4 The Fund will be wound up in accordance with rule 13 if:

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A current practitioner under  
The Legal Practice Act 1996

- (a) a replacement trustee is not appointed by the Trustee within 30 days of the date of the notice given under rule 2.2(a); or
- (b) for any other reason the Fund does not have a Trustee for a period of 30 days.

**Transfer of assets**

2.5 On a change of Trustee, the retiring Trustee must execute all transfers, deeds or other documents necessary to transfer assets into the name of the new Trustee.

**Other powers of Trustee**

2.6 The Trustee may do anything it considers appropriate to administer the Fund or comply with the Relevant Requirements, including:-

- (a) giving receipts and discharges;
- (b) conducting and settling legal proceedings;
- (c) referring claims to arbitration;
- (d) compromising any claim;
- (e) giving any guarantee or indemnity;
- (f) insuring any risks;
- (g) acting as an underwriter;

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271 Collins Street  
current practitioner under  
the Legal Practice Act 1996

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- (h) making rules for rounding off contributions and benefits,
- (i) providing for and transferring liability for any tax;
- (j) electing to be bound by any legislation;
- (k) making rules in relation to minimum amounts for:
  - (i) Benefit payments;
  - (ii) transfers;
  - (iii) account balances; and
  - (iv) contributions.

### **Appointment of Manager**

2.7

Subject to the Relevant Requirements, the Trustee may:

- (a) appoint in writing on any terms which it thinks fit one or more persons as Manager to act on behalf of the Trustee in regard to the administration or investments of the Fund, and delegate any powers to a Manager as the Trustee thinks fit; and
- (b) revoke or vary any of those appointments subject to the terms of any agreement entered into by the Trustee with a Manager.



**Delegation**

2.8 The Trustee may delegate to any person any powers, duties or discretions which it thinks fit.

**Trustee liability and indemnity**

2.9 The Trustee is only liable for its acts or omissions which are dishonest or constitute an intentional or reckless failure to exercise the degree of care and diligence required of it.

2.10 The Trustee may recover from the Fund any loss or expenditure incurred in relation to the Fund or the administration of the Trustee unless:

(a) it results from the Trustee's dishonesty or an intentional or reckless failure to exercise the degree of care and diligence required of it; or

(b) the law prevents it.

2.11 A Member or Employer must indemnify the Trustee for:

(a) any liability incurred; or

(b) any overpayment made; or

(c) any failure to provide for tax,

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A current practitioner under  
The Legal Practice Act 1988

should have been given to it by that Member, a Member's Agent or Employer under the Deed, these Rules or the Relevant Requirements.

The benefit of rule 2.9 also applies to:

- (a) any directors, officers or employees of the Trustee;
- (b) any other person nominated in writing by the Trustee; and
- (c) a former trustee or any person who previously fell within paragraph (a) or (b) above.

2.13 Subject to the Relevant Requirements, the Trustee may impose special conditions on a Member's entitlement to a Benefit and may (where appropriate) reduce a Benefit or the balance in a Member's Contribution Account for the purposes of rule 2.11.

#### Trustee's discretions

- 2.14 The Trustee and any director or officer of the Trustee may exercise or concur in exercising all powers and discretions conferred on that person by the Deed or these Rules or by law notwithstanding that that person may have another interest in the result of the exercise.
- 2.15 The Trustee is completely unrestricted in the exercise of its powers and discretions.

---

**Authorisations**

- 2.16 The Trustee is entitled to treat a written or oral authorisation given, or purported to be given, by a Member or Employer (or officer of the Employer) as given by that Member or Employer.

**Member's Agents**

- 2.17 The Trustee may deal with a Member's Agent as if it was dealing with the Member, and is entitled to treat a written or oral authorisation given, or purported to be given, by a Member's Agent, as given by the Member.

**Recommendations**

- 2.18 Subject to the Relevant Requirements and without limiting the Trustee's powers or discretions, the Trustee may:
- (a) receive recommendations or requests from a Member or a Member's Agent regarding any aspect of the administration of the Fund; and
  - (b) if the Trustee sees fit, implement or give effect to any such recommendation or request.

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**3 Assets and Investments**

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**Assets**

- 3.1 The assets of the Fund comprise:

Fund; and

- (b) investments that the Trustee makes for the Fund and all income on those investments.

**Fund assets held by Trustee**

- 3.2 The Trustee must hold the Fund assets on trust to apply them in accordance with the Rules.

**Investments**

- 3.3 The Trustee may invest the assets of the Fund in any manner in which the Trustee, if it were personally entitled to the assets, could invest. Without limitation the Trustee may invest the assets in Australia or elsewhere:

- in investments authorised by law for the investment of trust funds;
- on deposit with any bank, company, or financial institution;
- in real property;
- in the shares, stocks, notes, options, debentures or other securities of any company or the securities of any government semi-governmental body or public authority;

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A current practitioner under  
The Legal Practice Act 1996(a)


- 
- (e) in units of any common fund, property trust or unit trust;
  - (f) in any policies of life insurance, assurance or endowment including policies providing a sum or sums on the death or disablement of a Member;
  - (g) in options, hedging contracts, futures contracts and other financial instruments;
  - (h) in underwriting or sub-underwriting the subscription of the shares, stocks, notes, options or debentures of any corporation or of any other class of investment specified in the preceding paragraphs; or
  - (i) on deposit or loan, with or without security.

3.4 The Trustee has full power to vary, replace, encumber and otherwise deal with investments as fully and effectively as a person absolutely and beneficially entitled dealing with that person's own property may do, including mixing investments with investments of other people or trusts.

3.5 The Trustee may cause any investments to be held in any names (including the names of individual or corporate nominees) which the Trustee from time to time determines.

#### **Member's Investment Direction**

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A current practitioner under  
The Legal Practice Act 1999

Trustee must invest or deal with the assets of the Fund in accordance with an Investment Direction.

- 3.7 The Investment Direction must be in a form approved by the Trustee.
- 3.8 Subject to the Relevant Requirements and the Deed and the Rules, an Investment Direction may be varied at any time.

The Trustee may reject an Investment Direction (which includes a variation of an existing Investment Direction) if it is inconsistent with:-

- (a) the Deed and the Rules;
- (b) the Relevant Requirements; or
- (c) the investment strategy of the Fund.

The Trustee must notify the Member if their Investment Direction is rejected.

- 3.10 The Trustee is not obliged to act in accordance with an Investment Direction to the extent that it is inconsistent with:-
- (a) the Deed and the Rules;
  - (b) the Relevant Requirements; or

(c) the investment strategy of the Fund.

3.11 If a Member's Investment Direction may involve the Trustee incurring a liability (contingent or otherwise) that may exceed the value of the Fund, then the Trustee need not give effect to the Investment Direction unless:

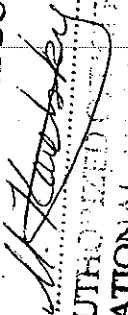
- (a) the Member varies their Investment Direction; or
- (b) the Trustee's liability is limited in a manner which the Trustee considers satisfactory.

Subject to the Relevant Requirements, the Trustee will not be liable for any loss resulting from a delay in giving effect to an Investment Direction where the delay is due to:

- (a) the Trustee obtaining clarification of any aspect of the Investment Direction; or
- (b) delays in the clearance of application moneys or other moneys required to give effect to a transaction contemplated by the Investment Direction.

3.13 Subject to the Relevant Requirements, the Trustee will not be liable for any loss resulting from the rejection of an Investment Direction or from acting in accordance with an Investment Direction.

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 AUTHORIZED REPRESENTATIVE

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 A current practitioner under  
 The Legal Practice Act 1996

**Borrowing**

repayment by charge over all or any of the assets of the Fund or in any other manner which it thinks fit, but only in circumstances permitted by the Relevant Requirements.

**Financial assistance**

- 3.15 The Trustee may only make a loan or give financial assistance to a person if that complies with the Relevant Requirements.

**Related trusts**

- 3.16 Subject to the Relevant Requirements, the Trustee may invest in a trust or fund of which the Trustee or a related body corporate is the manager or trustee, and need not account to the Fund for fees or any other remuneration earned in that capacity.

**Other capacities**

- 3.17 Nothing in the Deed or Rules restricts the Trustee or an Associate of the Trustee from:
- (a) dealing with each other, or a Member;
  - (b) being interested in any contract or transaction with the other of them or any Member or retaining for its own benefit any profits or benefits derived from any such contract or transaction; or



- 
- (c) acting in the same or a similar capacity in relation to any other scheme, subject to their acting at all times with good faith toward Members.

## **4 Remuneration of Trustee**

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### **Trustee's fees**

- 4.1 The Trustee is entitled to receive the following fees from the Fund:
- (a) an Establishment Fee;
  - (b) an Administration Fee for each day that the Trustee remains in office;
  - (c) an Annual Review Fee; and
  - (d) a fee for the preparation and lodgment of any tax return for the Fund.

### **Establishment Fee**

- 4.2 The Establishment Fee is an amount equal to \$750 (inclusive of GST) or such other amount as is agreed between the Member and the Trustee.
- 4.3 The Establishment Fee is payable within 14 days of the Commencement Date.

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*H. Karelsky*  
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A current practitioner under  
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**Administration Fee**

- 4.4 The Administration Fee is calculated as the greater of:
- (a) \$2,145 per annum (inclusive of GST); or
  - (b) an amount calculated at the end of each day at the rate of 1.07% per annum (inclusive of GST) on that part of the Accumulated Credits less than \$500,000 and 0.8% per annum (inclusive of GST) on that part of the Accumulated Credits greater than \$500,000.

- 4.5 The Administration Fee is deducted from the Fund:
- (a) at the end of each month in arrears; or
  - (b) if a Benefit is to be paid or all or part of a Member's entitlement is to be transferred to another fund before the end of a month, prior to such Benefit payment or transfer.

**Exit Fee**

- 4.6 The Trustee is entitled to an Exit Fee if:
- (a) a Member leaves the Fund; or
  - (b) the Fund is wound up,
- within two years of the Commencement Date.

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*M. Karelsky*

AUTHORIZED REPRESENTATIVE  
NATIONAL ADMINISTRATIVE TRUSTEES

Miriam Karelsky  
5/271 Collins Street  
A current practitioner in  
The Legal Practice Act

4.7 If a Member leaves the Fund within two years of the Commencement Date, the Exit Fee:

- (a) will be deducted from the Member's Contribution Account or Contribution Accounts before withdrawal; and
- (b) is equal to an amount calculated in accordance with the following formula:

ADM x AAC x (730 - X) 365 where:

ADM means the average Administration Fee applicable under rule 4.4(b) expressed as a percentage of the Accumulated Credits of the Member;

AAC means the average Accumulation Credits of the Member over the period of the Member's membership of the Fund;

X means the number of days the Member was a Member of the Fund.

4.8 Rule 4.6 does not apply if a Member leaves the Fund, or the Fund is terminated, as a result of the death or Total and Permanent Disablement of a Member or Members.

**Minimum Withdrawal Fee**

4.9 The Trustee is entitled to a Minimum Withdrawal Fee equal to an amount not exceeding \$50 if a Member requests the Trustee to:

- (a) pay a Benefit; or
- (b) transfer assets,

where the amount of the Benefit or value of the assets to be transferred is less than \$5,000 ("Minimum Amount").

**4.10 The Minimum Withdrawal Fee will be deducted from the Member's Contribution Account before the payment or transfer.**

**4.11 The Minimum Amount may be increased:**

- (a) at the times; and
- (b) according to an inflation index,

as the Trustee considers appropriate. The Trustee must notify Members of an increase as if the Minimum Amount was a fee, in accordance with rule 4.18.

**4.12 Rule 4.9 does not apply:**

- (a) in respect of a pension payment, other than a partial commutation referred to in rule 11.2(c); or

(b) if as a result of the payment or transfer, the Member ceases to be a Member of the Fund.

**Annual Review Fee**

4.13 The Trustee is entitled to an Annual Review Fee of up to 1% pa (inclusive of GST) of a Member's Accumulated Credit determined at such times as the Trustee and the Member agree. The Annual Review Fee (if any) is deducted from the Member's Contribution Account at the end of each month in arrears.

**Trustee waiver**

4.14 The Trustee may waive its entitlement to all or part of a fee either generally or in relation to a particular Member or group of Members.

**Increased fee**

4.15 The Trustee may increase any fee to which it is entitled upon giving 60 days' notice in writing to the Members. The increased fee will take effect immediately upon the expiration of the notice period.

**Additional fees**

4.16 Subject to the Relevant Requirements, the Trustee may charge a fee for or in relation to any other event or matter that the Trustee determines should attract a fee including, but not limited to:

- (a) payment of Benefits;
- (b) payment of insurance premiums;

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AUTHORIZED OFFICER  
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Miriam Karelsky  
5/271 Collins Street  
A current practicing  
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- (c) change in the frequency or level of pension payments,
- (d) number or value of transactions involving Fund assets;
- (e) a minimum amount referred to in rule 2.6(k);
- (f) provision of information to Members.

4.17 The Trustee may determine the amount of any additional fee and the method of calculating that fee.

4.18 The Trustee must give Members 60 days' notice in writing of any additional fee. The additional fee will take effect immediately upon the expiration of the notice period.

#### Payment of fees and expenses

4.19 The Trustee may realise assets of the Fund to enable its fees and the expenses referred to in rule 5.1 to be paid.

#### Commissions

4.20 Any rebate of commissions or brokerage received by the Trustee in respect of investments of the Fund must be paid to the Contribution Accounts of the relevant Members.

#### GST

4.21 If the Trustee becomes liable to pay GST in respect of any supply in connection with the performance of its powers and duties under this

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Deed, then the Trustee is entitled to be paid out of the Fund an additional amount on account of GST. This amount is to be calculated by reference to the prevailing rate of GST.

4.22 In relation to fees that are expressed as GST inclusive in this Deed, if there has been an increase in the rate of GST, the Trustee is entitled to adjust the fees by reference to the new prevailing rate of GST.

4.23 If the Trustee is not entitled to an input tax credit in respect of the amount of any GST charged or recovered from the Trustee by any person, or payable by the Trustee by way of reimbursement of GST referable directly or indirectly to any supply made under or in connection with this Deed, the Trustee is entitled to recover from the Fund by way of reimbursement an additional amount equivalent to the amount of such input tax.

## **5 Administration**

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### **Expenses**

5.1 The Trustee shall pay all expenses of the Fund and the Trustee incurred in connection with the Fund, out of the Fund.

### **Rights of Members**

5.2 Except as provided in these Rules:

(a) no person has any right in respect of the Fund; and

securities or other assets of the Fund.

- 5.3 Every Member has the right upon reasonable notice to inspect a copy of the Deed and Rules during normal business hours.

**Members and Employers to give information**

- 5.4 Every Member and every person claiming a Benefit and every Employer must give to the Trustee any information and produce to it any documents which the Trustee considers are necessary or desirable for the purpose of giving effect to this Deed or Rules.

**Trustee to give information**

- 5.5 The Trustee must give to:

- (a) each Member;
- (b) each Employer;
- (c) each Responsible Authority;
- (d) any superannuation entity to which a benefit is transferred; or
- (e) any other person,

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**The Legal Practice Act 1996**

the information which must be given to that person under the Relevant Requirements at a particular time.



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**Notices**

- 5.6 Any notice to be given under these Rules is validly given if handed to the party to be served or if addressed to the party and left at or sent by ordinary prepaid post to its last known address.

**Power of attorney**

- 5.7 Each Member irrevocably appoints the Trustee as the Member's attorney to execute all instruments and do all things which the Trustee considers necessary or desirable in order to give effect to the Deed or Rules or exercise the powers, and discretions conferred on the Trustee.

**Governing law**

- 5.8 The Fund and the provisions of the Deed and Rules are governed by the law in force in Victoria.
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## **6 Records and Accounts**

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**Records**

- 6.1 The Trustee must keep records for the Fund:
- (a) of the matters;
  - (b) for the period; and
  - (c) in the manner,

prescribed by the Relevant Requirements

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**Accounts and audit**

**Contribution Account**

- 6.2 The Trustee must appoint an auditor who meets the Relevant Requirements. The Trustee may remove and replace the auditor.
- 6.3 For each Financial Year, the Trustee must prepare the financial statements prescribed by the Relevant Requirements.
- 6.4 For each Financial year, within the time specified by the Relevant Requirements, the auditor must:
  - (a) audit the accounts and records of the Fund; and
  - (b) report in writing to the Trustee.
- 6.5 The Trustee must keep at least one Contribution Account for each Member.
- 6.6 The Trustee may maintain such other Contribution Accounts in respect of Members or classes of Members as it considers desirable in maintaining appropriate records for the Fund and the Members or for other reasons.
- 6.7 The Trustee must record in a Contribution Account:
  - (a) contributions made by or for the Member;

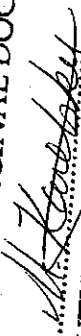
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- (b) amounts transferred from other funds which the Trustee decides to credit to the account;
  - (c) life insurance premiums which the Trustee decides to debit to the account;
  - (d) proceeds of life insurance policies to the extent that they were funded by premiums debited to the account;
  - (e) amounts debited to the account for tax, surcharge or other expenses;
  - (f) adjustments to the account on valuation of the assets held for it;
  - (g) amounts paid as Benefits or transferred to other superannuation entities from the account;
  - (h) amounts transferred to or from the Reserve Account (if any); and
  - (i) any other amounts which the Trustee decides should be recorded.

**Tax, surcharge and other expenses**

6.8 The Trustee may debit to a Contribution Account:

- (a) tax and surcharge incurred by the Trustee;

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- (b) expenses of the Fund and the Trustee;
- (c) losses of the Fund;
- (d) Trustee's remuneration;
- (e) provisions for (a), (b), (c) and (d) which the Trustee considers it prudent to make; and
- (f) any other amounts which the Trustee decides should be debited,

in proportions which the Trustee considers fair and which are consistent with the Relevant Requirements.

#### **Interim adjustments**

6.9

Before paying any final Benefit or making a transfer from the Fund for a Member, the Trustee must adjust the Accumulated Credit by the amount of any difference between the last recorded value of assets held for the Contribution Accounts of the Member and the proceeds available from realisation of those assets.

#### **Non-realisation of assets**

6.10

The Trustee may choose to pay a Benefit or make a transfer from the Fund out of cash held by it pending investment, instead of realising assets. In those circumstances the proceeds available from realisation

of the assets are taken to be the amount which in the Trustee's opinion would have been available if the assets had been realised.

### Reserve Account

- 6.11 The Trustee may keep a Reserve Account to hold:
- (a) amounts debited to Contribution Accounts for tax or other expenses;
  - (b) amounts deducted from Benefits for tax; and
  - (c) any part of a Member's Accumulated Credit no longer required to pay Benefits for the Member.
- 6.12 The Trustee may apply amounts held in the Reserve Account for one or more of the following purposes:-
- (a) payment of tax and other expenses;
  - (b) additional Benefits for Members; or
  - (c) other purposes which the Trustee determines.

However, the Trustee may only apply amounts as permitted by the Relevant Requirements and must apply all amounts within any time limit imposed by the Relevant Requirements.

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Portfolios. For any Investment Portfolio the Trustee must select the assets which comprise it.

- 6.14 The Trustee may transfer assets between different Investment Portfolios.
- 6.15 The Trustee must divide a Contribution Account into sub-accounts representing the proportions in which the Contribution Account is invested in different Investment Portfolios.
- 6.16 Subject to the Relevant Requirements, the Trustee may make rules on when and how Members may give directions to apply:
- (a) future contributions; or
  - (b) existing balances in Contribution Accounts,
- to Investment Portfolios.
- 6.17 Subject to the Relevant Requirements, the Trustee must cause the assets of the Fund to be valued at times which the Trustee considers appropriate.
- 6.18 The Trustee may instruct a person, who the Trustee considers to be appropriately qualified and experienced, to value any asset or liability of the Fund.

### Valuations

6.19 The Trustee may set down the principles for valuing the whole or any part of the Fund. Those principles must be consistent with the Relevant Requirements.

## 7 Eligibility and Membership

### Eligibility

7.1 Subject to SISA, any person is eligible for admission as a Member if the person completes an application in a form approved by the Trustee or, in the case of an Eligible Spouse, if a contribution is made for that person under rule 8.4, provided that the Fund must not have more than four Members at any one time.

### Membership

7.2 The Trustee may require the person intending to become a Member or who is a Member:

- (a) to have a medical examination; and
- (b) to provide information which the Trustee considers relevant to the administration of the Fund.

A person becomes a Member when the Trustee approves that person's application or, in the case of an Eligible Spouse, when a contribution is received for that person under rule 8.4. The Trustee may reject an application.

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membership of an Eligible Spouse.

7.5 Each Member agrees to be bound by the terms of the Deed and Rules.

**Transfer from another superannuation entity**

7.6 The Trustee may make arrangements that it considers proper with:

- (a) a Member;
- (b) any previous employer of the Member;
- (c) any superannuation entity of which the Member has been a member; or
- (d) the issuer of an annuity held by the Member,

for the transfer of assets to the Fund and the provision of Benefits in respect of the Member, which may be calculated in a different manner than set out in the Rules. The arrangement must be consistent with the Relevant Requirements.

**Transfer to another superannuation entity**

7.7 The Trustee may transfer assets to an Approved Fund, with or without the Member's consent provided that:



- 
- (a) the Trustee must not transfer more than the Member's Accumulated Credit;
  - (b) if the Member has requested the transfer, the trustee must not transfer more than is requested by the Member; and
  - (c) the transfer must be consistent with the Relevant Requirements.

The Trustee may deduct from the amount to be transferred the amounts referred to in rule 9.10.

- 7.8 A transfer under rule 7.7 satisfies the Member's entitlement to any Benefit in respect of the amount transferred. The Trustee is not responsible for the manner in which the other superannuation entity deals with the amount transferred.

### **Cessation of membership**

- 7.9 A person ceases to be a Member when one of the following events happens:

- (a) all Benefits which are or may be payable for the Member have been paid;
- (b) a transfer is made under rule 7.7 in satisfaction of all the Member's entitlement to Benefits; or

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**Admission of Employers**

7.10 The Trustee may admit any employer as an Employer if the Employer agrees in a manner approved by the Trustee to be bound by the Deed and Rules.

**Retirement of Employers**

7.11 The participation of an Employer terminates if:

- (a) the Employer gives written notice to the Trustee; or
- (b) the Trustee gives written notice to the Employer.

On termination under rule 7.11:

- (a) the Trustee must specify a retirement date upon which the Employer must retire;
- (b) the Employer and its Employees who are Members must immediately pay any arrears of contributions up to the retirement date;
- (c) the Trustee must continue to pay out the Benefits which have become payable on or before the retirement date; and
- (d) the Trustee must ascertain the interest in the Fund of the retiring Employer and its Employees who are Members and

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must deal with those interests in a manner determined by the Trustee which is consistent with the Relevant Requirements and does not (in the opinion of the Trustee) prejudicially affect the rights of those Members to Benefits relating to their service up to the retirement date without their consent.

## **8 Contributions**

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### **Employer contributions**

- 8.1 Where a Member is an Employee, the Employer may from the time the Member joins the Fund until the Member leaves Service contribute at a rate from time to time agreed between the Employer, the Member and the Trustee.
- 8.2 An Employer may at any time from time to time by notice in writing to the Trustee cease or suspend payment of or reduce the contributions payable by it in respect of a Member. Upon any such cessation or suspension or reduction of contributions in respect of a Member the Trustee must notify the Member who may then either cease or reduce his contributions, if any.

### **Member contributions**

- 8.3 A Member may contribute to the Fund any amount and at any rate as agreed with the Trustee from time to time.

### **Eligible Spouse contributions**

- 8.4 A Member may contribute to the Fund as agreed with the Trustee in

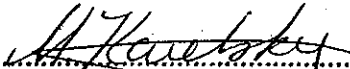
**Contributions - general**

- 8.5 The Trustee may refuse to accept all or part of a contribution without giving any reason.
- 8.6 The Trustee must not accept contributions by or in respect of a Member if to do so would be inconsistent with the Relevant Requirements.
- 8.7 If the Trustee finds that any contributions have been accepted in breach of the Relevant Requirements, the Trustee must repay them to the contributor, less any charge which the Trustee may make for any insurance effected or other expenses incurred in relation to the contributions.

**Shortfall Component**

- 8.8 The Trustee may also accept:
- (a) Shortfall Components; and
  - (b) contributions made by a person other than the Member or an Employer,
- in respect of a Member, if the Relevant Requirements permit it.

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## **9 Benefit Entitlement**

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### **Retirement**

- 9.1 A Member is entitled to a Benefit of an amount equal in value to the Accumulated Credit if the Member:
- (a) has attained age 55 and Retired from the Workforce; or
  - (b) has Retired from the Workforce by reason of Total and Permanent Disablement.

### **Leaving Service**

- 9.2 A Member is entitled to a Benefit of an amount equal in value to the Accumulated Credit if the Member:
- (a) leaves Service for any reason; or
  - (b) is in Service after his or her 65th birthday and requests payment.

### **Payment permitted by Relevant Requirements**

- 9.3 The Trustee may pay to a Member an amount not exceeding the Accumulated Credit if:
- (a) the Member so requests the Trustee in writing; and
  - (b) the payment is permitted by the Relevant Requirements.

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**Voluntary deferral**

9.4 Subject to the Relevant Requirements and rule 9.10, if a Member reaches the Required Payment Date, the Trustee must pay the member a Benefit of an amount equal in value to the Accumulated Credit.

**Death Benefit**

9.5 Subject to the Relevant Requirements and rule 9.10, on the death of a Member, the Trustee must pay a Benefit of an amount equal in value to the Accumulated Credit.

9.6 A Member who is entitled to a Benefit may ask the Trustee to defer payment of all or part of it. The Trustee may but need not comply with the request.

**Compulsory payment**

9.7 If the Trustee considers it necessary under the Relevant Requirements to defer payment of any part of a Benefit then the Trustee must:

- (a) pay that part of the Benefit to a superannuation arrangement which also preserves it under the Relevant Requirements; or
- (b) retain it in the Fund until it may be paid under the Relevant Requirements.

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**Consequences of retention**

- 9.8 Any part of a Benefit retained under rule 9.6 or 9.7(b) remains credited to the appropriate Contribution Account until payment and the Trustee must adjust the amount of the Benefit on the basis of further credits and debits recorded in the Contribution Account. If the Member dies before the Benefit is paid in full then the Trustee must pay the remainder of the Benefit (subject to rule 9.10) as a Death Benefit.

**Rollover benefits**

- 9.9 The Trustee may pay a Benefit to a Member who has not left Service where:
- (a) the Benefit is attributable to another benefit that was transferred to the Fund; and
  - (b) the Member requests payment; and
  - (c) the Relevant Requirements permit.

**Tax, surcharge and expenses**

- 9.10 Subject to the Relevant Requirements, the Trustee may deduct from the payment of a Benefit an amount equal to:
- (a) any tax or surcharge in respect of the payment for which the Trustee is or believes it will become liable;
  - (b) any costs, fees or expenses which the Trustee is required or entitled to recover by law or under these Rules; and

- (c) any other amount owed to the Trustee by the Member under these Rules.

## 10 Restrictions of benefit entitlement

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### Determination of entitlement

- 10.1 A Benefit is only payable if:
  - (a) the Rules permit it; and
  - (b) the Trustee is satisfied that the payment is consistent with the Relevant Requirements.
- 10.2 The Trustee may act on any proofs or presumptions which it considers satisfactory whether or not they are strictly legal proofs or presumptions.

### Forfeiture

- 10.3 A Member or Beneficiary forfeits the whole of his or her right title and interest in and to any Benefit which may (but which has not already) become payable under these Rules if the Relevant Requirements permit and the Member or Beneficiary:
  - (a) has purported to assign, alienate, charge or transfer all or part of it; or


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(b) is in the opinion of the Trustee of unsound mind or incapable of managing his own affairs,

or if any other event occurs which results in another person becoming entitled to it.

- 10.4 Rule 10.3 has no effect to the extent that its operation would be contrary to the Bankruptcy Act 1966.
- 10.5 The Trustee may (but need not) apply all or part of a forfeited Benefit for the benefit of one or more of the Members or Beneficiary and his or her Dependants as the Trustee considers appropriate and the Relevant Requirements permit.
- 10.6 If the Trustee determines that an event of forfeiture no longer applies to a Member or Beneficiary, the Trustee may pay all or part of the forfeited Benefit (less any amount applied under rule 10.5) to or in respect of the Member or Beneficiary as the Trustee considers appropriate and the Relevant Requirements permit.

**Unclaimed benefits**

- 10.7 The Trustee must comply with the Relevant Requirements in relation to a Benefit which the Relevant Requirements:
- (a) treat as unclaimed money; or
- (b) require to be transferred to another fund.

## **11 Payment of benefits**

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### **General**

- 11.1 A Benefit payable to a Member may (if permitted by the Relevant Requirements) be paid:
- (a) as a lump sum;
  - (b) as a pension;
  - (c) by purchasing an annuity;
  - (d) to an Approved Fund; or
  - (e) as a combination of any of (a), (b), (c) or (d) as the Trustee determines.

### **Pensions**

- 11.2 Subject to the Relevant Requirements, a pension:
- (a) is payable from such date and in such amounts and at such intervals as are agreed between the Trustee and the Member from time to time;
  - (b) continues until such time as is agreed between the Trustee and the Member from time to time;

- (c) may be commuted in whole or in part to a lump sum by the Trustee with the agreement of the Member; and
- (d) is payable on such other terms and conditions as are agreed between the Trustee and the Member from time to time.

11.3 A pension may be paid by:

- (a) instalments from the relevant Contribution Account of the Member;
- (b) purchasing an annuity in the Trustee's name and paying the proceeds to the Member or the Member's Dependants;
- (c) purchasing an annuity in the name of the Member, or of the Member and one or more Dependants; or
- (d) such other manner as may be agreed.

11.4 A pension payable under rule 11.3(a) is subject to the following restrictions:


- (a) notwithstanding any agreement to the contrary under rule 11.2(b), the pension ceases when the Accumulated Credit is nil;

when the pension ceases under rule 11.2(b), any balance in the Contribution Account, subject to rule 9.10, must be paid to the

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the pension must not be transferred if this is inconsistent with the Relevant Requirements; and

(d) the Member must not use the capital value of the pension or the income from the pension as security for a borrowing.

11.5 If a Member dies whilst still entitled to a pension under rule 11.2, the balance in the Member's Contribution Account must (subject to rule 9.10) be paid as a Death Benefit.

#### Payment to Approved Fund

11.6 The Trustee may pay all or part of a Benefit to an Approved Fund if the person entitled to the Benefit consents and the payment complies with the Relevant Requirements.

#### Payment of Death Benefit

11.7 A Member's Death Benefit must be paid:

- (a) in accordance with the Member's current Benefit Request; or
- (b) if the Member is entitled to a pension under rule 11.2, in accordance with the Member's current Reversionary Pension Request.

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**Benefit Request**

- 11.8 If the Trustee does not hold a current Benefit Request or current Reversionary Pension Request for a Member, or the Benefit Request or Reversionary Pension Request is invalid or taken to have been revoked or does not satisfy Relevant Requirements, the Member's Death Benefit is to be paid to one or more of:
  - (a) the Member's Dependants; and
  - (b) the Member's Legal Personal Representative,
 in such proportions and manner as the Trustee decides.
- 11.9 If under rule 11.8 the Trustee is unable to locate a Dependand or the Legal Personal Representative of the Member, the Trustee must pay the Death Benefit to a person permitted by the Relevant Requirements.
- 11.10 A Member may give a new Benefit Request at any time. If the Trustee accepts a new Benefit Request, any earlier Benefit Request (or, subject to rule 11.12, any earlier Reversionary Pension Request) is taken to have been revoked.

**Reversionary Pension Request**

- 11.11 A Member may give a new Reversionary Pension Request at any time before the Member starts to receive a pension under rule 11.2 (or later if the Trustee so approves).

Trustee's approval. If the Trustee accepts a new Reversionary Benefit Request, any earlier Reversionary Pension Request or any earlier Benefit Request is taken to have been revoked, notwithstanding that the new Reversionary Benefit Request cannot be followed for any reason.

#### **Variation of Payment**

**11.13** If a person entitled to a Death Benefit requests, the Trustee may pay the Death Benefit:

- (a) as a lump sum, pension or in any other form;
- (b) to another person; or
- (c) as a combination of (a) and (b).

#### **Distribution of specific assets**

**11.14** With the consent of a person entitled to a Benefit, the Trustee may pay the Benefit by transferring assets of equivalent value to the person or the person's nominee, so long as this is consistent with the Relevant Requirements.

#### **Interim Benefit**

**11.15** Pending payment of any Benefit, the Trustee may, if it considers it appropriate, pay an interim Benefit on account of the Benefit to which the Member or Beneficiary is entitled. Any interim Benefit must be less than the Benefit considered payable to the Member or

Beneficiary. In calculating the amount of an interim Benefit, the Trustee may take into account additional earnings or actual or anticipated losses affecting the amount of the interim Benefit on a basis that the Trustee considers appropriate.

**Trustee's discharge**

- 11.16 The Trustee is discharged from all obligations in respect of a Benefit if the Trustee pays it in good faith to or on behalf of a person believed to be entitled to it.

**12 Variation of deed and rules**

12.1 Subject to rule 12.2, the Trustee may at any time by instrument in writing amend, add to, delete or replace all or any of the provisions of the Deed or these rules including this rule 12.

12.2 No amendment may be made which contravenes the Relevant Requirements.

12.3 The Trustee must notify the Members of the nature, purpose and effect of any amendment to the Deed or Rules in accordance with the Relevant Requirements.

12.4 Subject to the Relevant Requirements, any amendment made under this rule 12 may be given retrospective effect to the extent that the Trustee may determine at the time it is made.

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..... of the Deed or these Rules, no

amendment may permit an individual to be appointed as trustee unless the Relevant Requirements permit.

## **13 Winding up**

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### **When Fund to be wound up**

- 13.1 The Fund must be wound up as soon as reasonably practicable after the happening of any of the following events:
- (a) the Trustee resolves that the Fund be wound up;
  - (b) there are no Members in the Fund and the Trustee resolves to terminate the Fund;
  - (c) The Fund is without a Trustee in the circumstances specified in rule 2.4;
  - (d) all of the Members give written notice to the Trustee that the Fund is to be wound up.
- 13.2 The Trustee must notify Members that the Fund is to be wound up on a specified date in accordance with the Relevant Requirements. As from the Closure Date the Trustee must not accept any contributions other than contributions in arrears at the Closure Date, which must be paid immediately.



**Benefits on winding up**

13.3 On a winding up of the Fund the Trustee must, to the extent permitted by the Relevant Requirements, apply the Fund Assets:

- (a) first, to provide for all costs, expenses and liabilities (other than Benefits) for which the Trustee is or may become liable;
- (b) secondly, to pay all amounts owing to the Trustee by a Member or from the Fund including, without limitation, fees and costs and expenses for which the Trustee is entitled to be reimbursed under the Deed, these Rules or by law;
- (c) thirdly, to pay a Benefit for each Member equal to the Accumulated Credit.

13.4 If a Member dies before receiving a Benefit to which the Member has become entitled under rule 13.3, the Trustee must pay the Benefit as a Death Benefit.

13.5 A Member may not receive a Benefit under rule 13.3 before the Relevant Requirements permit.

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## 14 Compliance rule

14.1 All the standards which need to be included in the Deed and these Rules for the purposes of complying with the Relevant Requirements form part of the Deed and these Rules, whether or not they are

explicitly stated.

14.2 However, if:

- (a) a standard no longer needs to be included; or
- (b) the Responsible Authority does not require a standard to be complied with,

then that standard ceases to be included by rule 14.1.

14.3 A standard included by rule 14.1 prevails over any other rule which is inconsistent with it.

## **15 Saving provision**

---

If a provision of the Deed or these Rules would otherwise be invalid in whole or part because it:

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

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

---

## Deed of Amendment

**Date:** 2002

**By:** NATIONAL AUSTRALIA TRUSTEES LIMITED  
(ABN 80 007 350 405) ("Trustee")

**Recitals:**

- A. By a trust deed dated 14 December 2000 (including any amendments, "Trust Deed and Rules"), a superannuation fund now known as the Nustart National Private SuperFund ("Fund") was established.
- B. The Trustee is the current trustee of the Fund.
- C. Under rule 12 of the Trust Deed and Rules, the Trustee may at any time amend all or any of the provisions of the Trust Deed and Rules.
- D. The Trustee wishes to amend the Trust Deed and Rules as set out below.

**Operative provisions:**

**1 Interpretation**

---

- 1. Unless otherwise defined in this Deed, words and expressions defined

2. A reference to amendments includes additions, omissions, substitutions and alterations.
3. Headings are inserted for convenience and do not affect the interpretation of this Deed.

## **2 Amendment of the Trust Deed and Rules**

---

With effect from the date of this Deed and notwithstanding anything in the Trust Deed and Rules, the Trust Deed and Rules are amended by:

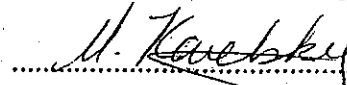
1. in rule 4.7, deleting the formula "ADM x AAC x (730 - X) 365" and inserting instead the following formula:

"ADM x AAC x (730 - X)

365"; and

2. in rule 11.12, replacing all references to "Reversionary Benefit Request" with "Reversionary Pension Request".

I CERTIFY THAT THIS IS  
A TRUE AND CORRECT COPY  
OF THE ORIGINAL DOCUMENT

  
.....  
AUTHORIZED OFFICER  
NATIONAL AUSTRALIA TRUSTEES

Miriam Kerelsky  
5/271 Collins Street  
A current practitioner under  
The Legal Practice Act 1996. 09 09 02

4471124

**EXECUTED** as a deed

**Signed for and on behalf of** )  
**NATIONAL AUSTRALIA TRUSTEES** )  
**LIMITED (ABN 80 007 350 405)** by its )  
duly appointed attorneys: )  
)

*K Weeks*

.....  
Signature of Attorney

Kathleen Weeks  
Team Manager

.....  
Name of Attorney (block letters)

*Paul Williams*

.....  
Signature of Attorney

Paul Williams  
Senior Customer Service Provider

.....  
Name of Attorney (block letters)

## Contents

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1	<b>Definitions and Interpretation</b>	1
2	<b>Trustee</b>	5
	Nature, appointment and removal	5
	Transfer of assets	6
	Other powers of Trustee	6
	Appointment of Manager	6
	Délegation	7
	Trustee liability and indemnity	7
	Trustee's discretions	7
	Authorisations	8
	Member's Agents	8
	Recommendations	8
3	<b>Assets and Investments</b>	8
	Assets	8
	Fund assets held by Trustee	8
	Investments	9
	Member's Investment Direction	9
	Borrowing	10
	Financial assistance	10
	Related trusts	10
	Other capacities	10
	<b>Remuneration of Trustee</b>	11

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*[Signature]*  
OFFICER  
STRALLIA TRUSTEES

arelsky  
11/11/96  
practitioner under  
Practice Act 1996

I CERTIFY THAT  
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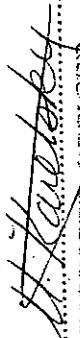
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	Trustee's fees	
	Establishment Fee	11
	Administration Fee	11
	Exit Fee	11
	Minimum Withdrawal Fee	12
	Annual Review Fee	13
	Trustee waiver	13
	Increased fee	13
	Additional fees	13
	Payment of fees and expenses	13
	Commissions	13
	GST	13
<b>5</b>	<b>Administration</b>	<b>14</b>
	Expenses	14
	Rights of Members	14
	Members and Employers to give information	14
	Trustee to give information	14
	Notices	15
	Power of attorney	15
	Governing law	15
<b>6</b>	<b>Records and Accounts</b>	<b>15</b>
	Records	15

	Accounts and audit	15
	Contribution Account	15
	Tax, surcharge and other expenses	16
	Interim adjustments	16
	Non-realisation of assets	16
	Reserve Account	17
	Valuations	17
<b>7</b>	<b>Eligibility and Membership</b>	<b>18</b>
	Eligibility	18
	Membership	18
	Transfer from another superannuation entity	18
	Transfer to another superannuation entity	18
	Cessation of membership	19
	Admission of Employers	19
	Retirement of Employers	19
<b>8</b>	<b>Contributions</b>	<b>20</b>
	Employer contributions	20
	Member contributions	20
	Eligible Spouse contributions	20
	Contributions - general	20
	Shortfall Component	20
<b>9</b>	<b>Benefit Entitlement</b>	<b>21</b>
	Retirement	21



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10

11

Payment permitted by Relevant Requirements.	21
Required Payment Date	21
Death Benefit	21
Voluntary deferral	21
Compulsory preservation	21
Consequences of retention	22
Rollover benefits	22
Tax, surcharge and expenses	22
<b>Restrictions of benefit entitlement</b>	<b>22</b>
Determination of entitlement	22
Forfeiture	22
Unclaimed benefits	23
<b>Payment of benefits</b>	<b>23</b>
General	23
Pensions	23
Payment to Approved Fund	24
Payment of Death Benefit	24
Benefit Request	25
Reversionary Pension Request	25
Variation of Payment	25
Distribution of specific assets	25
Interim Benefit	25
Trustee's discharge	26

12	Variation of deed and rules	26
13	Winding up	26
	When Fund to be wound up	27
	Benefits on winding up	27
14	Compliance rule	27
15	Saving provision	27

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Miriam Karelsky  
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