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or compassionate grounds, as described in this Deed, or any other benefit that the Act permits to be paid from the Fund.

"Child Contribution" means a gross payment to the Fund made as a contribution on behalf of a Member by a parent, grandparent or other relative of that Member, and permitted by the Act.

"Co-contribution Act" means the Superannuation (Government Co-contribution for Low Income Earners) Act 2003.

"Commencement Date" means the date of commencement of the Fund specified in the Schedule.

"Contribution" means a gross payment to the Fund (prior to deduction of any Taxation payable in respect of the payment) made as a contribution by or on behalf of a Member in accordance with this Deed, including any Child Contribution, Employer Contribution, Government Contribution, Member Contribution, or Spouse Contribution or payment that is otherwise permitted as, or deemed to be, a contribution by the Act, and includes amounts which are transferred or rolled over to the Fund from an Approved Superannuation Entity.

"Corporate Trustee" means a Trustee that is a company incorporated under the Corporations Act and which company complies with any relevant requirement of the Act.

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

"Deed" means this Trust Deed as amended from time to time and includes any schedule, annexure or appendix to this Trust Deed.

"Dependant" means in relation to a Member (whether living or deceased) any of the following persons:

- (a) the spouse, widow or widower of the Member;
- (b) a child of the Member including a child of the Member born after the death of the Member;
- (c) a person who in the opinion of the Trustee is at the relevant time (or in the case of a deceased Member, was at the time of death of that Member) wholly or partially dependent on the Member for that person's maintenance and support or who has or had at the relevant time a legal right to maintenance and support from that Member;
- (d) a person who is, or was at the time of death of the Member, in an interdependency relationship with the Member as defined in the Act ; and
- (e) a person who is a dependant as defined by the Act.

"Income Tax Act" means the Income Tax Assessment Act 1936 (Cth) and Income Tax Assessment Act 1997 (Cth).

"Individual Trustee" means a Trustee who is an individual, and if more than one, each of them.

"Insurer" means any insurer or assurer selected by the Trustee to obtain a Policy of Insurance under this Deed.

"Investment Strategy" means an investment strategy as required by the Act.

"Member" means a person admitted to membership of the Fund under this Deed and **"Membership"** means membership of the Fund.

"Member Contribution" means a gross payment to the Fund made by a Member as a contribution.

"Nominated Beneficiary" means a person nominated in writing by a Member as the desired recipient of a Benefit that is or becomes payable following the death of that Member, and includes a person nominated in a binding beneficiary nomination made under clause 50.4; or a person nominated under any other circumstances; but the nominated person must be either a Dependant or legal personal representative of the Member.

"Normal Retirement Age" means the 65 years of age, or any other age permitted by the Act, that the Member agrees with the Trustee and the Member's Employer (if any) to be the normal age of retirement of the Member for the purposes of this Deed.

"Old-Age Pension" means an old-age pension as defined by the Act and paragraph 51(xxiii) of the Constitution of the Commonwealth of Australia.

"Pension" means a Benefit that is provided by the Fund as a pension, and payable by instalments out of a Pension Account maintained for and on behalf of a Pensioner, and includes an Old-Age Pension, an Allocated Pension, a Lifetime Income Stream, a Fixed Term Income Stream, or a Market-Linked Income Stream (also known as Term Allocated Pension or Growth Pension), as described in this Deed or any other pension as defined by the Act.

"Pensioner" means a Member who is in receipt of a Pension.

"Policy of Insurance" means any policy of insurance or assurance obtained by the Trustee on behalf of a Member for the life, endowment, term, disablement, accident or sickness of a Member, including an individual policy, a group policy, and a policy under which the proceeds will be payable to the Trustee.

"Total and Permanent Disability" in relation to a Member:

- (a) has the meaning assigned to that term (or equivalent) in any applicable Policy of Insurance that insures the Member for that contingency; or
- (b) if there is no applicable Policy of Insurance, means permanent incapacity as defined in the Act;

and **"Totally and Permanently Disabled"** has a corresponding meaning.

"Trustee" means the party named as the Trustee in this Deed or any person who subsequently assumes the role of the trustee of the Fund under this Deed.

"Trustee Act" means the Trustee Act 1958 (Vic) or the equivalent legislation of any other State or Territory of Australia relating to trustees and which is applicable to the Trustee.

1.2 Defined Terms in the Act

An expression used in this Deed which is defined in the Act and is not otherwise defined in this Deed, has the same meaning in this Deed unless the context otherwise requires.

2. INTERPRETATION

In this Deed, unless the context otherwise requires:

- (a) Headings and underlinings are for convenience only and do not affect the interpretation of this Deed;
- (b) A reference to the singular include the plural and vice versa;
- (c) A reference to a gender includes any gender;
- (d) A reference to a natural person includes any company, partnership, joint venture, association, trust or other body corporate;
- (e) A reference to any thing includes a part of that thing;
- (f) A reference to a clause, party, annexure, exhibit or schedule is a reference to a clause of, and a party, annexure, exhibit and schedule to, this Deed;
- (g) A reference to any statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing them, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;

5. TRUSTEE HOLDS FUND ON TRUST

The Trustee must hold the Fund upon trust for the Beneficiaries subject to the trusts, powers, authorities, discretions and obligations contained in this Deed.

6. COMPOSITION OF THE FUND

The Fund consists of all cash, monies, investments and other property held by or on account of the Trustee under this Deed including:

- (a) Contributions made to the Fund under this Deed;
- (b) any other monies or assets (including Rollover Payments) paid or transferred to the Trustee under this Deed;
- (c) income arising from investments of the Fund;
- (d) any accretions to or profits arising from investments of the Fund;
- (e) any other distribution (from a family trust or otherwise), dividend or gift paid to and accepted by the Trustee as an accretion to the Fund;
- (f) the proceeds (including bonuses) of any Policy of Insurance received by the Fund; and
- (g) any other monies property or investments which are or become held by or on account of the Trustee on the trusts of this Deed.

7. ELECTION TO BE REGULATED SUPERANNUATION FUND

7.1 Trustee must give Notice of Election

The Trustee must as soon as practicable after the Commencement Date (and within the prescribed period required by the Act) give to the relevant Responsible Authority a written notice signed by the Trustee and in the form prescribed by the Act irrevocably electing that the Act is to apply to the Fund.

7.2 Pension Fund and/or Corporate Trustee

At all times the Fund must have:

- (a) the sole or primary purpose of providing Old-Age Pensions (notwithstanding that the Fund may also provide other ancillary Benefits as specified in this Deed); **AND, OR IN THE ALTERNATIVE,**
- (b) a Corporate Trustee as the Trustee of the Fund.

- (a) two or more Individual Trustees; or
- (b) a Corporate Trustee.

8.2 **Compliance with the Act**

The appointment or removal of any person to or from the office of the Trustee and the composition of persons holding the office of Trustee must comply with the Act.

8.3 **Founder and Members to Appoint and Remove Trustee**

The Founder or the Members by resolution:

- (a) may appoint or remove any person as an Individual Trustee or any company as a Corporate Trustee by notice in writing given to that person or company; and
- (b) must ensure that any vacancy in the office of the Trustee is filled in a manner and within the time required by the Act.

8.4 **Cessation from Office of Individual Trustees or Responsible Officers of Corporate Trustee**

A person ceases to hold the office of an Individual Trustee or to hold the office of a Responsible Officer of a Corporate Trustee:

- (a) upon the resignation of that person by notice in writing given to the Founder and all other Individual Trustees or Directors of a Corporate Trustee, as the case may be;
- (b) upon the removal of that person under clause 8.3 by notice in writing given to that person;
- (c) upon that person becoming disqualified within the meaning of the Act;
- (d) upon the death of that person, subject to clause 8.8;
- (e) upon that person committing an act of bankruptcy or being declared a bankrupt or entering into any arrangement or composition with that person's creditors or becoming an insolvent under administration under or pursuant to the Bankruptcy Act 1966 (Cth) or any other law of the Commonwealth of Australia relating to insolvency;
- (f) upon that person being convicted of a criminal offence in respect of dishonest conduct; or
- (g) where a civil penalty order as defined by the Act is made in relation to the person.

Trustee and to deliver all records and other books in that person's possession or control to the new or remaining Trustee.

9. PROCEEDINGS OF TRUSTEE

9.1 Meetings

The Trustee may meet, adjourn and regulate its meetings as the Trustee sees fit.

9.2 Quorum for Meeting of Trustee

- (a) A meeting of the Trustee must only exercise any powers or discretions exercisable by the Trustee under this Deed if a Quorum is present.
- (b) The Quorum is the number of persons representing 75% in number of:
 - (i) in the case of a Corporate Trustee, the total number of Directors of the Corporate Trustee; and
 - (ii) in the case of Individual Trustees, the total number of Individual Trustees.

9.3 Passing of Resolutions at Meetings

- (a) All matters affecting the Fund arising at a meeting of the Trustee must be determined by resolution. No resolution will be effective unless carried by a simple majority, or if the Act requires a particular majority, by that majority.
- (b) A written resolution signed by a Chairperson of the Trustee will be *prima facie* evidence of an effective resolution passed at a meeting of the Trustee duly convened and held.
- (c) A copy of that written resolution must be given to each Individual Trustee or Director of a Corporate Trustee, as the case may be, who was not present at the meeting at which that resolution was passed as soon as reasonably practicable after that resolution is made.

9.4 Attendances at Meeting when not present in Person

An Individual Trustee or a Director of a Corporate Trustee may participate in a meeting of the Trustee without attending the meeting in person by means of any suitable and appropriate communications equipment provided that all persons participating in the meeting can hear each other. Participation in this way will be deemed to constitute presence in person at the meeting.