

SUPERANNUATION INDUSTRY (SUPERVISION) ACT (1993)

SUPERANNUATION DEED

for

PV & DL WITT SUPERANNUATION FUND

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TABLE OF CONTENTS

Clause Number

Description

1	Definitions and Interpretation
2	The Fund
3	Trustee
4	Trustee Powers
5	Limitation of Liability
6	Indemnity
7	Investment
8	Records, Audit and Information
9	Membership
10	Actuarial Requirements
11	Contributions
12	Benefits: General Provisions
13	Transfers
14	Investment Options
15	Reserve Account
16	Confidentiality
17	Termination of the Fund
18	Amendments
19	Severance
20	Notices
21	Governing Law

Schedules

1	General
2	Benefits
3	Application for Membership

DEED made on the date specified in the General Schedule

BY The person or persons named as the Trustee in the General Schedule

RECITALS

A. The Trustee has resolved to establish a Self Managed Superannuation Fund to be known by the name specified in the General Schedule, for the purpose of providing superannuation benefits for its Members and their Dependants and for such incidental and ancillary purposes as the Regulator may from time to time approve.

B. The Trustee has resolved to act as trustee of the Fund with and subject to the powers and provisions contained within this deed.

C. The Fund was established on the date of this deed.

COMMISSIONER OF STATE TAXATION

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DEED

OPERATIVE PART

1. Definitions and Interpretation

1.1 Definitions

In this deed:

"Act" means the Superannuation Industry (Supervision) Act 1993, the Income Tax Assessment Act 1997 or the Income Tax Assessment Act 1936 (as the context requires) and includes any regulations, declarations or orders made under that Act or any other law or any requirement of a Regulator:

- (a) which the Fund must satisfy to qualify for the most favourable taxation treatment available to superannuation funds; or
- (b) which the Trustee or the Fund must comply with to avoid any penalty or disadvantage which might be incurred in connection with the operation of the Fund;

"Asset" means any asset that the Trustee holds for the purposes of the Fund;

"Associate" has the meaning given by the Act;

"Beneficiary" includes Members and any person entitled at the relevant time to receive a payment from the Fund in respect of a Member and any other person who is a Beneficiary for the purposes of the Act and shall include a Non-Member Spouse;

"Benefit arrangement" means any fund or arrangement established to receive superannuation contributions or amounts arising from such contributions. For example, it includes a superannuation fund, approved deposit fund, retirement savings account and the Superannuation Holding Accounts Reserve;

"Benefit Schedule" means Schedule 2 to this Deed;

"Binding Death Benefit Nomination" means a direction which is a binding direction for the purposes of the Act as to payment of the Member's Death Benefit and referred to in Clause 12.6.4;

"Child" in relation to a Beneficiary, includes a stepchild, an adopted child or an ex-nuptial child, or any other person who is a child for the purposes of the Act;

"Constitutional Corporation" has the meaning given by the Act;

"Contribution" means payments and/or transfers of property to the Fund by or in respect of a Member and/or payments of expenses on behalf of the Fund;

"Death Benefit" means a benefit payable on a Member's death. It includes a benefit that became payable in respect of a Member before, but that is not actually paid until after, the Member's death;

"Death Benefit Nomination" means an Indicative Death Benefit Nomination or a Binding Death Benefit Nomination;

"Deed" means this Deed as amended from time to time;

"Dependant", in relation to a Beneficiary, includes:

- (a) the Beneficiary's Spouse or Child;
- (b) any other person who, in the Trustee's opinion, is or was at the relevant time dependant on the Beneficiary;
- (c) any other person who, in the opinion of the Trustee, the relevant Beneficiary had a legal or moral obligation to support at the relevant date; and
- (d) any person who is a dependant within the meaning of the Act;

"Eligible Rollover Fund" has the meaning given by the Act;

"Employer" means an employer of a Member who contributes to the Fund on behalf of the Member;

"Expenses" means all direct and indirect costs of the establishment, operation and termination of the Fund, including any tax, insurance costs and any fees or charges imposed on or paid by the Trustee in connection with the Fund;

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

"Fund" means the fund referred to in Recital A and established in accordance with this Deed;

"Gainful Employment" has the meaning given by the Act;

"General Schedule" means Schedule 1 to this Deed;

"Indicative Death Benefit Nomination" means a Death Benefit Nomination expressed to take effect as an indication of the Member's wishes as to payment of the Member's Death Benefit and referred to in Clause 12.6.4;

"Investment Earnings" means the positive or negative amount which the Trustee determines to be the Fund's profit for the period, having regard to the income of the Fund, the expenses of the Fund, the movement in the value of the Fund assets (including unrealised assets), the Fund liabilities (including unrealised liabilities) and any other matters the Trustee considers appropriate.

"Investment Option" means an investment strategy that may be chosen in respect of investments in the Fund in accordance with this Deed;

"Legal Personal Representative" means the executor of the will or administrator of the estate of a deceased member, the Trustee of the estate of a member under a legal disability, a person who holds an enduring power of attorney granted by a member or the parent or legal guardian of a member under the age of eighteen.

"Liabilities" means all liabilities whatsoever of the Fund, and includes any provisions the Trustee makes in connection with such liabilities;

"Member" means a person who has been admitted as a member of the Fund in accordance with Clause 9 and who has not ceased to be a Member;

"Member's Account" means an account maintained in respect of a Member in accordance with Clause 9.8;

"Member's Account Balance" means the amount standing to the credit of a Member's Account, determined in accordance with Clause 9.8.2;

"Non-Member Spouse" has the same meaning as that term has under the Family Law Act;

"Old Age Pensions" has the meaning given by the Act;

"Policy" means an insurance policy or policies of life, disability or accident insurance in which the Trustee has a legal or equitable interest;

"Preserved Benefits" means any part of an amount held in the Fund in respect of the Member that the Act requires to be retained in the Fund or another complying Benefit Arrangement until the Member has retired from the work force and attained the age specified by the Act, or until such other circumstances as the Act permits;

"Regulator" means the Australian Prudential Regulation Authority, the Australian Securities and Investments Commission, the Commissioner of Taxation or any other governmental authority responsible for the administering of the laws, regulations or any other rules governing the operation of or the availability of income tax concessions to superannuation funds, as relevant;

"Reserve Account" means an account or accounts established and maintained in accordance with Clause 15;

"Retirement Age" means:

- (a) age 65; or
- (b) if the Act stipulates another age at which benefits can generally be paid from a regulated superannuation fund whether or not a Member has ceased Gainful Employment, that age;

"Rule" means a provision of the Schedules;

"Service" means a period of Gainful Employment by the Member;

"Social Security Act" means the Social Security Act 1991 and the Veterans' Entitlement Act 1986 and all other requirements with which a payment made from the Fund must comply to be treated as an Asset-Test Exempt Income Stream for the purposes of that Act;

"Spouse", in relation to a person, includes:

- (a) another person who, whether or not legally married to the person, lives with them on a genuine domestic basis as their husband or wife; and
- (b) any other person who is a spouse for the purposes of the Act;

"Successor Fund" has the meaning given by the Act;

"Tax" includes:

- (a) all actual or anticipated stamp, financial institutions, registration and any other duties, bank accounts debits tax and other taxes, levies, imposts, deductions, surcharges and charges whatsoever;
- (b) any goods and services tax, value added tax or similar tax imposition or charge; and
- (c) any interest, fines, penalties, charges, fees or other amounts payable in respect of the items mentioned in paragraphs (a) or (b);

"Total and Permanent Disablement":

- (a) means, if any part or all of the benefit payable on such disablement is insured under a Policy enforced in respect of a Member at the relevant time, total and permanent disablement as defined in that Policy or as agreed by the Trustee and the insurer for the purposes of that Policy; or
- (b) if at the relevant time the benefit is not insured under a Policy, then in respect of such benefit, the term has the same meaning as the term 'permanent incapacity' has for the purposes of the Act;

"Temporary Disablement":

- (a) means, if any part or all of the benefit payable on such disablement is insured under a Policy enforced in respect of a Member at the relevant time, temporary disablement as defined in that Policy or as agreed by the Trustee and the insurer for the purposes of that Policy; or
- (b) if at the relevant time the benefit is not insured under a Policy, then in respect of such benefit, the term has the same meaning as the term 'temporary incapacity' has for the purposes of the Act;

"Trustee" means the trustee for the time being of the Fund. Where there is more than one trustee it refers to each trustee for the time being of the Fund.

1.2 Compliance

If the Act requires certain provisions to be included in the governing rules of a regulated superannuation fund, those provisions are (to the extent they are relevant to the Fund) deemed to appear in this Deed and to override any inconsistent provisions.

Nothing in this Deed requires the Trustee or any other person to do anything that is contrary to the Act or prevents the Trustee or any other person doing anything that is required to be done to comply with the Act.

1.3 Interpretation

In this Deed unless the contrary intention appears or can reasonably be implied from the context:

A term used in this Deed which is defined in the Act has the same meaning in

this Deed.

A reference to this Deed or any other instrument includes any variation or replacement of them;

A reference to a statute or other law includes regulations and other instruments ("subordinate instrument") made under such a statute or law and any consolidation, amendment, re-enactment or replacement of such a statute, law or subordinate instrument;

The singular includes the plural and vice versa;

Terms such as "including", "for example" and similar expressions or words are not words or expressions of limitation;

A reference to a person includes:

- (a) a body corporate, any other entity recognised at law, a partnership and any other group or organisation of persons; and
- (b) a person's legal personal representatives, successors and assigns;

Where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;

Headings are inserted for convenience of reference only and are not to be taken into account in interpreting this Deed;

A reference to any thing (including any amount) is reference to the whole or any part of it; and

A reference to a group of persons is a reference to any one or more of them.

2. The Fund

2.1 Assets

The Fund comprises all Assets held by the Trustee at any time in accordance with this Deed. The Trustee shall hold the Assets on trust for the objects and purposes of this Deed.

2.2 Name

The name of the Fund is specified in the General Schedule. The Trustee may change the name or promote the Fund under a different name without the necessity of amending this Deed.

2.3 Single trust

Nothing in this Deed is to be taken as establishing a separate trust in respect of any of the categories of Investment Options, any Investment Option or any part of the Fund.

3. Trustee

3.1 Trustee

The person or persons named in the General Schedule is or are appointed as Trustee with effect from the date of this Deed.

3.2 Regulated superannuation fund

- (a) The number of Trustees appointed shall be in accordance with the requirements of the Act relevant to the number of Members of the Fund;
- (b) Subject to Clause 3.2(c), the Trustee must be a Constitutional Corporation;
- (c) Despite Clause 3.2(b) the Trustee may be, or include a person or persons, other than a Constitutional Corporation, but in that event and for so long as that situation continues, the primary purpose of the Fund will be the provision of Old Age Pensions;
- (d) Despite Clause 3.2(c) the Fund may also be conducted for any other ancillary purpose which may be permitted under the Act.

3.3 Conditions

- (a) A person that is to be appointed as Trustee must give written consent to the appointment in accordance with the Act before accepting the appointment;
- (b) A members Legal Personal Representative may act as Trustee in the members stead where permitted by the Act;
- (c) The Trustee must otherwise comply with any other requirements of the Act.

3.4 Termination of Trustee's office

3.4.1 A Trustee will hold office until:

- (a) the Trustee resigns the office by notice in writing to the Members; or
- (b) the Trustee ceases to be a member of the Fund; or
- (c) being a natural person, dies or becomes incapable of performing his duties hereunder; or
- (d) being a corporation, goes into liquidation or has a receiver appointed or enters into administration; or
- (e) the Trustee is removed, or ceases to be eligible to act as Trustee under the Act; or
- (f) the Trustee is removed by vote of the Members pursuant to Clause 3.4.2.

3.4.2 The Members shall have the right to appoint and remove the Trustee subject at all times to the Act.

3.4.3 If a Trustee:

- (a) retires;
- (b) becomes aware that it will be removed as Trustee;
- (c) becomes aware that it will cease to be eligible to act as Trustee; or
- (d) is otherwise disqualified or removed from its office as

Trustee;

it must appoint another person to act as Trustee that otherwise complies with the Act (unless there is more than one Trustee and the Act does not require the vacancy to be filled).

3.4.4 If the Act or any other law does not permit the terminating Trustee to appoint a new Trustee in accordance with Clause 3.4.2 or the terminating Trustee fails to do so, the new Trustee may be appointed:

- (a) where management of the affairs of the Trustee has been placed under a liquidator, receiver, manager, administrator or other controller, by that person;
- (b) where paragraph (a) does not apply, or where it does apply but the controller fails to appoint a new Trustee within 30 days of the vacancy arising, by vote of the Members; or
- (c) in accordance with any procedure prescribed by the Act.

3.4.5 Where the office of Trustee becomes vacant due to the operation of Clause 3.4.1(c) the Members Legal Personal Representative shall act as Trustee until such time as the Members benefits have been dealt with as prescribed by this Deed and the Act.

3.5 Transfer of assets

If a Trustee's office terminates, it must:

- (a) provide to any Trustee all records, information and other property relating to the Fund in its control; and
- (b) otherwise do such acts, matters and things as may be necessary to perfect or complete the appointment of a new Trustee.

3.6 Power to appoint

Without limiting any other power conferred on the Trustee by this Deed or law, the Trustee has power to appoint any additional Trustee by deed or by resolution in writing of the Trustee. This power is to be exercised subject to any relevant provision of the Act.

3.7 Rules

The Members may make rules (subject to the Act) regarding all matters concerning the Trustee provided that any such rule is recorded in writing and signed by all the Members. Such rules may be varied or rescinded by the Members at any time. Any such rule which shall be in conflict with the provisions of this Deed and/or the Act shall be void and of no effect.

4. Trustee Powers

4.1 Powers

Subject to the Act, the Trustee:

- (a) is empowered to do anything whatsoever necessary or desirable for the purpose of maintenance, operation, management, development of the Fund or to otherwise further the interests of the Fund;
- (b) has, in addition to the powers conferred by this Deed, all the powers

conferred on a trustee by statute or general law;

- (c) has the power to do anything required or permitted by the Act.
- (d) has the power to do anything or refrain from doing any thing as is necessary to comply with an order or agreement made pursuant to the Family Law Act or such equivalent legislation applicable to de facto or same sex relationships.

4.2 Compliance

Without limiting anything in Clause 4.1 the Trustee may:

- (a) do anything that the Trustee considers necessary or desirable in order to comply with the Act; and
- (b) refrain from actions that the Trustee might otherwise be empowered or obliged to do if the Trustee considers it necessary or desirable in order to comply with the Act.

4.3 Discretions

The Trustee:

- (a) has an absolute and uncontrolled discretion in exercising or refraining from exercising trusts, authorities and powers under this Deed;
- (b) may exercise any of the Trustee's powers at any time;
- (c) may refrain from exercising any of the Trustee's powers from time to time or at all;
- (d) may exercise a power even if the Trustee or any of the Trustee's Associates have an interest that may be affected by the exercise of that power;
- (e) may enter arrangements with Associates, Beneficiaries, Employers or other persons in connection with the Fund and retain for the Trustee's own benefit, any commission, profit or other gain received in connection with such arrangements; and
- (f) may exercise a power even if the Trustee or any of the Trustee's Associates has any interest as a Beneficiary that may be affected by the exercise of that power and may exercise the power such that the interests of the Trustee or any Associate are advanced, preferred or better secured over those of any other Beneficiary or class of Beneficiary.

4.4 Fees

Subject to the Act, the Trustee may charge fees and set the amount of those fees and the circumstances in which they will be charged.

4.5 Decisions

4.5.1 Subject to Clause 4.5.2, where the Trustee comprises:

- (a) two individuals – Trustee decisions require unanimous approval;
- (b) more than two individuals – Trustee decisions require

majority approval;

- (c) a constitutional corporation – Trustee decisions shall be in accordance with the governing rules of the corporation unless the Act requires otherwise.

4.5.2 Where there is a deadlock in making any Trustee decision the deadlock shall, subject to the Act, be resolved by weighting each Trustee's vote in accordance with their respective Member's Account Balance as a proportion of the total Member Account balances of the Fund.

4.6 Meetings

4.6.1 Subject to the Act and the Deed, the Trustees may communicate with each other, meet together and otherwise regulate their business as Trustee as they think fit.

4.6.2 The Trustees may communicate via any means they approve, and a resolution passed by such communication method shall, notwithstanding that the Trustees are not present together in the same place, be deemed to have been validly passed at a Trustee's meeting.

4.6.3 If all the Trustees have signed a document or separate documents containing a statement that they are in favour of a resolution of the Trustees as set out in the document, a resolution in those terms shall be deemed to have been validly passed.

5. Limitation of Liability

5.1 Limitation

Subject to Clause 5.2, no Trustee or, where the Trustee is a corporation, any of its directors or officers, will be personally liable for any loss or detriment whatsoever incurred by any person in connection with the Fund for whatever reason.

5.2 Exceptions

Clause 5.1 does not apply to the extent that the loss or detriment is due to the Trustee's, director's or officer's dishonesty or wilful or reckless failure to exercise the degree of care and diligence that the Trustee, director or officer was required to exercise or is otherwise inconsistent with the Act.

6. Indemnity

6.1 Indemnity

The Trustee and, where the Trustee is a corporation, its directors and officers are entitled, to the maximum extent permitted by the Act, and by law, to be indemnified from the Fund against all liabilities incurred by each of them in connection with execution, attempted execution, or in respect of non-execution of the Trustee's powers and discretions under this Deed.

6.2 Payment and reimbursement

Subject to the Act, the Trustee and its directors and officers may recover from the Fund amounts necessary:

- (a) to meet the indemnities referred to in Clause 6.1; and