

# THE GREY GHOST SUPERANNUATION FUND

## DEED OF AMENDMENT & CONSOLIDATION AND CHANGE OF TRUSTEES

AMCAL BAYSWATER DRIVE-IN PHARMACY  
431 GUILDFORD ROAD,  
BAYSWATER WA 6053  
PH: (08) 9272 4465 FAX: (08) 9272 6102  
ABN 97 205 343 954

I CERTIFY THIS TO BE A TRUE COPY OF THE ORIGINAL

*Reen Jye 002*  
B. Pharm  
6/9/19

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PO Box 412  
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DATE HERE

THIS DEED is made on 19th July 2018

BY: VALERIE KONYA  
of 396 Guildford Road  
BAYSWATER WA 6053

hereby known as the 'Resigning Trustee' and the "Member"

AND: GREY GHOST SF PTY LTD  
ACN 627 589 584  
of 396 Guildford Road  
BAYSWATER WA 6053

hereby known as the "New Trustee"

WHEREAS:

- A. By previous deed dated 19 September 2008 to be now referred to as the "Original Deed" an indefinitely continuing superannuation scheme was established to provide superannuation benefits for the members.
- B. The **Original Deed** may have been amended from time to time so that the **Original Deed** and any duly authorised amendments shall be referred to as the "**Original Deed (as amended)**".
- C. The superannuation scheme referred to in Recital A is named as **THE GREY GHOST SUPERANNUATION FUN** and for the purposes of this deed shall be referred to as "**the Fund**".
- D. The operative provisions of the **Original deed (as amended)** and any Rules attached to the **Original Deed (as amended)** shall for the purposes of this deed be known as the "**Governing Provisions**" of the **Fund**.
- E. "**The Rules**" shall mean the Rules as attached to this Deed.
- F. The former co-trustee of the Trust Fund STEVEN KONYA died on 12 July 2018.
- G. The **Resigning Trustee** is desirous of resigning as Trustee of **the Fund** and the **Member** is desirous of appointing the **New Trustee** as Trustee. The **New Trustee** consents to act as Trustee.

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*ff* Reen Jye 001  
B. Pharm  
6/09/19

H. All of the parties who execute this Deed hereby resolve and confirm that:

1. all of the members of **the Fund** have executed this Deed and
2. notwithstanding any prior event or contrary term, condition, rule or requirements contained within the **Original Deed (as amended)**, the **Original Deed (as amended)** is now substituted and replaced by deleting all of the recitals, definitions, operative terms and schedules contained within the **Original Deed (as amended)** and replacing same with the recitals, definitions, operative terms and schedules contained within this Deed and
3. the amendments made by this Deed are binding and effective notwithstanding any prior event or contrary term, condition, rule or requirement contained within the **Original Deed (as amended)**, including without limitation any requirement for consent. The Trustee and member now wish to replace the **Governing Provisions of the Fund** by the adoption of the operative provisions and rules as contained in this deed and in the Rules annexed to this Deed.

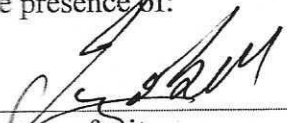
NOW THIS DEED WITNESSES as follows:

1. The **Governing Provisions of the Fund** are, without termination of **the Fund**, now governed by the provisions of this Deed and **the Rules** attached which incorporate the **Original Deed (as amended)**.
2. The assets of **the Fund** will continue to be vested in the Trustee upon trust to apply the same in the manner set out in **the Rules**.
3. **The Fund** shall be managed and administered in all respects according to **the Rules**.
4. The power of appointing and removing Trustees shall be as provided in **the Rules**.
5. The provisions of this Deed may be amended in the manner set out in **the Rules**.
6. The primary purpose of **the Fund** is to provide old age pensions to the members.
7. Operations of **the Fund**, conflicts and issues of law or practice between the **Original Deed (as amended)** and this Deed that may arise with this Deed are to be settled by reference to **the Rules**.
8. The Trustee hereby declares that the amendment of the provisions of the Trust Deed and Rules effected by virtue of this Deed does not prejudicially vary or affect the benefits already accrued to any member of **the Fund**.
9. The **Resigning Trustee** hereby resigns as Trustee. The **New Trustee** is hereby appointed by the **Member** as Trustee of **the Fund** in lieu of the **Resigning Trustee**.
10. This Deed and **the Rules** shall be governed by the law of Western Australia.

IN WITNESS the parties have duly executed this Deed on the date first above written.

EXECUTED by  
VALERIE KONYA

In the presence of:

  
\_\_\_\_\_  
Signature of witness

SIGN HERE

JUAN DOUBELL  
Name of witness (BLOCK LETTERS)

VALERIE KONYA  
VALERIE KONYA

EXECUTED by  
GREY GHOST SF PTY LTD  
ACN 627 589 584  
in accordance with section 127  
of the *Corporations Act 2001*:

Valerie Konya  
VALERIE KONYA  
Sole Director & Sole Secretary

SIGN HERE

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*Reen Jye 001*  
B.Pharm  
06/09/19

I certify page 1 to page  
 32 are the true copy of the  
 original

PAGE NO.

*Reen Jye 002 B.Pharm*

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## THE RULES

### RULE 1 DEFINITIONS & INTERPRETATIONS

#### DEFINITIONS

- 1.1 In the Trust Deed to which these Rules are an annexure and in these Rules the meaning of terms and expressions shall have the meaning given to them by the Regulations unless the context indicates otherwise. The following words and expressions shall have the following meaning:
- 1.1.1 **Accumulated Contributions** means the total of contributions made to the Fund accumulated in accordance with Schedule 1 paragraph 1.1 hereto.
- 1.1.2 **Accrued Benefit** means the amount determined in accordance with Schedule 1 paragraph 2 herein.
- 1.1.3 **Ancillary Benefit** means the Benefit described in Rule 4.10.
- 1.1.4 **Asset Test Exempt Pension** means a Pension Benefit that is exempt from or excluded from the assets test in whole or part under the *Social Security Act 1991* or the *Veterans' Entitlements Act 1986* (and any applicable regulations).
- 1.1.5 **Beneficiary** means a Dependant, a trustee for a Dependant, a Reversionary Pensioner, other Beneficiary or Legal Personal Representative of the Member who is entitled to a Benefit under Rules 5.9, 5.10 and 5.11.
- 1.1.6 **Benefit** means any benefit payable in respect of the Member's membership of the Fund pursuant to these Rules and the Regulations (including any benefit being paid prior to the adoption of these Rules and continuing to be paid after the adoption of these Rules) but does not include any amount standing to the credit of a Member which unless required by the Regulations to be vested is not fully vested until the Trustees exercise a discretion to fully vest the whole or part of such unvested amount.
- 1.1.7 **Complying Pension** means a Pension which otherwise complies with the Regulations governing Pensions provided that where the Pension is also an Asset Test Exempt Pension, the relevant provisions of the *Social Security Act 1991* or the *Veterans' Entitlements Act 1986* apply to the extent of any inconsistency to ensure the Pension qualifies or continues to qualify as an Asset Test Exempt Pension.
- 1.1.8 **Complying Superannuation Fund** means in relation to a year of income a fund which is a complying superannuation fund in accordance with the Regulations.
- 1.1.9 **Constitutional Corporation** means a body corporate that is either a trading corporation or a financial corporation, formed within the limits of the Commonwealth (within the meaning of paragraph 51(xx) of the *Commonwealth of Australia Constitution Act*).
- 1.1.10 **Contributor** means any person, company or entity who makes a contribution to the Fund (which may be money, securities or other property) for the benefit of one or more Members.
- 1.1.11 **Corporate Trustee** means a Constitutional Corporation appointed as trustee of the Fund.
- 1.1.12 **Dependants** means the Spouse and children of a Member (including any step-child, any ex-nuptial, any adopted child and any child of the Member born within 10 months after the death of the Member), any person in an interdependency relationship with the Member or any other person whom the Trustees determines for the purposes of the Regulations to be a Dependant of that Member at the relevant time (being in the case of a deceased person the date of that person's death) and any other person considered a Dependant under the Regulations.
- 1.1.13 **Eligible Fund** means an Australian Superannuation Fund, Foreign Superannuation Fund approved deposit fund, Eligible Rollover Fund, retirement savings account, small accounts holding reserve or other approved fund including a pension fund or annuity arrangement which can accept from the Fund a transfer of assets of the Fund or is authorised or permitted to transfer assets to the Fund in a manner not prohibited by the Regulations.
- 1.1.14 **Eligible Person** means any person who is not prohibited by the Regulations from becoming a Member of the Fund.
- 1.1.15 **Employee** means any Eligible Person in the employ of an Employer and who is classified as an Employee for the purposes of the Trust Deed and Rules or comes within a class of persons which is so classified. The term "employ" bears both its ordinary meaning and any expanded meaning provided by the Regulations.

- 1.1.16 **Employer** means the Employer of any particular Member who is an Employee.
- 1.1.17 **Financial Year** means a period of twelve calendar months ending on the last day of June or such other date as the Trustees may be permitted to determine.
- 1.1.18 **Fund** means the superannuation fund established by this Trust Deed to which these Rules are an annexure where this Trust Deed is establishing the Fund and in all other cases means the superannuation fund established by the deed referred to in this Trust Deed as the Original Deed establishing the Fund.
- 1.1.19 **Gainful Employment** means in relation to a Member, engagement in any business, trade, profession, vocation, calling, occupation or employment for gain or reward to the extent required pursuant to the provisions of the Regulations.
- 1.1.20 **Government Approval** means such approval of a Regulator, or other person, appointed by the Australian Government or such compliance with the Regulations (whether or not the approval of that Regulator or other person has been given to the Trustees in relation to such compliance) as may be required to ensure that the fund is regarded as a bona fide superannuation fund and qualifies for the maximum taxation concessions.
- 1.1.21 **Individual Policy**, in relation to a Member, means a life insurance policy or an interest in a group life insurance policy which the Trustees have nominated as being held specifically for the purpose of providing benefits in respect of that Member and which may include an insurance policy over the life of a person other than that Member.
- 1.1.22 **Legal Personal Representative**, in relation to a Member or a Trustee being an individual, means a person:
- 1.1.22.1 who has an enduring power of attorney in respect of the Member or the Trustee; or
- 1.1.22.2 who is the executor or administrator of the estate of a Member who has died including any person named as the executor in a Will of the deceased Member even though no grant of representation has issued or is required to administer the estate of the deceased Member provided the Trustees are satisfied that it is the last Will of the deceased Member; or
- 1.1.22.3 who has been appointed by law to act as the legal personal representative of a Member or a Trustee but does not include any person appointed under the laws of bankruptcy.
- 1.1.23 **Member** means any person admitted by the Trustees as a Member of the Fund and who has not ceased to be a Member of the Fund and any person required by the Regulations to be treated as a Member of the Fund and, where the context permits, if a Member:
- 1.1.23.1 is under a legal disability includes the Legal Personal Representative of that Member but not where these Rules expressly provide that the personal consent of a Member is required; and
- 1.1.23.2 is under a legal disability because of age and does not have a Legal Personal Representative includes the parent or guardian of that Member.
- 1.1.24 **Nominated Beneficiary** means the person or persons nominated as Beneficiary under a notice given under Rule 5.6 or an agreement made under Rule 5.8.
- 1.1.25 **Old-Age Pensions** has the same meaning as that in paragraph 51 (xxiii) of the *Commonwealth of Australia Constitution Act*.
- 1.1.26 **Pension** means an annuity or pension contemplated by the Regulations.
- 1.1.27 **Permanent Disablement** in relation to a Member has the same meaning as that contained in any insurance policy effected to cover Permanent Disablement of the Member and in force at the time of the disablement or where such meaning would not comply with the Regulations or where there is no such insurance policy means ill-health (whether physical or mental) which the Trustees are reasonably satisfied makes it unlikely a Member will engage in Gainful Employment for which the Member is reasonably qualified by education, training or experience or any other circumstances which are acceptable to the Trustees and which are acceptable to the Regulator. **Permanently Disabled** and **Permanent Disability** shall each have a corresponding meaning. Every question as to Permanent Disablement shall be decided by the Trustees after receipt of any relevant information and reports by such registered medical practitioners approved by the Trustees as they consider appropriate, and having regard to any requirements for Government Approval of the Fund and of any insurer underwriting the Member's Permanent Disability Benefit. The decision of the Trustees shall be conclusive and binding upon all parties concerned.



- 1.1.28 **Preserved Benefit** means any Benefit (or part thereof) that, having regard to the requirements for Government Approval of the Fund, must be held in the Fund until the Member Retires or attains such age prescribed in the Regulations, dies, becomes Permanently Disabled or satisfies such other condition as would enable, or require, the Trustees to make payment of the benefit.
- 1.1.29 **Public Offer Superannuation Fund** means a fund that is a public offer superannuation fund within the meaning of the Regulations.
- 1.1.30 **QROPS Requirements** means any requirements under laws relating to superannuation funds that the Fund must satisfy to be a qualifying recognised overseas pension scheme under section 169 of the *Finance Act 2004* (United Kingdom).
- 1.1.31 **Recognised Transfer Amount** means the amount transferred to the Fund or a previous superannuation arrangement in respect of a Member as a recognised transfer under section 169 of the *Finance Act 2004* (United Kingdom).
- 1.1.32 **Regulated Superannuation Fund** means a fund where the Trustees have caused to be made the necessary election to be such a fund as required by the Regulations.
- 1.1.33 **Regulations** means the obligations imposed upon the Fund by the *Income Tax Assessment Act 1936*, the *Income Tax Assessment Act 1997*, the *Superannuation Industry (Supervision) Act 1993*, the *Superannuation Industry (Supervision) Regulations*, the Superannuation Splitting Law, any amending or replacement legislation and any other present or future relevant legislation, regulation, rulings and explanatory notes published with the approval or knowledge of the Regulator and which the Fund must satisfy in order for the Fund to:
- 1.1.33.1 qualify as a Complying Superannuation Fund;
  - 1.1.33.2 remain entitled to concessional tax treatment;
  - 1.1.33.3 provide an income stream which is to be an Asset Test Exempt Pension;
  - 1.1.33.4 comply with the law;
- and includes the UK Regulations which the Fund must satisfy in order for the Fund to satisfy QROPS Requirements.
- 1.1.34 **Regulator** means, as the case may require, one or more of the Federal Commissioner of Taxation, the Australian Prudential Regulation Authority, the Australian Securities and Investments Commission, the Department of Human Services or any other authority or government regulatory body who may be involved with the regulation of superannuation, taxation or financial products and in respect of Recognised Transfer Amounts means the Board of Inland Revenue and HM Revenue & Customs of the United Kingdom.
- 1.1.35 **Reserve Accounts** means any of the accounts that may be established by the Trustees to which is credited amounts that the Trustees determine to credit to the account and to which are debited amounts that the Trustees determine to allocate to the Members in accordance with these Rules.
- 1.1.36 **Retires** means ceasing Gainful Employment and **Retirement** shall have a corresponding meaning.
- 1.1.37 **Reversionary Pension** means a Pension payable to a Beneficiary who succeeds a Member to the entitlement of the Member's Pension. **Reversionary Pensioner** has corresponding meaning.
- 1.1.38 **Shortfall Component** has the same meaning as that contained in the *Superannuation Guarantee (Administration) Act 1992*.
- 1.1.39 **Splittable Contributions** has the same meaning as that contained in the Regulations.
- 1.1.40 **Spouse** in relation to a Member means, subject to the Regulations, a person married to the Member or a person who, although not legally married to the Member, lives with the Member or had lived with the Member immediately prior to the Member's death on a genuine domestic basis as a partner of that Member and if there is more than one spouse the Trustees shall determine whether and how the entitlement of a spouse shall be distributed between them or whether one shall be exclusively treated as spouse.
- 1.1.41 **State Trust Law** means whichever of the *Trustee Act 1958* (VIC), the *Trustee Act 1925* (NSW), the *Trustees Act 1962* (WA), the *Trusts Act 1973* (QLD), the *Trustee Act 1936* (SA), the *Trustee Act 1898* (TAS), the *Trustee Act 1925* (ACT) and the *Trustee Act* (NT) apply to the Fund or any other Commonwealth, State or Territory legislation of like effect that may apply.
- 1.1.42 **Superannuation Splitting Law** means the law dealing with superannuation interests as set out in Part VIII B of the *Family Law Act 1975*.

- 1.1.43 **Temporary Disability** means physical or mental incapacity that causes the Member to cease Gainful Employment or which otherwise qualifies as temporary disablement (or its equivalent) under the Regulations but which does not qualify as Permanent Disablement. Every question as to Temporary Disablement shall be decided by the Trustees after receipt of any relevant information and reports by such registered medical practitioners approved by the Trustees as they consider appropriate, and having regard to any requirements for Government Approval of the Fund and of any insurer underwriting the Member's Temporary Disability Benefit. The decision of the Trustees shall be conclusive and binding upon all parties concerned.
- 1.1.44 **Trust Deed** means the deed to which these Rules are annexed and any authorised alterations, additions, amendments, modifications or variations due to any amendment or change made to the Regulations or by amending deed or otherwise.
- 1.1.45 **Trustees** means the individual trustees of the Fund or a Corporate Trustee of the Fund, for the time being, appointed in accordance with these Rules and where the context permits includes the directors of a Corporate Trustee appointed as Trustee.
- 1.1.46 **UK Regulations** means the *Finance Act 2004* (United Kingdom) and regulations made by the Board of Inland Revenue of the United Kingdom.

## INTERPRETATION

- 1.2 In the Trust Deed and these Rules:
- 1.2.1 Unless the context indicates otherwise, words importing the singular shall include the plural and vice versa, words importing one gender shall include other genders;
- 1.2.2 References to statutes (including any section thereof) shall include all statutes amending, consolidating or replacing the same;
- 1.2.3 Headings inserted in any Rule are for convenience only and shall not affect the interpretation of that Rule;
- 1.2.4 The use of the words "includes" or "including" in these Rules is given by way of example and is not intended to limit the term or expression to which it applies; and
- 1.2.5 Reference to these Rules includes the terms of any agreement made under Rule 5.8.
- 1.3 Except where otherwise expressly provided, if any question or dispute arises about the interpretation of these Rules or the incidence or application of any rights, benefit, duties or liabilities arising under these, the decision of the Trustees shall be binding upon a Member.
- 1.4 The Trustees shall, at all times administer the Fund in a manner that will ensure Government Approval of the Fund. Where there is anything contained in these Rules which would during the course of the application to specific circumstances, require the Trustees to act in a manner that would prejudice Government Approval of the Fund, that Rule shall be void for those circumstances.
- 1.5 If any term defined in the Regulations is used in this Trust Deed but not defined herein then such term shall have the same meaning that it has for the purposes of the Regulations.
- 1.6 A reference in these Rules to the Regulations includes a reference to those Regulations as amended, consolidated, re-enacted or replaced from time to time and a reference to any provision of the Regulations includes a reference to the corresponding provision of those Regulations as amended, consolidated, re-enacted or replaced.

## SEVERANCE AND READING DOWN

- 1.7 Any provision or part of a provision of these Rules that is invalid, unenforceable or unlawful must be read down or severed to avoid such invalidity, unenforceability or unlawfulness. The remainder of these Rules shall be of full force and effect..

## **RULE 2                    ELIGIBILITY, MEMBERSHIP & TRANSFERS**

### **ELIGIBILITY**

- 2.1 Any Eligible Person shall be eligible to apply for membership of the Fund. Where an Eligible Person is a minor, the application for membership of the Fund shall be made on behalf of the minor by a parent, guardian or legal representative of the minor.

## **MEMBERSHIP**

- 2.2 An Eligible Person may apply for membership to the Trustees in such form or manner acceptable to the Trustees. The Eligible Person may indicate a preference for the type of Benefit to be provided by the Fund but if no preference is made shall be deemed to have specified a Pension Benefit of such type determined by the Trustees. The Trustees may accept or refuse any such application in their absolute discretion and shall not be required to give any reason for a refusal. If an application from an Eligible Person is accepted by the Trustees, membership commences on the date of acceptance or such earlier or later date as the Trustees determine. The Trustees may:-
- 2.2.1 admit an Eligible Person as a Member without requiring a completed application for membership;
  - 2.2.2 impose such terms and conditions as the Trustees think fit on the membership of a Member; and
  - 2.2.3 remove or vary any terms and conditions imposed upon membership of a Member at any time.

## **ALTERATION OF MEMBER'S BENEFIT**

- 2.3 The Trustees may alter a Member's preference for the type of Benefit to be provided by the Fund provided that:
- 2.3.1 it does not increase the Member's obligation to the Fund unless the Member consents in writing;
  - 2.3.2 the Member's entitlements in the Fund are not reduced; and
  - 2.3.3 it is not in breach of the Regulations.
- 2.4 The Member shall be advised in writing of any alteration to the Member's preference for Benefit.

## **INFORMATION TO MEMBERS**

- 2.5 The Trustees shall ensure that every Eligible Person who applies for membership of the Fund is given such information as is required by the Regulations to be given to prospective new members. The information shall be given to the Eligible Person within the time prescribed in the Regulations.

## **COMPLAINTS AND ENQUIRIES**

- 2.6 If required by the Regulations, the Trustees shall ensure that all enquiries or complaints from Members, beneficiaries or their Dependants are considered and properly dealt with in the manner and within the time specified by the Regulations.

## **TRANSFER FROM ANOTHER FUND**

- 2.7 If a Member makes a request, the Trustees,
- 2.7.1 may accept the transfer of assets from an Eligible Fund on such terms and conditions as the Trustees think fit; and
  - 2.7.2 the details of any such terms and conditions shall be recorded in a letter written by the Trustees to the Member at the time of the transfer; and
  - 2.7.3 where the transfer is made in respect of the Member's interest or entitlement in the Eligible Fund, provide a Benefit to the Member pursuant to such transfer in the manner set forth in these Rules; and
  - 2.7.4 where the transfer is not attributable to a Member's interest or entitlement in the Eligible Fund, the Trustees may treat the amount of such transfer in such manner as they consider equitable, including deeming the assets being transferred as a foregone benefit and applied accordingly, or as required by the Regulations;

provided that any transfer must not be prohibited by the Regulations and provided that any Benefit arising from funds transferred shall be a Preserved Benefit to the extent advised by the Eligible Fund and provided that where the Eligible Fund is a Foreign Superannuation Fund, the Trustees shall comply with all necessary foreign law requirements to ensure that concessional tax treatment is attained, retained or maintained in respect of the assets transferred from the Eligible Fund.

## **TRANSFER TO ANOTHER FUND**

- 2.8 If a Member makes a request or if the Trustees resolve or are required by the Regulations to do so, the Trustees may pay or transfer all or part of the Member's interest or entitlement in the Fund to an Eligible Fund (including such portion of the assets of the Fund as the Trustees consider equitable) for the benefit of the Member or such other person and shall advise the Eligible Fund the proportions (if any) of the amount so paid which are deemed to be transferred from the Member's Accrued Benefit provided however that:
- 2.8.1 no such transfer shall be made in respect of a Preserved Benefit, unless there exists a condition in the rules of the Eligible Fund that such a transfer shall be treated as a Preserved Benefit;

- 2.8.2 the payment or transfer must be consistent with the Regulations;
  - 2.8.3 the Trustees may not pay or transfer more than the amount requested by the Member; and
  - 2.8.4 the payment or transfer satisfies the Member's entitlement to any Benefit in relation to the amount so paid or transferred.
- 2.9 The receipt of the trustee of such Eligible Fund shall be sufficient discharge to the Trustees and who shall not be in any way responsible or liable for the application or disposal by the trustee of such Eligible Fund of the benefits or assets so paid or transferred. Upon the completion of such payment or transfer in respect of a Member, all of the rights and interests of that Member (and any person entitled to claim under or in respect of that Member) under this Trust Deed shall be extinguished or shall be adjusted in such manner and to such extent (if any) as may be determined by the Trustees.
- 2.10 Where the continuing Membership of a Member would affect the status of the Fund as a Complying Superannuation Fund, the Trustees may pay or transfer the whole or part of any Benefit or the interest or entitlement of that Member to an Eligible Fund in circumstances permitted or required by the Regulations or otherwise whether or not such Member has requested such payment or transfer. Such payment or transfer will satisfy the Member's entitlement to any Benefit in relation to the amounts so paid or transferred. The Member shall be deemed to have consented to such payment or transfer. The Trustees shall provide any information to the Member and to the trustee of the Eligible Fund as such time and in such manner as required by the Regulations.

#### **TRANSFERS WITHIN THE FUND**

- 2.11 If a Member makes a request or if the Trustees resolve or are required by the Regulations to do so, the Trustees may pay or transfer all or part of the Member's interest or entitlement in the Fund (including such portion of the assets of the Fund as the Trustees consider equitable) to another Member provided however that:
- 2.11.1 the payment or transfer is not prohibited by the Regulations; and
  - 2.11.2 the payment or transfer is made in accordance with the provisions, if any, of the Regulations.

#### **CESSATION OF MEMBERSHIP**

- 2.12 A person ceases to be a Member of the Fund when:
- 2.12.1 the Member dies;
  - 2.12.2 all benefits which are or may be payable under these Rules in respect of the Member have been paid;
  - 2.12.3 a transfer is made to an Eligible Fund in satisfaction of all the Member's entitlement to benefits;
  - 2.12.4 the Member's entitlement to benefits is terminated;
  - 2.12.5 the Trustees require a Member to cease Membership of the Fund to comply with the Regulations;
  - 2.12.6 the Trustees determine that continued membership may cause the Fund to become a Public Offer Superannuation Fund;
  - 2.12.7 the Trustees determine that a Member is no longer required to be recognised as a Member of the Fund;
  - 2.12.8 after the Member has been accepted into membership by the Trustees and the Accrued Benefit of the Member has a nil balance and the Trustees determine that the Member is not to continue to be recognised as a Member of the Fund;
  - 2.12.9 the Fund fails to satisfy the definition of self managed superannuation fund under the Regulations by reason of the Member's continuing membership of the Fund;
  - 2.12.10 the Trustees shall otherwise reasonably determine.

#### **CLOSURE OF MEMBERSHIP**

- 2.13 In order that the Fund obtains, retains or maintains a duty exemption or nominal assessment of duty obtained under the laws of any State or Territory to the transfer of an asset to the Fund when the asset was first acquired by the Trustees and held for the benefit of those particular Members of the Fund at that time, the Trustees may close the membership of the Fund to new members permanently or until such time as such asset has been used to pay benefits to those Members. The Trustees shall do all things and execute all such necessary deeds or documents to give effect to the closure to new members.

## **TRANSFER FROM UK REGISTERED PENSION SCHEMES**

- 2.14 Notwithstanding Rule 5, this Rule 2.14 applies to Recognised Transfer Amounts accepted by the Trustees pursuant to Rule 2.7 from a registered pension scheme in the United Kingdom:
- 2.14.1 subject to this Rule, a Member is only entitled to receive a benefit sourced from a Recognised Transfer Amount when the Member is permitted by the UK Regulations;
  - 2.14.2 the Trustees must not pay a benefit sourced from a Recognised Transfer Amount to a Member no earlier than would be payable if pension rule 1 of section 165 of the *Finance Act 2004* (United Kingdom) applied;
  - 2.14.3 this Rule 2.14 may be amended only if, after the amendment, the Rule would continue to comply with the QROPS Requirements;
  - 2.14.4 a Recognised Transfer Amount may be transferred to an Eligible Fund only in accordance with Rule 2.8 and only where the provisions governing the Eligible Fund contain provisions to the same effect as this Rule 2.14 in respect of a Recognised Transfer Amount;
  - 2.14.5 the Trustees must do all necessary things to comply with the QROPS Requirements including but not limited to the Benefits Tax Relief Test and the Pension Age Test.

## **RULE 3            CONTRIBUTIONS**

### **MEMBER CONTRIBUTIONS**

- 3.1 A Member may from time to time pay contributions to the Fund.

### **EMPLOYER CONTRIBUTIONS**

- 3.2 An Employer may from time to time pay contributions to the Fund.

### **OTHER CONTRIBUTIONS**

- 3.3 The Trustees may accept such other contributions not covered by Rules 3.1 or 3.2 from any person including:
- 3.3.1 government co-contribution;
  - 3.3.2 child contributions;
  - 3.3.3 spouse contributions;
  - 3.3.4 the whole or part of any Shortfall Component in respect of any Employee or Member received from the Commissioner of Taxation which shall be treated as a contribution for the Employee or Member; and
  - 3.3.5 any Downsizer Contributions as provided in the Regulations.

### **PAYMENT OF CONTRIBUTIONS**

- 3.4 The Trustees:
- 3.4.1 must not accept contributions where the acceptance of the contributions is contrary to the requirements of the Regulations;
  - 3.4.2 may refuse to accept the whole or part of a contribution;
  - 3.4.3 may allocate or transfer the whole or part of a contribution to a Reserve Account established for that purpose, if not prohibited by the Regulations;
  - 3.4.4 may allocate, record or treat the whole or part of a contribution in a manner not prohibited by the Regulations; and
  - 3.4.5 shall allocate, record or treat the whole or part of a contribution in a manner directed by the Regulator.
- 3.5 The Trustees may agree to accept contributions to the Fund in the form of a transfer of assets to the Fund which shall be subject to the following restrictions:
- 3.5.1 any asset transferred to the Fund under this Rule shall comply with the provisions of Rules 7.6, 7.7 and 7.8 as if the Trustees had accepted the contribution in cash and had then invested in the asset transferred to the Fund;
  - 3.5.2 in the event that the Trustees wish to restrict the benefits arising from the assets transferred to the Fund under this Rule to particular Members, they shall either proceed under Rules 7.11 and 7.12 to

hold the assets specifically to provide benefits for those Members, or, if those Members are the only Members of the Fund at the time of transfer, the Trustees may close the membership of the Fund to new members under Rule 2.13; and

- 3.5.3 the Trustees shall not acquire any asset from a Member or a relative of a Member if that acquisition would contravene the Regulations and prejudice Government Approval of the Fund.
- 3.6 Unless the Trustees are advised otherwise by the Employer, all contributions made by an Employer shall be fully vested except to the extent that they are not required to be fully vested by the Regulations.

#### **SPLITTABLE CONTRIBUTIONS**

- 3.7 Subject to the Regulations, the Trustees may allow Splittable Contributions and a Member may request the Trustees in any form approved by the Trustees to allocate the whole or part of that contribution or transfer any part of that Contribution to any other Member or person so long as any transfer or allocation is in accordance with the Regulations.

#### **TAXATION DEDUCTION CLAIMED**

- 3.8 Where required by the Regulations, the Contributors shall advise the Trustees of the amount of contributions that shall be claimed and not claimed as a tax deduction by the Contributor.

#### **CONTRIBUTION REPAYMENT OR RELEASE**

- 3.9 The Trustees may repay the whole or any part of a contribution and any associated earnings to the Contributor but only if the repayment is not in breach of the Regulations. The Trustees may repay a contribution which at the time of making the payment was not intended to be a contribution. The Trustees must repay the whole or part of a contribution and any associated earnings to the Contributor if directed by the Regulator. The Trustees may deduct from the repayment any liabilities or expenses incurred or provision for liabilities or expenses in relation to the contribution. If excess contributions are received by the Fund and the Trustees receive a release authority under the Regulations then the Trustees may release funds in accordance with the release authority and the Regulations.

### **RULE 4            BENEFIT ENTITLEMENT & DETERMINATION**

#### **WHEN BENEFIT PAYABLE**

- 4.1 A Member shall be entitled to receive a Benefit which shall comprise the total of the Member's Accrued Benefit, the Member's entitlement to be paid out of any Reserve Account and any insurance proceeds to which the Member is entitled and any other amount which the Trustees determine is to form part of the Benefit provided such amount is not prohibited by the Regulations when:
- 4.1.1 a Member Retires provided the conditions for payment of a Preserved Benefit have been met; or
- 4.1.2 a Member reaches such minimum age allowed under the Regulations, whether or not the Member Retires, provided the conditions for payment of a Preserved Benefit have been met; or
- 4.1.3 permitted by the Regulations and the Trustees consent to the payment of a Benefit.
- 4.2 Subject to the Regulations, the Trustees may with the Member's consent retain a Member's Benefit in the Fund for as long as the Trustees determine, even though the Member is entitled to be paid that Benefit provided that the Benefit must be paid or commence or be transferred or paid to an Eligible Fund when it is mandatory to do so under the Regulations.

#### **DISABLEMENT**

- 4.3 If a Member has a Permanent Disability, the Member shall be entitled to receive a Permanent Disablement Benefit which shall comprise the total of the Member's Accrued Benefit, the Member's entitlement to be paid out of any Reserve Account and any insurance proceeds to which the Member is entitled and any other amount which the Trustees determine is to form part of the Benefit provided such amount is not prohibited by the Regulations.
- 4.4 If a Member is unable to work due to Temporary Disability then the Member shall be entitled to receive payment of a Temporary Disablement Benefit from the time the Member is unable to continue to work.
- 4.5 Notwithstanding anything to the contrary contained within these Rules, where the Trustees receive a Benefit under an insurance policy effected to cover the Permanent or Temporary Disability of a Member then that Member will be entitled to receive a disablement benefit under these Rules providing that the payment of such a Benefit is allowed under the Regulations.

## **DEATH**

- 4.6 On the death of a Member, a Death Benefit which shall comprise the total of the Member's Accrued Benefit, the Member's entitlement to be paid out of any Reserve Account and any insurance proceeds to which the Member is entitled and any other amount which the Trustees determine is to form part of the Benefit including but not limited to an anti-detriment payment where the Member died before 1 July 2017 provided such other amount is not prohibited by the Regulations shall become payable in accordance with Rules 5.9, 5.10 and 5.11. The Death Benefit does not include any amount paid after the Member's death in respect of any other Benefit which is payable.

## **TERMINAL ILLNESS**

- 4.7 Where at least two (2) Registered Medical Practitioners certify to the satisfaction of the Trustees and in accordance with the requirements of the Regulations that a Member has an illness or injury that is likely to result in the death of the Member within twenty four (24) months of certification, the Member is entitled to receive payment of a Benefit which shall comprise the total of the Member's Accrued Benefit, the Member's entitlement to be paid out of any Reserve Account and any insurance proceeds to which the Member is entitled and any other amount which the Trustees determine is to form part of the Benefit provided such amount is not prohibited by the Regulations.

## **TERMINATION OF SERVICE**

- 4.8 A Member whose Employer has contributed to the Fund and who leaves the service of the Employer and who is not entitled to a Retirement Benefit or a Permanent Disablement Benefit and in respect of whom a Death Benefit is not payable shall be entitled to receive a Withdrawal Benefit being a Benefit which shall comprise the total of the Member's Accrued Benefit and any other amount which the Trustees determine is to form part of the Benefit provided such amount is not prohibited by the Regulations and which will be paid subject to such restrictions imposed by the Regulations.

## **TRANSITION TO RETIREMENT PENSION**

- 4.9 A Member born before 1 July 1960 who has reached age 55 or if born on or after 1 July 1960 who has reached such other minimum age permitted by the Regulations may receive a Benefit in the form of a Pension contemplated by Rule 5. Notwithstanding anything to the contrary contained in Rule 5, any Pension paid under this Rule subject to cashing restrictions shall not be capable of commutation except in accordance with the Regulations.

## **ANCILLARY BENEFIT**

- 4.10 The Trustees may provide a Member with a Benefit where a minimum condition of release and/or cashing restrictions has been satisfied under the Regulations:
- 4.10.1 on severe financial hardship as approved by the Trustees or Regulator,
  - 4.10.2 on compassionate grounds as approved by the Trustees or Regulator;
  - 4.10.3 when the Member is no longer in Gainful Employment and the Member's Benefit is a Restricted Non-Preserved Benefit under the Regulations;
  - 4.10.4 when the Benefit is an Unrestricted Non-Preserved Benefit under the Regulations;
  - 4.10.5 on the Temporary Disablement of the Member where the Benefit is paid in accordance with the Regulations;
  - 4.10.6 a First Home Super Save Scheme benefit as provided in the Regulations;
  - 4.10.7 any other type of Benefit approved under the Regulations; or
  - 4.10.8 any other Benefit provided for the other ancillary purposes approved by the Regulations or the Regulator.

## **OTHER CIRCUMSTANCES**

- 4.11 In circumstances where the Regulations would allow the Trustees to release or make a payment of part or all of the Member's Accrued Benefit to the Member or the Member's Dependants or other person authorised by the Regulations without prejudicing Government Approval of the Fund, the Trustees may release or make such payment as requested by the Member or as required by the Regulations notwithstanding that the Benefit may not be provided for in Rules 4.1 to 4.10 inclusive.

## **RULE 5            PAYMENT OF BENEFIT**

### **TYPE OF BENEFIT**

- 5.1        Subject to Rule 2.14, the Benefit payable to a Member or a Beneficiary may be paid as:
- 5.1.1     a Lump Sum;
  - 5.1.2     a Pension which may include a lump sum component subject to any applicable limitations imposed by the Regulations;
  - 5.1.3     an Ancillary Benefit;
  - 5.1.4     a Benefit permitted to be provided under the Regulations in such form or manner as is required under the Regulations; or
- a combination of the above which may include more than one of each and may be paid to the Member or Beneficiary either in money or in other property provided the Benefit is paid in accordance with the Regulations and any Benefit payable to a Member prior to the adoption of these Rules may continue to be paid in such form and manner permitted under the Regulations.

### **LUMP SUM BENEFIT**

- 5.2        When a Member is entitled to a Benefit and has elected to receive a Lump Sum Benefit, the Member is entitled to a Benefit which does not exceed the Member's Accrued Benefit and any other amount which the Trustees determine is to form part of the Benefit provided such amount is not prohibited by the Regulations.

### **PENSION BENEFIT**

- 5.3        A Pension Benefit payable under these Rules shall be paid in such form and manner which complies with the Regulations if to do otherwise were to affect Government Approval of the Fund and is subject to the following conditions:

#### Terms and Conditions

- 5.3.1     Where a Benefit is payable under these Rules by way of a Pension, the Trustees and the Member may agree on when the pension shall commence and the terms and conditions upon which the pension shall be paid providing that such manner and form of payment is allowed under the Regulations. The Trustees may at any time with the consent of the Member vary the terms and conditions upon which the pension shall be paid. In the absence of agreement, the Trustees shall determine the basis on which the Pension is paid.

#### No Assignment or Encumbrance

- 5.3.2     Pensions payable from the Fund shall not be assigned or otherwise transferred by the person in receipt thereof (except to the extent permitted by these Rules) and shall not be mortgaged or encumbered in any manner whatsoever.
- 5.3.3     Neither the capital value (if any) of any pension payable from the Fund nor any income from it, may be used as a Security for a borrowing.

#### Annuities

- 5.3.4     The Trustees may, in their absolute discretion, (including where an Old-Age Pension is required to be paid) provide pensions payable under these Rules by applying a Member's Benefit to the purchase of an annuity that meets the requirements of the Regulations.

#### Imputation Credits

- 5.3.5     The Trustees may, in their absolute discretion and subject to the Regulations, debit amounts to the accounts of Members to whom current pensions are not being paid and credit corresponding amounts to the accounts of Members to whom current pensions are being paid to compensate the latter for not obtaining the benefit of dividend imputation credits on investments in the form of shares in companies.

#### Asset Test Exempt Pension

- 5.3.6     Where the Pension is also an Asset Test Exempt Pension, the relevant provisions of the *Social Security Act 1991* or the *Veterans' Entitlements Act 1986* apply to the extent of any inconsistency to ensure the Pension qualifies or continues to qualify as an Asset Test Exempt Pension.



## Reversionary Pension

- 5.3.7 A Member's Pension may include a nomination, direction, term or condition requiring the Trustees to continue to pay the Member's Pension as a Reversionary Pension to a Reversionary Pensioner permitted under the Regulations to receive a Reversionary Pension upon the death of the Member and which shall be binding upon the Trustees unless the nomination, direction, term or condition expressly provides otherwise.

## Benefit remaining after death

- 5.3.8 Where there continues to be a remaining benefit in respect of a deceased Member after all pensions payable in respect of that deceased Member have been paid the remaining benefit shall be paid as a Death Benefit in accordance with Rules 5.9, 5.10 and 5.11.

## FORMS OF BENEFIT PAYMENT

- 5.4 Any form of Benefit payment agreed to by the Trustees shall conform to the requirements of the Regulations and shall not prejudice Government Approval of the Fund. When entitled to a Benefit from the Fund, before the Benefit is paid or commences or within such time as permitted by the Trustees, a Member may, subject to the Regulations, make an election in writing (which is not binding upon the Trustees) to receive the Benefit in any manner contemplated by Rule 5 and indicate the desired amount or extent, as the case may be, that the Benefit is sought to be received as a Lump Sum or Pension. In the case of an election relating to a Pension, a Member may specify whether or not it is intended to be a Reversionary Pension and, if so, to whom and under what terms or conditions the Member requires the Pension to be subject.

## PAYMENT OF BENEFIT IN SPECIE - BY TRANSFER OF ASSETS

- 5.5 The Trustees may with the agreement of a Member or Beneficiary to whom a Benefit is payable, transfer in specie investments of the Fund of equivalent value to the Member or Beneficiary in lieu of paying the whole or part of the amount otherwise payable under these Rules.

## BENEFICIARY AND DEATH BENEFIT NOMINATIONS

- 5.6 A Member may from time to time prepare and give to the Trustees notice in writing (the form and content of which notice need not comply with the Regulations and which notice may be contained within a testamentary instrument and which may be given to the Trustees after the Member's death and which does not need to be given by the Member personally) as to the names of those Nominated Beneficiaries (being persons who would be Dependants, if the Trustees were determining dependency at the time of notification, or the Member's Legal Personal Representative or any other person authorised by the Regulations) to whom the Member directs any Death Benefit to be paid and, if more than one, in what proportion and may include a direction by the Member about persons to whom a Benefit is not to be paid. The Member may elect that all or some (as specified by the Member in the notice) of the directions in any such notice shall be binding upon the Trustees but to be binding the content of such notice does not require an express statement that it is a notice binding upon the Trustees and it shall be sufficient if such notice uses words or language that satisfy the Trustees that the notice was intended by the Member to be binding upon the Trustees. If the Member does not make a binding election, the Trustees shall use their discretion in distributing any Death Benefit not covered by a binding election in accordance with Rules 5.11 and 5.12. The notice may:

- 5.6.1 specify the type, amount and proportion of different components of Benefit to be paid;
- 5.6.2 specify whether a Pension including a Reversionary Pension is to be provided;
- 5.6.3 contain conditions which must be satisfied or met in order for a Death Benefit to be paid;
- 5.6.4 specify a period of time or date after which any direction which the Member elected to be binding upon the Trustees is to be no longer binding but is otherwise to remain valid;
- 5.6.5 specify a period of time or date after which the notice lapses;
- 5.6.6 specify the circumstances in which directions in such a notice intended to be binding upon the Trustees are to be treated as no longer binding upon the Trustees including but not limited to:
- 5.6.6.1 the marriage, separation, divorce or death of a Nominated Beneficiary;
- 5.6.6.2 the marriage, separation, divorce of a Member;
- 5.6.6.3 where a Nominated Beneficiary consents;
- 5.6.7 specify payment of a Benefit to a trust in which the beneficiaries are limited to those persons who are the Member's Dependants for the purposes of section 302-195 of the *Income Tax Assessment Act 1997*;

- 5.6.8 be revoked, modified, amended or varied by subsequent notice in writing given to the Trustees in the manner and at any time contemplated by the giving of notice under this Rule.
- 5.7 Notwithstanding Rule 5.6, any notice in writing in respect of any Death Benefit prepared by a Member pursuant to Rules governing the operation and administration of the Fund prior to the adoption of these Rules shall continue to have full force and effect unless and until it lapses or is subsequently revoked, modified, amended or varied,
- 5.8 The Trustees and a Member may enter into an agreement in writing about the payment of any Death Benefit to Nominated Beneficiaries and which include terms and conditions of the type set out in Rules 5.6.1 to 5.6.6. The terms of an agreement made under this Rule shall form part of these Rules of the Fund as between Member and the Trustees and shall be read together with the Fund Rules as follows:
- 5.8.1 the agreement prevails over any notice given under Rule 5.6 unless the notice expressly revokes or replaces the agreement made under this Rule 5.8;
- 5.8.2 the agreement replaces any previous agreement made under this Rule;
- 5.8.3 any previous notice given under Rule 5.6 is to be treated as not in effect for the purposes of Rules 5.6 and 5.10;
- 5.8.4 the terms of the agreement are to prevail if there is any inconsistency between the agreement and these Rules;
- 5.8.5 the agreement may specify the manner in which the terms of the agreement may be modified, revoked or amended; and
- 5.8.6 if part of an agreement is invalid because a Nominated Beneficiary is not eligible to receive a Death Benefit Payment under the Regulations then that part of the Death Benefit shall be distributed in accordance with Rules 5.11 and 5.12.

#### **PAYMENT OF DEATH BENEFIT**

- 5.9 Where the Trustees and a Member have entered into an agreement made under Rule 5.8 or any equivalent Rule contained in any prior Rules governing the operation and administration of the Fund before the adoption of these Rules, any Death Benefit must be paid or applied in accordance with the terms of that agreement. Where the agreement does not cover the whole of the Member's Death Benefit, so much of the Member's Death Benefit as is not covered by the agreement shall be paid by the Trustees in accordance with Rules 5.11 and 5.12.
- 5.10 Any Death Benefit to the extent that the Trustees are bound by a notice made under Rule 5.6 or any equivalent Rule contained in any prior Rules governing the operation and administration of the Fund before the adoption of these Rules shall be paid by the Trustees in accordance with that notice provided that if there is an inconsistency between a notice made under Rule 5.6 and a nomination, direction, term or condition requiring the Trustees to continue to pay the Member's Pension as a Reversionary Pension to a Reversionary Pensioner under Rule 5.3 then the Reversionary Pension shall prevail. Where the notice does not cover the whole of the Member's Death Benefit, so much of the Member's Death Benefit as is not covered by the notice shall be paid by the Trustees in accordance with Rules 5.11 and 5.12.
- 5.11 Subject to Rules 5.9 and 5.10, the Trustees may decide as to the type, amount and proportions of different components in any Death Benefit and whether a Pension is provided and, if so, whether it is reversionary or not and any Death Benefit may be paid as the Trustees in their absolute discretion decide but in accordance with any restrictions or conditions imposed by the Regulations to any one or more of the following persons and in such proportions as the Trustees may decide, namely:
- 5.11.1 the Member's Dependants,
- 5.11.2 the Member's Legal Personal Representative, and
- 5.11.3 any other person permitted by the Regulations;
- provided that:
- 5.11.4 the Trustees shall not exercise their discretion regarding the payment of any Death Benefit unless the Legal Personal Representative of a deceased Member, in respect of whom any Death Benefit is to be paid, is a Trustee or a director of a Corporate Trustee which is Trustee;
- 5.11.5 the Trustees may transfer a Death Benefit to an Eligible Fund for payment to a Dependant in a manner permitted by the Regulations;