

SUPERANNUATION FUND TRUST DEED

OF

THE PILLAY SUPERANNUATION FUND

R
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PTY LTD

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SUPERANNUATION FUND TRUST DEED dated in item 1 of the schedule

BY

The person named in item 2 of the schedule ("**the Trustee**")

INTRODUCTION

- A. The Trustee intends to establish a superannuation fund for the benefit of the Beneficiaries with the name in item 3 of the schedule and on the date in item 4 of the schedule.
- B. The Trustee agrees to act as trustee of the fund and maintain the Fund as an indefinitely continuing Complying Superannuation Fund in accordance with this deed and Superannuation Law.

PART 1 - PRELIMINARY

1. Dictionary

In this deed:

"Account-based Pension" means a Pension that complies with subregulation 1.06(9A) of the SIS Regulations.

"Allocated Pension" means a Pension that complies with subregulation 1.06(4) of the SIS Regulations.

"Auditor" means any approved auditor of the Fund appointed under this deed.

"Beneficiary" means a person (including a Member or former Member) beneficially entitled to a Benefit from the Fund.

"Benefit" means any amount paid or payable by the Trustee from the Fund to a Beneficiary.

"Commissioner" means the Commissioner of Taxation.

"Complying Superannuation Fund" means a superannuation fund that complies with sections 42 and 45 of the SIS Act.

"Concessional Contributions Cap" has the same meaning as in section 292-20 of the Tax Act.

"Constitutional Corporation" has the same meaning as in section 10 of the SIS Act.

"Corporation" means a body corporate wherever incorporated and includes a Constitutional Corporation.

"Defined Benefit Pension" has the same meaning as in subregulation 1.03(1) of the SIS Regulations.

"Dependant" has the same meaning as in section 10 of the SIS Act. The Trustee may:

- (a) deem one or more qualifying person(s) to be the only Dependant(s);
- (b) decide how to divide a Benefit among Dependents.

"Eligible Person" means a person who is, under Superannuation Law, eligible to become a Member of the Fund.

"Employer" means any person, partnership or corporation who employs a Member and contributes to the Fund.

"Excess contributions tax" has the same meaning as in Division 292 of the Tax Act.

"Financial Product" includes a financial product within the meaning of section 764A of the Corporations Act 2001.

"Financial Year" means:

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- (a) the period beginning on the establishment of the Fund and ending on the next 30 June;
- (b) after the first financial year, each period of 12 months ending on 30 June;
- (c) the period beginning on 1 July immediately before the end of the Fund and ending when the Fund ends.

"**Fund**" means the superannuation fund established under this deed.

"**Fund Expense**" means an expense of establishing, operating, managing, administering or investing the Fund.

"**Market Linked Pension**" has the same meaning as in subregulation 1.03(1) of the SIS Regulations.

"**Member**" means any current member of the Fund.

"**Non-commutable Allocated Pension**" has the same meaning as in Division 6.1 of the SIS Regulations.

"**Non-commutable Pension**" has the same meaning as in Division 6.1 of the SIS Regulations.

"**Normal Retirement Age**" means the age at which the SIS Regulations allow a Member to retire from gainful employment and access their Benefit in the Fund.

"**Minimum Benefit**" has the same meaning as in Division 5.2 of the SIS Regulations.

"**Non-concessional Contributions Cap**" has the same meaning as in section 292-85 of the Tax Act.

"**Old-Age Pension**" has the same meaning as in section 10 of the SIS Act;

"**Pension**" has the same meaning as in section 10 of the SIS Act;

"**Pension Standards**" means:

- (a) for an Account-based Pension – the standards in subregulation 1.06(9A) of the SIS Regulations;
- (b) for an Allocated Pension – the standards in subregulation 1.06(4) of the SIS Regulations;
- (c) for a Defined Benefit Pension – the standards in subregulation 1.06(2), 1.06(6) or 1.06(7) of the SIS Regulations (whichever is applicable);
- (d) for a Market Linked Pension – the standards in subregulation 1.06(8) of the SIS Regulations;
- (e) for a Transition to Retirement Income Stream – the standards in the definition of that term in subregulation 6.01(2) of the SIS Regulations; or
- (f) for any other Old-Age Pension - the relevant standards contained in the SIS Regulations.

"**Policy**" means any policy of insurance on the life or health of a Member.

"**Securities**" includes the securities specified in section 92(1), (2) or (3) of the Corporations Act 2001 and a unit in a unit trust.

"**SIS Act**" means the Superannuation Industry (Supervision) Act 1993.

"**SIS Regulations**" means the Superannuation Industry (Supervision) Regulations 1994.

"**Spouse**" includes a person who, although not legally married to the Member, lives with the Member on a genuine domestic basis as the husband or wife of the Member. The Trustee may:

- (a) deem one or more qualifying person(s) to be the only Spouse(s);
- (b) decide how to divide a Benefit among Spouses.

"State" means South Australia.

"Superannuation Law" means any requirements under any law (including the SIS Act):

- (a) imposed on the Trustee; or
- (b) which the Fund must satisfy for the most favourable taxation treatment available to superannuation funds.

"Tax Act" means the Income Tax Assessment Act 1997.

"Total and Permanent Disability" means:

- (a) incapacity (in the opinion of the Trustee) to an extent that a Member is unlikely ever to be able to work in a job for which the Member is reasonably qualified by education, training or experience;
- (b) if the Trustee took out a Policy in respect of the Member's total and permanent disablement and the Trustee so decides - incapacity on which the insurer must pay an amount under the Policy.

"Transfer" includes assign, convey or otherwise assure.

"Transition to Retirement Income Stream" has the same meaning as in subregulation 6.01(2) of the SIS Regulations.

"Trustee" means any original, additional or substituted trustee of the Fund.

2. Interpretation

In this deed:

- 2.1 neuter includes masculine and feminine, singular includes plural and vice versa and reference to a person includes a corporation and partnership and vice versa;
- 2.2 headings do not affect interpretation;
- 2.3 if a provision of this deed would, but for this clause, be unenforceable:
 - 2.3.1 the provision must be read down to the extent necessary to avoid that result;
 - 2.3.2 if the provision cannot be read down to that extent, it must be severed without affecting the validity and enforceability of the remainder of this deed;
- 2.4 reference to a person:
 - 2.4.1 if more than one means each of them jointly and severally;
 - 2.4.2 includes a successor to the rights or obligations of that person under this deed;
- 2.5 reference to a statute includes the statute as amended, any substituted statute, any regulations, standards, determinations, rulings or guidelines under the statute, any of those regulations, standards, determinations, rulings or guidelines as amended, any substituted regulations, standards, determinations, rulings or guidelines;
- 2.6 subject to clause 1, an expression used or defined in any Superannuation Law has the same meaning in this deed;
- 2.7 another grammatical form of a defined expression has a corresponding meaning;
- 2.8 the introduction and the schedule are correct and form part of this deed.

PART 2 – THE FUND

3. Nature

The Trustee must maintain the Fund as an indefinitely continuing Complying Superannuation Fund in accordance with this deed and Superannuation Law.

4. Purpose

The Trustee must hold the Fund on trust for the Members on the terms in this deed and maintain the Fund solely for the purposes in section 62 of the SIS Act.

5. Assets

The Fund consists of all the cash, investments and other property held by or on account of the Trustee under this deed and all increases and accumulations thereto.

PART 3 - SUPERANNUATION LAW

6. Inclusion of superannuation law

- 6.1 Each Superannuation Law that applies to this Fund is deemed to be included in this Deed.
- 6.2 A Superannuation Law prevails over any other provision of this deed to the extent of any inconsistency.

PART 4 - THE TRUSTEE

7. The trustee

Either of the following must apply:

- 7.1 the Trustee must be a Constitutional Corporation;
- 7.2 the sole or primary purpose of the Fund must be the provision of Old-Age Pensions.

8. Appointment and removal of trustees

- 8.1 A majority of Members may by written notice:
- 8.1.1 appoint a new or additional Trustee;
- 8.1.2 remove any Trustee;
- provided that:
- 8.1.3 the appointment or removal complies with Superannuation Law; and
- 8.1.4 the new or additional Trustee agrees by the same or other deed to be bound by and perform the obligations of a Trustee under this deed and accept liability for the proper obligations of any outgoing Trustee (in that capacity).
- 8.2 If there are no Members or the only Member is insolvent under administration (within the meaning of section 9 of the Corporations Act) or dies the next of kin of full legal capacity of the insolvent under administration Member or the legal personal representative of the dead Member may exercise the power in 8.1.
- 8.3 A Trustee vacates office if:
- 8.3.1 removed under clause 8.1 or 8.2 or by a court of competent jurisdiction;

- 8.3.2 it gives 1 month's written notice (or any shorter period the majority of Members accepts) to the Members of the Trustee's intention to retire and that notice period expires;
 - 8.3.3 a Trustee being a natural person becomes an insolvent under administration (within the meaning of section 9 of the Corporations Act) or dies;
 - 8.3.4 a Trustee being a corporation becomes an externally-administered body corporate (within the meaning of section 9 of the Corporations Act); or
 - 8.3.5 prohibited from acting as a trustee of a superannuation fund under Superannuation Law.
- 8.4 The Trustee must act continuously as trustee of the Fund until:
- 8.4.1 the Fund ends; or
 - 8.4.2 the Trustee vacates office.
- 8.5 An outgoing Trustee must immediately deliver all documents, records, money and property and execute all instruments and do everything necessary to vest the Fund in the new or continuing Trustee.
- 8.6 The Fund bears all charges and expenses (including any stamp duty) of the retirement, removal and appointment of a Trustee.

9. Trustee's remuneration

The Trustee is not entitled to remuneration from the Fund.

PART 5 - INDEMNITIES

10. Indemnity

- 10.1 The Trustee and a director of the Trustee is indemnified from the Fund for any liability incurred while acting as Trustee or director of the Trustee, unless:
- 10.1.1 the liability arises because the Trustee or director:
 - (a) fails to act honestly in a matter concerning the Fund; or
 - (b) intentionally or recklessly fails to exercise, in relation to a matter affecting the Fund, the degree of care and diligence that the director is required to exercise; or
 - 10.1.2 the liability is for a monetary penalty under a civil penalty order.
- 10.2 No Member, Employer nor any Beneficiary (in that capacity) is personally liable to indemnify the Trustee or any creditor of the Trustee or other person claiming against or through the Trustee.
- 10.3 A request, approval or direction by a person to the Trustee to enter a transaction does not entitle the Trustee to indemnity from that person.

11. Trustee not liable for loss

- 11.1 A Trustee or director or secretary of a corporate Trustee acting in good faith is not liable to compensate the Fund for loss incurred in executing, not executing or trying to execute any of the Trustee's trusts or powers.
- 11.2 A Trustee is not obliged to take proceedings against a former Trustee or a co-Trustee for breach of trust.

PART 6 - TRUSTEE POWERS

12. General administration

12.1 The Trustee must comply with Superannuation Law in the administration and operation of the Fund.

12.2 Subject to clause 12.1, the Trustee may do anything it thinks fit to administer the Fund.

13. Elect to be bound

The Trustee may elect that the Trustee or the Fund becomes or ceases to be bound by Superannuation Law or any legislation (including the SIS Act).

14. Investment

14.1 The Trustee may use or invest all or any part of the Fund:

14.1.1 in any estate or interest in land;

14.1.2 in personal property including choses in possession, choses in action (including derivatives), Securities, Financial Products, statutory rights and licences (including without limitation, patents, copyrights, trademarks, registered designs, plant breeder rights and circuit layout rights), and the assets liabilities and goodwill of any business or undertaking;

14.1.3 in commercially valuable information including without limitation a trade secret or other information protected by law;

14.1.4 in the currency of any country.

14.2 Fund property may be anywhere in the world, of a hazardous, wasting or speculative nature, tangible or intangible, present or future, expectant or in reversion, actual or contingent.

14.3 To the extent permitted by section 66 of the SIS Act, the Trustee may acquire property currently owned by any person (including a Trustee in its personal capacity or as trustee of another trust, an Employer and a Beneficiary).

14.4 To avoid doubt, the Trustee may use or invest all or any part of the Fund in any manner or thing approved in writing by a majority of Members before or after the use or investment is made.

14.5 The Trustee may change any use or investment of the Fund.

15. Collective investments

The Trustee may enter into any arrangement for sharing profits, unions of interest, co-operation, joint venture or otherwise with any person (including a Trustee in its personal capacity or as trustee of another trust, a Member, an Employer and a Beneficiary).

16. Deal with property

The Trustee may purchase, take on lease, hire or licence, subscribe for or otherwise acquire, exchange, hold, use, work, build, construct, demolish, maintain, repair, renovate, replace, alter, extend, add to, develop, decorate, furnish, equip, improve, manage, partition (including pay money for equality of partition), subdivide, transfer, convey, assign, surrender, lease, hire, license, take and grant options or rights in, pay premiums for, deal in, divide, consolidate, sell, dispose, alienate, mortgage, charge, pledge, release, discharge, turn to account or otherwise deal with any Fund property or any other property.

17. Securities

Where Fund property includes a Security or Financial Product:

- 17.1 the Trustee may choose whether to exercise any right attached to that property, including whether to:
 - 17.1.1 attend any meeting of holders of such property personally or by proxy, attorney or representative; and
 - 17.1.2 vote on any resolution;
- 17.2 the Trustee is responsible only for that property and any dividends, distributions, income or other benefits from them actually transferred or paid to or vested in the Trustee;
- 17.3 the Trustee is not obliged to enquire into the accounts, management, dealings or control of the body that issued the property, even if the Trustee holds a controlling interest.

18. Bank accounts

- 18.1 By itself or with another person, the Trustee may open in the name of the Trustee or of the Fund any account at any bank, authorised short term money market dealer, building society, credit union or other financial institution ("the institution") chosen by the Trustee.
- 18.2 The Trustee may operate that account as the Trustee decides in accordance with the customs, usages and practices of the institution.

19. Borrowing

- 19.1 By itself or with another person, the Trustee may, subject to Superannuation Law, borrow or raise money or obtain credit or accommodation:
 - 19.1.1 from any person (including a Trustee in its personal capacity or as trustee of another trust, an Employer and a Beneficiary);
 - 19.1.2 upon any terms (including repayment of principal and payment of interest);
 - 19.1.3 whether or not the Fund is already wholly invested or applied;
 - 19.1.4 whether or not the money borrowed or credit raised exceeds the value of the Fund.
- 19.2 The Trustee may use that money like income or capital of the Fund.
- 19.3 A person lending money or giving credit or accommodation to the Trustee need not enquire as to:
 - 19.3.1 whether the borrowing, credit or accommodation is necessary;
 - 19.3.2 the purpose of the borrowing, credit or accommodation;
 - 19.3.3 the use by the Trustee of the money, credit or accommodation.

20. Guarantees and indemnities

By itself or with another person, the Trustee may guarantee, indemnify and become liable for (contingently or otherwise) the performance of any obligation of any person (including a Trustee in its personal capacity or as trustee of another trust, an Employer and a Beneficiary):

- 20.1 with or without security;
- 20.2 with or without remuneration;
- 20.3 upon any terms.

21. Security interests

By itself or with another person, the Trustee may secure the repayment of money, credit or accommodation and interest thereon and any guarantee or indemnity or other obligation (actual or contingent) of the Trustee:

- 21.1 by granting a mortgage, bill of sale, lien, hypothecation, pledge or charge (fixed, floating, legal, equitable or otherwise) over all or any assets (both present and future) of the Fund, with or without any other security, acknowledgment or collateral agreement; and
- 21.2 if the Trustee is a company, by granting a charge (fixed, floating, legal, equitable or otherwise) over all or any assets (both present and future) of the company and all or any assets (both present and future) of the Fund, and any other charge or security registrable under the Corporations Act.

22. Lending

By itself or with another person, the Trustee may, subject to Superannuation Law, lend money and give credit or accommodation:

- 22.1 to any person (including a Trustee in its personal capacity or as trustee of another trust, an Employer and a Beneficiary);
- 22.2 upon any terms (including repayment of principal and payment of interest);
- 22.3 with or without security, guarantee or collateral agreement.

The Trustee may take a mortgage, lien or charge (fixed, floating, legal, equitable or otherwise) to secure payment to the Trustee by any purchaser of any Fund property.

23. Custody of property

The Trustee may permit any Beneficiary to occupy or have custody of or use any real or personal property forming part of the Fund on any terms the Trustee decides.

24. Agents and attorneys

- 24.1 The Trustee may appoint an agent or attorney to exercise any trust or power:
 - 24.1.1 if more than one agent or attorney, jointly or severally or jointly and severally;
 - 24.1.2 upon any terms not inconsistent with this deed as the Trustee decides.
- 24.2 The Trustee may delegate the exercise of any trust or power to any person including a custodian or investment manager (within the meaning of section 10 of the SIS Act), Officer, employee, consultant, professional adviser, bank, Beneficiary or Trustee.
- 24.3 The Trustee may:
 - 24.3.1 remove that agent or attorney;
 - 24.3.2 stop that delegation.
- 24.4 The Trustee may remunerate that agent, attorney or delegate as the Trustee decides. Such remuneration to a Beneficiary is not payment of a Benefit. Such remuneration is a Fund Expense.

25. Nominees

The Trustee may permit any property in the Fund to be held or registered in the name of some other person.

26. Receipts

The Trustee may give receipts and discharges for any money or property received by or on behalf of the Fund or otherwise relating to the administration of the Fund.

27. Insurance

27.1 The Trustee may acquire (including by purchase, gift or will), keep up, renew, amend, vary, exchange, forfeit, surrender, redeem, sell or assign:

27.1.1 any Policy;

27.1.2 any policy of insurance against any risk or liability in respect of the property or administration of the Fund.

27.2 The Trustee may pay out of the income or capital of the Fund all premiums or other payments:

27.2.1 to effect or keep up a policy (whether or not owned by the Trustee);

27.2.2 to exercise or enjoy any option, right or benefit under a policy.

28. Contracts

The Trustee may enter any contracts, deeds, instruments or undertakings the Trustee decides.

29. Legal advice

29.1 The Trustee may act upon the advice or opinion of a legal practitioner about this deed or any other instrument or any law affecting the Fund.

29.2 The Trustee or a Beneficiary may still apply to any court for directions about the Fund.

29.3 The Trustee may conduct or settle legal proceedings affecting the Trustee or the Fund.

29.4 The Trustee may refer any dispute affecting the Trustee or the Fund to arbitration and abide by the arbitrator's decision or resolve any such dispute by mediation.

30. Taxation affairs

The Trustee may make any election for the purpose of any tax.

31. Deposit of instruments

The Trustee may deposit as security or for safe custody any instrument of the Fund with any person, including any bank.

32. Additions to the fund

The Trustee may accept any gift of money or property from any person as an addition to the Fund.

33. Reserve

The Trustee may set aside and accumulate from the capital or income of the Fund any money the Trustee decides for depreciation or amortisation or any future Fund Expense (actual or contingent).

34. Valuations

The Trustee may estimate the value of any Fund property or employ any person to do so. That valuation binds all Beneficiaries.

35. Characterise income and capital

The Trustee may:

35.1 treat as income or capital:

35.1.1 any property;

35.1.2 any change in the amount, number or value of any property;

35.1.3 any payment with respect to any property;

35.2 allocate receipts, expenses, losses and distributions between separate funds and separate parts of the Fund.

36. Debts

The Trustee may:

36.1 pay a debt or allow a claim on evidence that the Trustee thinks sufficient;

36.2 accept a composition or security for a debt or claim;

36.3 allow time for payment of debt;

36.4 compromise, compound, abandon, or settle a debt, account, claim or other thing with respect to the Fund;

36.5 waive a legal, statutory or equitable right.

37. Expenses

The Trustee may pay any Fund Expense and any taxation, duty or other government impost levied against the Trustee (in that capacity) or the Fund.

38. Determine disputes

The Trustee may decide any question about the exercise of a trust or power of the Trustee. The Trustee's decision binds all persons.

39. Accounting

The Trustee may make rules about calculating and rounding-off contributions, Benefits, income and Fund Expenses.

40. Rollover

The Trustee may pay benefits to an eligible rollover fund under Part 24 of the SIS Act.

41. Superannuation law

The Trustee may do anything to comply with any Superannuation Law.

42. General law powers

The Trustee has all the powers given to trustees by law, equity or statute and not necessarily inconsistent with this deed.

43. Incidental powers

The Trustee may do all things incidental to the exercise of any trust or power of the Trustee.

44. Powers independent

A power of the Trustee must not be limited or read down by reference to any other power.

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45. Trustee interested in dealings

- 45.1 If any Trustee, partner of a Trustee, director, secretary or shareholder of a corporate Trustee or Beneficiary has a material personal interest in the exercise by the Trustee of a trust or power (including without limitation, a power of investment and a power to pay Benefits):
- 45.1.1 they are not for that reason disqualified from exercising or concurring in the exercise by the Trustee of that trust or power; and
 - 45.1.2 a transaction, contract, deed, obligation, instrument or undertaking of the Trustee that results is not for that reason void or voidable; and
 - 45.1.3 they are not for that reason liable to account to the Fund or to the Beneficiaries for any benefit that results from that material personal interest.
- 45.2 To avoid any doubt, any person mentioned in clause 45.1 may hold a material personal interest in any use or investment of the Fund, including any company or trust or property (real or personal) in which the Fund is used or invested.
- 45.3 The Trustee may deal with itself in its personal capacity or as trustee of any other trust as if there were 2 separate persons to such dealing.

46. Exercise of powers

- 46.1 The Trustee may exercise each power as it decides as if it were the sole beneficial owner of the Fund.
- 46.2 A trust or power of the Trustee may be exercised:
- 46.2.1 where the Trustee is a company, by a resolution of its board of directors in accordance with its articles of association;
 - 46.2.2 where there are 2 or more trustees, in writing signed by a majority, or by a resolution passed by a majority at a meeting of the Trustees.
- 46.3 If the Trustee is a company, the board of directors of the company may:
- 46.3.1 resolve that its own minute book of meetings be the Trustee's minute book;
 - 46.3.2 have the Trustee's business recorded in any other way the board decides.

47. Validity of dealings and securities

- 47.1 A person dealing with the Trustee need not enquire as to:
- 47.1.1 whether the powers of the Trustee are adequate;
 - 47.1.2 whether the trusts or powers of the Trustee are properly exercised;
 - 47.1.3 whether any transaction affecting any part of the Fund is proper;
 - 47.1.4 the use of any money paid or property transferred to the Trustee or the Trustee's nominee.
- 47.2 If a person dealing with the Trustee acts in good faith, so far as that person is concerned:
- 47.2.1 the dealing is deemed to be within the Trustee's powers and valid;
 - 47.2.2 the receipt of the Trustee or the Trustee's nominee discharges that person from all liability with respect to the dealing.

- 47.3 No mortgage, pledge, bill of sale, lien, hypothecation, charge or other security by the Trustee over any of the Fund is invalid just because of:
- 47.3.1 any error or omission (of law or fact) by the Trustee or its advisers;
- 47.3.2 any breach of duty or trust unless the Trustee is fraudulent to the actual knowledge of the person taking the benefit of the security.

PART 7 – INVESTMENT PORTFOLIOS

48. Selection of investment portfolios

- 48.1 Subject to Superannuation Law, the Trustee may permit a Member to select the investments for that Member's Investment Portfolio and the proportions of those investments.
- 48.2 The Trustee may restrict or impose conditions on that selection.

49. No selection

If a Member does not select an Investment Portfolio, the Trustee must invest the balance of that Member's Account as permitted under this deed.

50. Variation or redemption

- 50.1 A Member may request the Trustee to vary or redeem that Member's Investment Portfolio or part thereof as permitted by Superannuation Law.
- 50.2 In its absolute discretion (whether or not requested to do so), the Trustee may vary or redeem an Investment Portfolio or part thereof.

51. Delay or refusal

- 51.1 In its absolute discretion, the Trustee may:
- 51.1.1 delay in establishing, varying or redeeming an Investment Portfolio or part thereof;
- 51.1.2 refuse to establish, vary or redeem an Investment Portfolio or part thereof.
- 51.2 If the Trustee delays in establishing or refuses to establish an Investment Portfolio or part thereof, the Trustee must invest the balance of the Member's Account as permitted under this deed.

52. Trustee may cease investment portfolio

- 52.1 In its absolute discretion, the Trustee may cease the Investment Portfolio of any Member. The Trustee must notify that Member in writing.
- 52.2 The Trustee must invest the balance of the Member's Account as permitted under this deed.

53. No liability

The Trustee is not liable to compensate a Member for loss incurred in exercising or not exercising any of its powers under this Part.

54. No separate trust funds

Investment Portfolios are not separate trust funds.

PART 8 - MEMBERS

55. Members

A Member is bound by this deed and is entitled to the benefits of this deed.

56. Admission of other members

- 56.1 An Eligible Person may apply in writing to become a Member of the Fund, in any form and with any information the Trustee requires.
- 56.2 The Trustee:
- 56.2.1 may accept the application;
- 56.2.2 may refuse the application;
- 56.2.3 is deemed to accept the application if it does not refuse it within 28 days of receipt.
- 56.3 A successful applicant becomes a Member:
- 56.3.1 on a date set by the Trustee;
- 56.3.2 if the Trustee does not set a date, the date the Trustee receives the completed application.
- 56.4 As soon as practicable, the Trustee must provide to a new Member the written statement and any other information required by Superannuation Law. Failure to do so does not affect Membership.

57. Membership ceases

A person ceases to be a Member when:

- 57.1 all entitlements of that Member are paid or transferred;
- 57.2 that Member dies; or
- 57.3 required by Superannuation Law.

58. Consent of members

- 58.1 The consent of Members is sufficiently evidenced (unless proved incorrect) by:
- 58.1.1 a minute signed by the chairperson of a meeting of Members that, at a duly called meeting of Members, a resolution was duly passed in favour of that consent by a requisite majority of Members voting; or
- 58.1.2 a written resolution in favour of that consent executed by the requisite number of Members. The resolution may consist of several documents in the same form, each executed by 1 or more Members.
- 58.2 Except where this deed or Superannuation Law requires the consent of Members, Members must not interfere with the exercise of a trust or power by the Trustee.

59. Meetings of members

- 59.1 The Trustee may convene and conduct meetings of Members.
- 59.2 The Trustee may establish rules, not inconsistent with this deed and Superannuation Law, for convening and conducting meetings of Members.

PART 9 - EMPLOYERS**60. Employers**

This deed binds an Employer.

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61. Employer's contributions

With the consent of the Trustee and the relevant Member ("**Employee Member**"), the Employer of that Employee Member may contribute to the Fund:

- 61.1 in respect of that Employee Member;
- 61.2 in respect of a Dependant of that Employee Member, if that Dependant is a Member of the Fund.

PART 10 - ACCOUNTS

62. Member accounts

- 62.1 The Trustee must keep a Member Account for each Member.
- 62.2 The Trustee must credit a Member's Account with:
 - 62.2.1 any amount transferred into the Fund or from another Member of the Fund on account of that Member including an amount transferred from a member's spouse or former spouse as permitted under Superannuation Law;
 - 62.2.2 any contributions on account of that Member;
 - 62.2.3 any payment under a Policy taken out by the Trustee in respect of that Member or a Beneficiary on account of that Member;
 - 62.2.4 any amounts transferred by the Trustee from the Fund Account on account of that Member;
 - 62.2.5 any amounts transferred by the Trustee from the Reserve Account on account of that Member;
 - 62.2.6 any amounts transferred by the Trustee from the Forfeiture Account on account of that Member;
 - 62.2.7 the positive earnings of the Member's Investment Portfolio, as determined by the Trustee;
 - 62.2.8 unrealised gains on valuation of the Member's Investment Portfolio, as determined by the Trustee;
 - 62.2.9 any other amounts that Superannuation Law or the Tax Act requires or permits being credited to the Member's Account.
- 62.3 The Trustee must debit a Member's Account with:
 - 62.3.1 any amount transferred out of the Fund on account of that Member;
 - 62.3.2 any amount transferred out of the Fund or to another Member in the Fund that comprises a transfer to a spouse or former spouse permitted by Superannuation Law;
 - 62.3.3 any Benefit paid to or in respect of that Member or a Beneficiary on account of that Member;
 - 62.3.4 the costs of any Policy taken out by the Trustee in respect of the Member or a Beneficiary on account of that Member;
 - 62.3.5 any Excess Contributions Tax;
 - 62.3.6 any taxation payable (or which might become payable, if the Trustee thinks fit) on income or profits of the Member's Investment Portfolio;

- 62.3.7 any portion the Trustee decides of taxation payable (or which might become payable if the Trustee thinks fit) on contributions, transfers or income and profits of the Fund credited to that Member's Account;
- 62.3.8 any Fund Expense attributable to the Member Investment Portfolio and any portion of other Fund Expenses the Trustee decides;
- 62.3.9 any amount transferred by the Trustee to the Forfeiture Account;
- 62.3.10 any negative earnings transferred by the Trustee from the Fund Account;
- 62.3.11 any negative earnings of the Member's Investment Portfolio, as determined by the Trustee;
- 62.3.12 costs and penalties incurred by the Trustee in establishing, varying or redeeming the Member's Investment Portfolio or part thereof;
- 62.3.13 unrealised losses on valuation of the Member's Investment Portfolio, as determined by the Trustee;
- 62.3.14 any other amounts that Superannuation Law or the Tax Act requires or permits being debited from the Member's Account.

63. Fund account

- 63.1 The Trustee may keep a Fund Account.
- 63.2 If the Trustee keeps a Fund Account:
 - 63.2.1 the Trustee must credit to the Fund Account all income and profits of the Fund, except those amounts credited directly to a Member Account or Reserve Account;
 - 63.2.2 the Trustee must debit to the Fund Account:
 - (a) any loss on the disposal or other negative earnings of any investment of the Fund or any other negative earnings of the Fund, not debited directly to a Member Account;
 - (b) any Fund Expenses, not debited directly to a Member Account; and
 - (c) any taxation payable or which might become payable in respect of contributions or income or profits of the Fund, not debited directly to a Member Account;
 - 63.2.3 at the end of each Financial Year, the Trustee must:
 - (a) credit and debit the Fund Account as above;
 - (b) take into account any provision or reserve for future contingencies as the Trustee thinks reasonable; and
 - (c) determine the net earnings of the Fund (which may be negative) for that Financial Year;
 - 63.2.4 with effect on the last day of the Financial Year, the Trustee must:
 - (a) debit the Fund Account with those net earnings; and
 - (b) credit those net earnings to the Member Accounts in proportion to the amounts credited to them at the beginning of that Financial Year. The Trustee must make an appropriate adjustment for any amounts credited or debited to the Member Account since the beginning of the Financial Year;

- 63.2.5 if a person ceases to be a Member during a Financial Year, the Trustee must allot to the former Member's Account a reasonable share of the estimated net earnings of the Fund for the period from the beginning of the Financial Year to the end of Membership (both inclusive).

64. Reserve account

- 64.1 Subject to Superannuation Law, the Trustee may keep a Reserve Account for such purposes as the Trustee considers appropriate.
- 64.2 If the Trustee keeps a Reserve Account:
- 64.2.1 the Trustee must maintain that account in accordance with Superannuation Law;
- 64.2.2 subject to Superannuation Law:
- (a) the Trustee may apply amounts in the Reserve Account to such Members or Beneficiaries and in such proportions as the Trustee determines;
- (b) if there is an amount in the Reserve Account upon the death of the last remaining member of the Fund, the Trustee may pay that amount to the legal personal representative of that deceased Member.

65. Forfeiture account

- 65.1 Subject to Superannuation Law, the Trustee may keep a Forfeiture Account for such purposes as the Trustee considers appropriate.
- 65.2 If the Trustee keeps a Forfeiture Account:
- 65.2.1 the Trustee must maintain that account in accordance with Superannuation Law;
- 65.2.2 subject to Superannuation Law:
- (a) the Trustee may apply amounts in the Forfeiture Account to such Members or Beneficiaries and in such proportions as the Trustee determines;
- (b) if there is an amount in the Forfeiture Account upon the death of the last remaining member of the Fund, the Trustee may pay that amount to the legal personal representative of that deceased Member.

66. Financial records

The Trustee must prepare, or have prepared financial statements and keep accounting records as required by Superannuation Law.

67. Audit

- 67.1 The Trustee must appoint a properly qualified person or firm as Auditor of the Fund and the Trustee may, subject to Superannuation Law, remove an Auditor from office and accept an Auditor's resignation.
- 67.2 The Trustee must cause the Auditor to audit the financial statements of the Fund as required by Superannuation Law.

68. Income and expenses

- 68.1 The Trustee must collect all gross income and profits of the Fund.
- 68.2 The Trustee must pay from that gross income and profits all Fund Expenses.

69. Taxation

- 69.1 The Trustee must arrange payment (within the required time) of all taxation payable by the Fund:
- 69.1.1 by the Trustee from the gross income of the Fund;
 - 69.1.2 by the Trustee on account of a Member; or
 - 69.1.3 by an appropriate organisation including an insurance company.
- 69.2 The Trustee (or appropriate organisation with the Trustee's agreement) must deduct from any Benefit the taxation required in the Trustee's opinion by the Tax Act.
- 69.3 The Beneficiary is entitled to only the net Benefit after deduction of taxation.

PART 11 - CONTRIBUTIONS**70. Source**

Subject to this deed and Superannuation Law, any person may contribute to the Fund on behalf of a Member.

71. No obligation to contribute

Unless otherwise agreed in writing or required by statute, neither a Member nor an Employer is obliged to contribute in any Financial Year. Failure to contribute does not affect Membership.

72. Timing of contributions

A contribution on behalf of a Member is deemed to be made in the Financial Year in which the money is paid or the assets are transferred to the Trustee unless the Trustee elects otherwise in accordance with Superannuation Law or the Tax Act.

73. Amount of contributions

Subject to this deed, Superannuation Law and the Tax Act, a contribution may be of any amount.

74. Manner of contribution

A contribution may be:

- 74.1 cash;
- 74.2 assets of the kind in which the Trustee may invest. The value attributed to those assets is the fair market value determined by the Trustee.

75. Allotment of employer contributions

When an Employer makes a contribution, it:

- 75.1 must specify which Members benefit;
- 75.2 may allocate the contribution between those Members. If it does not do so, the Trustee must allocate the contribution between those Members equally.

76. Ineligible payments

- 76.1 A contribution does not include an amount paid to the Fund on behalf of a Member that is in excess of that Member's Concessional Contributions Cap or Non-concessional Contributions Cap ("Excess Amount") unless that Member advises the Trustee in writing that the Excess Amount is to be treated as a contribution for that Member.

- 76.2 If a Member does not advise the Trustee under clause 76.1 that an Excess Amount is to be treated as a contribution for that Member, the Trustee holds the Excess Amount as a separate trust for the person who paid the Excess Amount until it is refunded to that payer.

77. Overriding restriction on contributions

Despite any other provision of this deed, the Trustee must refuse any contribution if necessary (in the Trustee's opinion) to comply with Superannuation Law.

78. Refund of ineligible contributions

If the Trustee accepts a contribution or portion of a contribution in breach of this deed, the Trustee must, if Superannuation Law permits:

- 78.1 refund that contribution or portion, less a reasonable share of expenses in respect of any group life insurance which the Trustee took out in respect of the relevant Member; and
- 78.2 reduce the relevant Benefit as if that contribution or portion had not been paid.

PART 12 - BENEFITS

79. Benefits generally

- 79.1 A Beneficiary holds a Benefit subject to this deed.
- 79.2 Beneficiaries hold their Benefits in the Fund as tenants in common.
- 79.3 A Beneficiary or other claimant may require payment from the Fund only as expressly provided in this deed.
- 79.4 A Benefit must be preserved where and to the extent required by Superannuation Law.

80. Type of benefit

- 80.1 While the Trustee is a Constitutional Corporation, the Trustee may pay a Benefit as permitted by Superannuation Law.
- 80.2 While the Trustee is not a Constitutional Corporation, the Trustee must pay a Benefit by Pension.

81. Commutation

- 81.1 Subject to clause 80.3, if a Benefit is being paid or is payable in the form of a Pension, a Beneficiary may request the Trustee in writing to commute to a lump sum the whole or portion of a Pension Benefit payable to a Beneficiary.
- 81.2 Subject to clause 80.3, if a Benefit is being paid or is payable in the form of a lump sum, a Beneficiary may request the Trustee in writing to commute to a Pension the whole or portion of a lump sum payable to a Beneficiary.
- 81.3 The Trustee may only agree to a request for commutation under clauses 81.1 or 81.2 if:
- 81.3.1 if in the opinion of the Trustee, the commutation would not disadvantage the Fund, any Employer or any Beneficiary;
- 81.3.2 the commutation is permitted by Superannuation Law and in particular, the relevant Pension Standards.

82. Retirement benefit

Subject to this deed, the Trustee may pay the balance of a Member's Account to a Member who fulfils the criteria of Superannuation Law for the payment of retirement Benefits.

83. Total and permanent disablement benefit

Subject to this deed and any Policy, the Trustee may pay the balance of a Member's Account to a Totally and Permanently Disabled Member.

84. Death benefit

84.1 Subject to this deed and any Policy, if a Member dies, the Trustee must pay the balance of the deceased's Member Account:

84.1.1 to the Dependant or Dependents of the deceased Member;

84.1.2 to the legal personal representative of the deceased Member;

84.1.3 if the deceased Member was in receipt of a Pension from the Fund at the date of death in respect of which there is a reversionary pensioner, to the reversionary pensioner in the form of a Pension; or

84.1.4 to such person or persons as permitted by Superannuation Law.

84.2 A Member may, by written notice signed by the Member to the Trustee:

84.2.1 nominate one or more Dependents or the Member's legal personal representative ("a **Nominated Beneficiary**") to receive the Benefit payable on that Member's death;

84.2.2 revoke or change that nomination.

84.3 A nomination is revoked if the Nominated Beneficiary ceases to be a Dependant or legal personal representative of the Member.

84.4 Subject to Superannuation Law, unless the Member specifically states in the nomination that it is binding on the Trustee, the Trustee must consider a nomination but is not obliged to follow it.

85. Transition to retirement

85.1 A Member may ask the Trustee for a Transition to Retirement Income Stream at any time the Member fulfils the relevant requirements of Superannuation Law or the Commissioner.

85.2 That Member must provide to the Trustee any information required by the Trustee or Superannuation Law.

85.3 Subject to Superannuation Law, the Trustee may pay the income stream to the Member on any terms the Trustee decides.

86. Other benefits

86.1 Despite any other provision, a Member may ask the Trustee for a Benefit at any time the Member fulfils any relevant requirements of Superannuation Law or the Commissioner.

86.2 That Member must provide to the Trustee any information required by the Trustee or Superannuation Law.

86.3 The Trustee may pay a Benefit or a part of a Benefit to the Member on any terms the Trustee decides.

87. Pension rules

87.1 The Trustee must pay a Pension Benefit to a Beneficiary in such form of Pension as the Trustee decides in consultation with the Beneficiary and is permitted by the SIS Regulations.

87.2 A Pension Benefit is subject to and must be paid in accordance with the relevant Pension Standards.

- 87.3 The Trustee may alter the amount or frequency of a Beneficiary's Pension as permitted by the relevant Pension Standards.
- 87.4 If the Pension Standards require the Trustee to pay a minimum amount of Pension Benefit to a Beneficiary in a Financial Year but the Trustee fails to make the required payment:
- 87.4.1 the Trustee is taken to have made the Minimum Payment;
 - 87.4.2 the Beneficiary has a right to the amount of any shortfall;
 - 87.4.3 the Trustee holds the amount of the shortfall on a separate trust for the Beneficiary.

88. Payment of benefits

Subject to this deed, the Trustee may pay a Benefit at any place, in any manner (including cash) and within any reasonable time the Trustee decides.

89. Transfer in kind

With the consent of the Beneficiary, the Trustee may pay a Benefit to a Beneficiary by transferring to that Beneficiary investments of the Fund (including any Policy) of equivalent value.

90. Forfeiture of Benefits

- 90.1 Subject to Superannuation Law, a Beneficiary who:
- 90.1.1 assigns, charges, conveys or attempts to assign or charge or convey any Benefit; or
 - 90.1.2 does or attempts to do anything or if any event happens that results in the Beneficiary being deprived of the benefit of the Benefit on any part of it;
- automatically forfeits entitlement to all his or her Benefits unless the Trustee otherwise determines.
- 90.2 A Member may forfeit any part of his or her Benefit that is in excess of the Member's Minimum Benefit to the extent permitted by Superannuation Law.
- 90.3 The Trustee must transfer amounts forfeited under this clause to the Forfeiture Account.

91. Unclaimed money

- 91.1 Unclaimed money is money payable to a Beneficiary:
- 91.1.1 who is old enough for an Old-Age Pension;
 - 91.1.2 to whom a Benefit is payable under this deed;
 - 91.1.3 who has not applied to the Trustee to have the Benefit paid; and
 - 91.1.4 whom the Trustee has made reasonable efforts to find and cannot find.
- 91.2 Within 28 days after the end of each half year, the Trustee must provide such statements and pay such amounts required under Part 22 of the SIS Act.

92. Transfers from other funds

- 92.1 A Member ("a New Member") who was or is a beneficiary under another superannuation arrangement (including an approved deposit fund) ("the Old Fund") may in writing ask the Trustee to receive any assets of the Old Fund to preserve the New Member's entitlements under the Old Fund.
- 92.2 The Trustee may accept or decline the request.

- 92.3 Receipt by the Trustee of any assets of the Old Fund is subject to any relevant preservation requirement under Superannuation Law applying to the Old Fund.
- 92.4 On receipt of assets from the Prior Fund, the New Member is deemed to have become a Member of the Fund on the date he or she became a member of the Old Fund.
- 92.5 The Trustee must hold any assets received from the Old Fund as part of the Fund and reflect the New Member's entitlements in the New Member's Account as the Trustee decides.
- 92.6 In addition to a transfer from an Old Fund, the Trustee may if a Member requests in writing, accept any transfer of assets from the account of the Member or the account of any other person in another Complying Superannuation Fund if that transfer is permitted under Superannuation Law.

93. Transfers to other funds

- 93.1 A Member who joins or is eligible to join another Complying Superannuation Fund or an approved deposit fund ("the New Fund") may in writing ask the Trustee to transfer the whole or a part of that Member's entitlement in the Fund to the New Fund.
- 93.2 The Trustee must transfer to the New Fund an amount (in cash or assets) equivalent to the whole or part of that Member's entitlement in the Fund at the time of the request.
- 93.3 The Trustee may:
- 93.3.1 require that Member to get a fair entitlement (as agreed by the Trustee and the trustee of the New Fund) in the New Fund;
 - 93.3.2 fix the portion of the amount transferred that the New Fund attributes to contributions by that Member.
- 93.4 If Superannuation Law requires preservation of the Benefit transferred to a New Fund, the Trustee must ensure that that Benefit is preserved if the Member leaves the New Fund.
- 93.5 The Benefit of a Member is reduced by any amount transferred under this clause.
- 93.6 The receipt by the trustee of the New Fund for the amount transferred discharges the Trustee in respect thereof.
- 93.7 In addition to a transfer to a New Fund, the Trustee may if a Member requests in writing, transfer an amount to the account of the Member or the account of any other person in another Complying Superannuation Fund if that transfer is permitted under Superannuation Law.

94. Other benefits

The Benefits to a Member under this deed are in addition to any other provision by the Member or an Employer for that Member by settlement or otherwise.

95. Personal representatives may receive benefits

If a person is entitled to a Benefit because of the death or disability of a Member and provides any evidence required by the Trustee:

- 95.1 the Trustee may pay that Benefit to that person;
- 95.2 that person may discharge the Trustee in respect of that Benefit.

PART 13 - TERMINATION

96. Termination of the fund

- 96.1 The Fund ends on the earliest of the following days:

- 96.1.1 a day specified by all the Members in written notice to the Trustee;
- 96.1.2 if there are no Members, a day specified by the Trustee by deed.
- 96.2 On and from the end of the Fund, the Trustee holds the Fund upon trust for the Members in proportion to the amounts credited to their respective Member Accounts at the end of the Fund.
- 96.3 There is no resulting trust to the Employer.
- 96.4 As soon as practicable after the end of the Fund, the Trustee must give notice of the end of the Fund to each Member.
- 96.5 After the Fund ends:
 - 96.5.1 no Members or Employers can be admitted;
 - 96.5.2 no contributions or transfers can be accepted.
- 96.6 When the Fund ends:
 - 96.6.1 if required by Superannuation Law, the Trustee must transfer Benefits to a Complying Superannuation Fund on account of the Members;
 - 96.6.2 if not so required, the Trustee must pay all Benefits in accordance with this deed.
- 96.7 Despite clause 96.2:
 - 96.7.1 the Trustee may keep part of the Fund to satisfy Fund Expenses (actual or contingent);
 - 96.7.2 before making a payment, the Trustee may require a discharge in any form the Trustee decides.
- 96.8 Unless the Trustee is fraudulent, distribution of the Fund under this clause (with or without a receipt) discharges the Trustee in respect of the Fund and each Beneficiary.

PART 14 - MISCELLANEOUS

97. Information to parties

When and as required by Superannuation Law, the Trustee must provide information to:

- 97.1 a Member;
- 97.2 an Employer;
- 97.3 the Commissioner;
- 97.4 the Australian Prudential Regulation Authority;
- 97.5 any other person.

98. Information from parties

- 98.1 Each Employer and Member must provide to the Trustee any information about their participation in the Fund that the Trustee requests.
- 98.2 The Trustee may act on that information without enquiry.

99. **Amendments**

The Trustee may by deed add to or vary this deed if the addition or variation is not contrary to Superannuation Law.

100. **No agency**

100.1 The Trustee and any Member (in that capacity) are not principal and agent or partners.

100.2 The Members (in that capacity) and the Beneficiaries (in that capacity) between themselves are not principal and agent or partners.

100.3 The Trustee must pay income to the Beneficiaries separately. Income of the Fund is not received on behalf of the Beneficiaries jointly.

101. **Governing law**

101.1 The laws of the State govern this deed.

101.2 The courts of the State have exclusive jurisdiction in respect of this deed.

102. **Notice**

102.1 Notice can only be in writing signed by the party or its agent.

102.2 Notice can only be given to a party:

102.2.1 personally;

102.2.2 by registered post to the last known place of business or residence of the recipient or the registered office of the recipient. Notice by post is deemed to be received when the letter would be delivered in the ordinary course of post;

102.2.3 by facsimile transmission at the last known facsimile number. Notice by facsimile transmission is deemed to be received when the sending machine confirms notice has been sent; or

102.2.4 as permitted by the Corporations Act or other statute applicable to the party.

102.3 A person entitled to a Benefit by operation of law is bound by every notice duly given to the Member from whom that person derived entitlement.

EXECUTED as a deed

EXECUTED by **PILLAY GROUP PTY LTD** in accordance with its Constitution:)
)
)

.....
Sole Director / Director

.....
Name of Director

.....
Director / Secretary

.....
Name of Director / Secretary

SCHEDULE

Item 1	Date The 1 st day of July, 2010
Item 2	Trustee Pillay Group Pty Ltd (ACN 144 483 321) of 19A Griffith Street Henley Beach SA 5022
Item 3	Name of Fund The Pillay Superannuation Fund
Item 4	Establishment of Fund The date of this deed