

Superannuation Trust Deed

Establishing the

FENCEWISE (QLD) ~~PTY LTD~~ SUPERANNUATION FUND

FENCEWISE (QLD) PTY LTD (ACN 114 625 295)  
("TRUSTEE")

Drawn by:

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## SUPERANNUATION FUND TRUST DEED

This Deed Poll is made on the **Commencement Date** described in Item 1 of the Schedule.

By the **Trustee** described in Item 4 of the Schedule.

### RECITALS

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

### OPERATIVE PROVISIONS

- 1. The Fund is to be known as the name specified in Item 2 of the Schedule.
- 2. The Fund will commence on the date of this Deed Poll.
- 3. This Deed Poll includes the rules ("Rules") attached to this Deed Poll.
- 4. The Trustee must hold the assets of the Fund on trust to apply them in the manner set out in the Rules.
- 5. This Deed Poll may be amended in the manner set out in the Rules.
- 6. Unless otherwise defined in this Deed Poll, an expression that is defined in the Trust Deed or the Superannuation Law has the same meaning in this Deed Poll. The Recitals form part of this Deed Poll.
- 7. The Member and the Trustee are bound by the terms of the Trust Deed as amended by the Deed Poll.

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<b>SIGNED, SEALED AND</b> ) <b>DELIVERED</b> by the said ) <b>FENCEWISE (QLD) PTY LTD ACN</b> ) <b>114 625 295</b> in accordance with ) Section 127 of the Corporations Act ) in the presence of:-		
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**SCHEDULE**

<i>Item 1</i>	<b>Commencement Date</b>	<i>y</i>	23 / 11 / 2007
<i>Item 2</i>	<b>Name of Fund</b>		FENCEWISE (QLD) <del>TRUST</del> <del>FUND</del> SUPERANNUATION FUND.
<i>Item 3</i>	<b>Governing Law</b>		Queensland
<i>Item 4</i>	<b>Trustee</b>		Fencewise (Qld) Pty Ltd (ACN 114 625 295) of 15 Ewingar Court, Helensvale in the State of Queensland.

# Attachment 1

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## RULES

### 1. DEFINITIONS AND INTERPRETATION

#### 1.1 DEFINITIONS

Unless the contrary intention appears:

**Account-Based Pension** has the same meaning as in the Superannuation Industry (Regulations) 1994 (Cth).

**Accumulated Credit** means the balance of the Contribution Account and Pension Account of a Member.

**Allocated Pension** has the same meaning as in the Superannuation Industry (Regulations) 1994 (Cth).

**Annuity** means an Annuity as defined in the Superannuation Law.

**Application Form** means the form specified by the Trustee from time to time to be included with a person's application to participate in the Fund.

**Benefit** in relation to a Member means any amount which is payable to a Member out of the Fund by the Trustee pursuant to this Deed.

**Binding Nomination** means a nomination by a Member in accordance with which the Trustee is required to pay a Death Benefit under Rule 6.8 and the Binding Nomination Rules.

**Binding Nomination Rules** means the rules adopted by the Trustee pursuant to Rule 6.8.

**Cashed** means cashed in accordance with the Superannuation Industry (Supervision) Regulations 1994 (Cth).

**Child** includes an adopted child, a step-child or an ex-nuptial child.

**Condition of Release** has the same meaning as in the Superannuation Industry (Supervision) Regulations 1994 (Cth).

**Constitutional Corporation** has the same meaning as in the Superannuation Industry (Supervision) Act 1993 (Cth).

**Contribution Account** means the account kept for a Member under Rule 8.3.

**Corporations Act** is the Corporations Act 2001 (Cth).

**Death Benefit** means a benefit payable under Rule 6.8.

**Deed** means the deed establishing the Fund.

**Dependant** has the same meaning as in the Superannuation Industry (Supervision) Act 1993 (Cth).

**Eligible Person** means a person able to become a member of the Fund in accordance with the Superannuation Law, and may include a Non-Member Spouse.

**Employee** has its ordinary meaning as that meaning is contained and expanded by section 15A of the Superannuation Industry (Supervision) Act 1993 (Cth) means:

- (a) a full-time or part-time permanent employee of an Employer;
- (b) if the Employer is a company - a director of the company;
- (c) any other person nominated by an Employer.

**Employer** has its ordinary meaning as that meaning is contained and expanded by section 15A of the Superannuation Industry (Supervision) Act 1993 (Cth).

**Employer Contributions** has the same meaning as in the Superannuation Industry (Supervision) Regulations 1994 (Cth).

**Excess Contributions Tax** mean excess concessional contributions tax or excess non-concessional contributions tax as defined in the Income Tax Assessment Act 1997 (Cth).

**Family Law Act** means the Family Law Act 1975 (Cth).

**Financial Year** has the same meaning as Year of Income.

**Flagging Order** has the same meaning as in the Family Law Act 1975 (Cth).

**Flag Lifting Agreement** has the same meaning as in the Family Law Act 1975 (Cth).

**Full-time** in relation to being gainfully employed, means gainfully employed for at least 30 hours each week.

**Fund** means the superannuation fund as constituted by the Deed and the Rules.

**Fund-Capped Contributions** has the same meaning as Member Contributions as qualified by Regulation 7.04 in the Supervision Industry (Supervision) Regulations 1994 (Cth).

**Fund Secretary** means a person appointed under Rule 11.7.

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

**Governing Law** means the law of that Country, State, Territory or place which is specified in Item 3 of the Schedule.

**Governing Rules** means the Rules and any provision applied to the Fund by the Superannuation Law.

**Government Co-Contribution Benefits** are Government co-contributions made under the Superannuation (Government) Co-contribution for Low Income Earners) Act 2003 (Cth).

**Interdependency Relationship** has the same meaning as in the Superannuation Industry (Supervision) Act 1993 (Cth).

**Investment Portfolio** means a separate part of the Fund maintained under Rule 8.5.

**Investment Strategy** means the investment strategy of the Fund in accordance with Rule 10.5.

**Mandated Employer Contributions** has the same meaning as in the Superannuation Industry (Supervision) Regulations 1994 (Cth), being contributions by, or on behalf of, an employer that are equal to the sum of:

- (a) the contributions made by, or on behalf of, the employer to the fund in relation to the member, that:
  - (i) reduce the employer's potential liability for the superannuation guarantee charge imposed by section 5 of the Superannuation Guarantee Charge Act 1992 ; or
  - (ii) are payments of shortfall components; and
- (b) the contributions (other than contributions of the kind specified in paragraph (a)) made by, or on behalf of, the employer to the fund in relation to the member in or towards satisfaction of the employer's obligation to make contributions for the member, being an obligation under an agreement certified, or an award made, on or after 1 July 1986 by an industrial authority.

**Market Linked Pension** has the same meaning as in the Superannuation Industry (Regulations) 1994 (Cth).

**Member** means a person who has been admitted to membership under Rule 2.2 and has not ceased to be a Member under Rule 2.5.

**Member Contributions** has the same meaning as in the Superannuation Industry (Supervision) Regulations 1994 (Cth) being contributions by, or on behalf of, the Member to the Fund, but does not include Employer Contributions made in respect of the Member.

**Non-Binding Nomination** means a nomination by a Member in accordance with Rule 6.8 and the Non-Binding Nomination Rules.

**Non-Concessional Contributions Cap** has the same meaning as in the Income Tax Assessment Act 1997 (Cth).

**Non-Member Spouse** has the same meaning as in the Family Law Act 1975 (Cth).

**Payment Flag** has the same meaning as in the Family Law Act 1975 (Cth).

**Payment Split** has the same meaning as in the Family Law Act 1975 (Cth).

**Part-time** in relation to being gainfully employed, means gainfully employed for at least 10 hours, and less than 30 hours, each week.

**Pension** means a Benefit provided by the Fund if the Benefit is taken to be a pension for the purposes of the Superannuation Industry (Supervision) Act 1993 (Cth) and the Superannuation Industry (Supervision) Regulations 1994 (Cth).

**Pension Account** means the account kept for a Member under Rule 7.8.

**Privacy Act** means the Privacy Act 1988 (Cth).

**Product Disclosure Statement (PDS)** has the meaning given by the Corporations Act 2001 (Cth).

**Release Authority** has the meaning as in the Income Tax Assessment Act 1997 (Cth).

**Required Payment Date** means any date at which a Member's benefit must be paid or commence to be paid under Superannuation Law.

**Reserve Account** means an account kept under Rule 8.6.

**Retirement** has the same meaning as in the Superannuation Industry (Supervision) Regulations 1994 (Cth).

**Rules** means the rules forming part of the Deed.

**SMSF** means Self Managed Superannuation Fund as defined in Rule 1.3.

**SIS Act** is the Superannuation Industry (Supervision) Act 1993 (Cth).

**SIS Regulations** is the Superannuation Industry (Supervision) Regulations 1994 (Cth).

**Split** means the division of a Member's interest in the Fund pursuant to a Flag Lifting Agreement, a Splitting Order or a Superannuation Agreement.

**Splitting Order** has the same meaning as in the Family Law Act 1975 (Cth).

**Spouse** includes a person who, although not legally married to a Member, lives (or lived at the time of the Member's death) with the Member on a bona fide domestic basis as the husband or wife of the Member.

**Superannuation Agreement** has the same meaning as in the Family Law Act 1975 (Cth).

**Superannuation Authority** means the Australian Prudential Regulation Authority, Australian Securities and Investments Commission, Australian Taxation Office or any other governmental authority or authorities responsible for administering the laws or any other rules governing the prudential supervision or promotion of superannuation funds or the availability of income tax concessions to superannuation funds.

**Superannuation Law** means any requirements under the Superannuation Industry (Supervision) Act 1993 (Cth), the Superannuation Industry (Supervision) Regulations 1994 (Cth), the Superannuation (Resolution of Complaints) Act 1993 (Cth), the Superannuation Guarantee (Administration) Act 1992 (Cth), the Family Law Act 1975 (Cth), the Corporations Act 2001 (Cth), the Social Security Act 1991 (Cth) or any other law in relation to superannuation funds, or by a Superannuation Authority:

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

It includes any proposed requirements which the Trustee believes will have retrospective effect.

**Tax** means a Commonwealth, State, Territory or local government impost and includes (but is not limited to) income taxes, capital gains taxes, surcharges, duties, levies, rates and goods and services tax.

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

**Tax File Number** has the same meaning as in the Income Tax Assessment Act 1997 (Cth).

**Termination Date** means:

- (a) the date specified in the notice referred to in Rule 14.1(a);
- (b) 30 days after the date specified in the notice given under Rule 11.2(a);
- (c) 30 days after the date of the notice given under Rule 11.2(b);
- (d) at the expiration of the 30 day period referred to in Rule 14.1(c);

as applicable.

**Trustee** means the trustee of the Fund at any time.

**Year of Income** means a period from 1 July of the calendar year to 30 June of the following calendar year unless any other period applicable to the Fund is, for the purposes of the Tax Act, a year of income of the Fund.

## 1.2 INTERPRETATION

Unless the contrary intention appears:

- (a) a reference to the Deed or the Rules or any other document includes any variation or replacement of any of them;
- (b) a reference to a statute, regulation, ordinance, by-law, code or other law includes regulations and other instruments under it and consolidations, amendments, modifications, re-enactments or replacements of any of them;
- (c) the singular includes the plural and vice versa;
- (d) a power to appoint includes a power to vary or cancel the appointment;
- (e) amend includes delete or replace;
- (f) including when introducing a list of items does not exclude a reference to other items of the same class;
- (g) person includes a firm, a body corporate, an unincorporated association or an authority;
- (h) sections of statutes or terms defining statutes refer to corresponding sections or defining terms in amended, consolidated or replacement statutes;



- (i) regulations or terms defined in regulations refer to corresponding regulations or defined terms in amended, consolidated or replacement regulations;
- (j) tax includes any duty or government impost.

### 1.3 DEFINITION OF SELF MANAGED SUPERANNUATION FUND

The Fund is a Self Managed Superannuation Fund (SMSF) only if it satisfies all of the conditions in Rules 1.3(a) or 1.3(b):

- (a) Funds other than single member funds – where the Fund has more than one member it is a SMSF if:
  - (i) It has fewer than five members;
  - (ii) If the Trustees of the Fund are individuals – each individual Trustee of the Fund is a member of the Fund;
  - (iii) If the Trustee of the Fund is a body corporate – each director of the body corporate is a member of the Fund;
  - (iv) Each member of the Fund:
    - A. is a Trustee of the Fund; or
    - B. or if the Trustee of the Fund is a body corporate – is a director of the body corporate;
  - (v) no member of the Fund is an employee of another member of the Fund unless the members concerned are relatives;
  - (vi) no Trustee of the Fund receives any remuneration from the Fund or from any person for any duties or services performed by the Trustee in relation to the Fund;
  - (vii) If the Trustee of the Fund is a body corporate – no director of the body corporate receives any remuneration from the Fund or from any person (including the body corporate) for any duties or services performed by the director in relation to the Fund.
- (b) Single member funds – where the Fund has only one member it is a SMSF if and only if:
  - (i) If the Trustee of the Fund is a body corporate:
    - A. The member is the sole director of the body corporate; or
    - B. the member is one of only two directors of the body corporate, and the member and the other director are relatives; or
    - C. the member is one of only two directors of the body corporate, and the member is not an employee of the other director; and
  - (ii) If the Trustees of the Fund are individuals:
    - A. the member is one of only two Trustees of whom one is the member and the other is a relative of the member; or

- B. the member is one of only two Trustees, and the member is not an employee of the other Trustee; and
  - (iii) No Trustee of the Fund receives any remuneration from the Fund or from any person for any duties or services performed by the Trustee in relation to the Fund;
  - (iv) If the Trustee of the Fund is a body corporate – no director of the body corporate receives any remuneration from the Fund or from any person (including the body corporate) for any duties or services performed by the director in relation to the Fund.
- (c) Certain other persons may be Trustees – the Fund does not fail to satisfy the conditions specified in Rules 1.3(a) or 1.3(b) by reason only that:
  - (i) A member of the Fund has died and the legal personal representative of the member is a Trustee of the Fund or a director of a body corporate that is the Trustee of the Fund, in place of the member, during the period;
    - A. beginning when the member of the Fund died; and
    - B. ending when death benefits commence to be payable in respect of the member of the Fund; or
  - (ii) The legal personal representative of a member of the Fund is a Trustee of the Fund or a director of the body corporate that is the Trustee of the Fund, in place of the member, during any period when:
    - A. the member of the Fund is under a legal disability; or
    - B. the legal personal representative has an Enduring Power of Attorney in respect of the member of the Fund; or
  - (iii) the member of the Fund is under a legal disability because of age and does not have a legal personal representative, the parental guardian of the member is a trustee of the Fund in place of the member; or
  - (iv) an appointment under section 134 of the SIS Act of an acting trustee of the Fund is in force.
- (d) Circumstances in which entity does not satisfy basic conditions remains a SMSF – Subject to Rule 1.3(f), if a superannuation fund that is a SMSF would, apart from this rule, cease to be a SMSF, it does not so cease until the earlier of the following times:
  - (i) the time an RSE licensee of the fund is appointed;
  - (ii) 6 months after it would so cease to be a SMSF.
- (e) Rule 1.3(d) does not apply if admission of new members.
- (f) Extended meaning of employee in certain circumstances – for the purpose of Rule 1.3, a member of a Fund, who is an employee of an employer-sponsor of the Fund, is also taken to be an employee of another person (the **Other Person**) if the employer-sponsor is:
  - (i) a Relative of the Other Person; or

- (ii) a body corporate of which the Other Person, or a Relative of the Other Person, is a director or a body corporate related to that body corporate; or
  - (iii) a Trustee of a trust of which the Other Person, or a relative of the Other Person is a Beneficiary;
  - (iv) a partnership in which:
    - A. the Other Person, or a relative of the Other Person, is a partner in the partnership;
    - B. the other person, or a relative of the Other Person, is a director of a body corporate that is a partner in the partnership; or
    - C. the other person, or a relative of the Other Person, is Beneficiary of a trust, if a Trustee of the trust is a partner in the partnership.
- (g) Meaning of Relative – Relative, in relation to an individual, for the purposes of Rule 1.3 means:
- (i) a parent, child, grandparent, grandchild, sibling, aunt, uncle, great-aunt, great-uncle, niece, nephew, first cousin or second cousin of the individual or his or her spouse or former spouse; or
  - (ii) another individual having such a relationship to the individual or to his or her spouse or former spouse because of adoption or remarriage; or
  - (iii) the spouse or former spouse of the individual, or of an individual referred to in paragraph (i) or (ii).

#### 1.4 SOLE OR PRIMARY PURPOSE

Subject to section 60(2) of the SIS Act, this Deed is subject to the requirement that the Fund has as its sole or primary purpose, the provision of old-age pensions unless the Trustee is a Constitutional Corporation.

## 2. ELIGIBILITY AND MEMBERSHIP

### 2.1 ELIGIBILITY

- (a) Any Eligible Person may make application on an Application Form to participate in the Fund.
- (b) The Fund may not have more than four Members at any one time unless the Trustee otherwise determines.

### 2.2 MEMBERSHIP

- (a) Before admitting an Eligible Person as a Member, the Trustee may require the person to
  - (i) provide information which the Trustee considers relevant to the administration of the Fund and may require the information to be provided in an Application Form; and

- (ii) select an investment strategy in accordance with the Fund Investment Strategy from time to time; and
  - (iii) provide the person's Tax File Number.
- (b) A person becomes a Member on the date when the Trustee has approved the person's application.

If permitted by Superannuation Law, the Trustee and the Member may agree that the Member is to be regarded as having become a Member on an earlier date.

- (c) The Trustee may reject an application.
- (d) Each Member is bound by the Deed and Rules.

### 2.3 TRANSFER TO FUND

- (a) The Trustee may make arrangements it considers appropriate with:
- (i) a Member; or
  - (ii) any current or previous employer of the Member; or
  - (iii) the trustees of any superannuation fund or approved deposit fund of which the Member is, or has been, a member; or
  - (iv) the issuer of an annuity held by the Member, or
  - (v) any other person permitted by Superannuation Law or the Tax Act;

to transfer or rollover assets to the Fund and to provide benefits in respect of the Member, which may be calculated in a different manner than set out in the Rules. The arrangement must comply with Superannuation Law.

### 2.4 TRANSFER FROM FUND

- (a) If a Member is, or is eligible to be, a member of another superannuation fund or approved deposit fund, or a Member's interest or benefit becomes subject to a Split, the Trustee may transfer or rollover assets to the other fund. However:
- (i) the transfer must comply with Superannuation Law; and
  - (ii) the Trustee must not transfer more than the Member's Accumulated Credit or more than is requested by the Member or the Non-Member Spouse, as the context requires.
- (b) If the transfer satisfies the Member's entitlement to any benefit in respect of the amount transferred the Trustee may declare that it satisfies the Member's entitlement in full. The Trustee is not responsible for the manner in which the trustee of the other fund deals with the amount transferred.

### 2.5 MEMBERSHIP CEASES

A person ceases to be a Member when:

- (a) all benefits which are or may be payable in respect of the Member have been paid; or
- (b) a transfer is made under Rule 2.4(a) in satisfaction of all the Member's entitlement to benefits; or
- (c) all the Member's entitlement to benefits is terminated.

### 3. INFORMATION WHICH TRUSTEE MUST GIVE

#### 3.1 PRODUCT DISCLOSURE STATEMENTS (PDS)

The Trustee must consider whether or not an obligation exists to prepare a Product Disclosure Statement (PDS) and, where necessary, must comply with Part 7.9 of the Corporations Act as to the preparation, content and giving such a statement.

#### 3.2 CIRCUMSTANCES REQUIRING INFORMATION

The Trustee must consider whether or not an obligation exists under the Superannuation Law to provide information concerning the Fund to Members Benefit, Beneficiaries, Employers, the Australian Taxation Office or other appropriate persons.

- (a) At or before the time a new Member applies for membership;
- (b) Upon receiving a request from a person who is (or was within the proceeding 12 months) a Member or Beneficiary;
- (c) Upon receiving a request from the Employer;
- (d) Upon a Member ceasing to be a Member;
- (e) At the end of each Year of Income;
- (f) Before a Member enters into, or the Trustee accepts a Binding Death Nomination or a Non-Binding Death Nomination;
- (g) Upon the occurrence of any of the following events;
  - (i) the Governing Rules have been changed and, as a result, an adverse effect occurred in relation to:
    - A. a Members Accumulated Benefits;
    - B. the Benefits to which a Member may become entitled;
    - C. the circumstances in which a Member's Benefit would become payable;
    - D. The manner in which the Member's benefits will be calculated or;
    - E. The security of the Member's benefits;
  - (ii) The Members membership is transferred to a different fund;
  - (iii) A change occurs in the matters set out in any PDS which was or should have been issued under Rule 3.1;

- (h) upon receiving any notice of non-compliance of the Fund issued under the relevant law;
- (i) upon the winding up or termination of the Fund;
- (j) upon the occurrence of any event that the Trustee reasonably believes a Member would reasonably be expected to be informed of;
- (k) At the time of:
  - (i) paying benefits or entitlements at the direction of a Member;
  - (ii) rolling over or transferring benefits or entitlements to another entity; or
  - (iii) any combination of the preceding paragraphs; or
- (l) any other time or any other circumstances required by the Superannuation Law.

### 3.3 HOW TO PROVIDE INFORMATION

- (a) Where the Trustee considers that there is an obligation to provide information in accordance with this Rule, the Trustee must provide the appropriate information to Members, Beneficiaries, Employers, or other appropriate persons in the manner prescribed in the Superannuation Law.
- (b) The Trustee is not required to provide a PDS if the Trustee believes on reasonable grounds that the persons referred to in Rule 3.2 have received a PDS or the Trustee knows that the said persons have access to all of the information that the PDS would be required to contain.

### 3.4 INFORMATION ON DEATH OF MEMBER

Upon the death of a Member, the Trustee must:

- (a) Provide all appropriate information in accordance with this Rule to the Member's personal legal representative; and
- (b) Notify each person to whom any benefits or entitlements are payable of the reasons why benefits and entitlements are payable to them, the amounts payable and the terms upon which they are to be paid.

### 3.5 INFORMATION PURSUANT TO FAMILY LAW ACT ORDERS

- (a) Information to be given – if a Member's Superannuation Interest become subject to a Payment Split, or other action or restriction pursuant to an order under the Family Law Act 1975 (Cth), the Trustee will be required to give the information prescribed by the Superannuation Law to the Non-Member Spouse;
- (b) Costs of information – where the Trustee is obliged to give information under Rule 3.5(a) to the Non-Member Spouse, the Trustee must levy reasonable charges against the Non-Member Spouse's Superannuation Interest in respect of the provision of that information, including the cost of obtaining professional advice in relation to any requirement under this Rule.

## 4. CONTRIBUTIONS

#### 4.1 WHO MAY MAKE CONTRIBUTIONS

The Trustee may accept contributions to the Fund that are made in respect of a Member:

- (a) who is under age sixty-five;
- (b) who has reached sixty-five but not age seventy only if the contributions are:
  - (i) Mandated Employer Contributions; or
  - (ii) If the Member has been Gainfully Employed on at least a part-time basis during the financial year in which the contributions are made:
    - A. Employer Contributions (except Mandated Employer Contributions); or
    - B. Member Contributions.
- (c) who has reached age seventy but not age seventy-five only if the contributions are:
  - (i) Mandated Employer Contributions; or
  - (ii) If the Member has been Gainfully Employed on at least a part-time basis during the financial year in which the contributions are made – contributions received on or before the day that is twenty-eight days after the end of the month in which the Member turns seventy-five that are:
    - A. Employer Contributions (except Mandated Employer Contributions); or
    - B. Member Contributions made by the Member.
- (d) who has reached seventy-five only if the contributions are Mandated Employer Contributions.

however, the Trustee must not accept any Member Contributions after 30 June 2007 if the Member's Tax File Number has not been quoted (for superannuation purposes) to the Trustee of the Fund.

The Trustee must not accept any Fund-Capped Contributions in a Financial Year in respect of a Member that exceed:

- (e) if the Member is under age sixty-five on 1 July of the Financial Year – three times the amount of the Non-Concessional Contributions Cap; or
- (f) if the Member is sixty-five but not age seventy-five on 1 July of the Financial Year – the Non-Concessional Contributions Cap.

#### 4.2 GOVERNMENT CO-CONTRIBUTION BENEFITS

The Trustee may accept Government Co-Contribution Benefits to the Fund

#### 4.3 SUBJECT TO SUPERANNUATION LAW

Rule 4.1 and 4.2 is subject to the Superannuation Law which may expand or restrict the persons or class of persons from whom contributions may be accepted.

#### 4.4 GENERAL

- (a) The Trustee may refuse to accept all or part of a contribution from a person without giving any reason.
- (b) The Trustee must not accept contributions in the Fund contrary to Superannuation Law.
- (c) The Trustee may accept contributions in respect of a Member if the Trustee is reasonably satisfied that the contribution is in accordance with Rule 4.1, even though the contribution is actually made after the period specified in Rule 4.1.
- (d) If the Trustee finds that it has received contributions which cannot be accepted into the Fund, the Trustee must return the amount to the entity or person that paid the amount in accordance with the SIS Act and the SIS Regulations.
  - (i) If Superannuation Law permits, the Trustee may deduct an amount for reasonable administration costs and transaction costs incurred by the Fund in accordance with the SIS Act and SIS Regulations.
- (e) The Trustee must comply with any Release Authority received in respect of a Member's Excess Contributions Tax Assessment in accordance with the Superannuation Law.

#### 5. BENEFIT ENTITLEMENT

##### 5.1 SATISFYING A CONDITION OF RELEASE

- (a) A Member who satisfies a Condition of Release is entitled to a Benefit equal to the Accumulated Credit.
- (b) A Condition of Release includes but is not limited to:
  - (i) Retirement;
  - (ii) Death;
  - (iii) Permanent incapacity;
  - (iv) A temporary resident permanently departing Australia;
  - (v) Termination of gainful employment with a standard employer-sponsor;
  - (vi) Severe financial hardship;
  - (vii) Attaining age 65;
  - (viii) Compassionate ground;
  - (ix) Termination of gainful employment;
  - (x) Temporary incapacity;
  - (xi) Attaining preservation age.



## 5.2 VOLUNTARY DEFERRAL

A Member who is entitled to a benefit may ask the Trustee to defer payment of all or part of it. The Trustee may comply with the request if Superannuation Law permits.

## 5.3 PRESERVATION

If the Trustee considers it necessary under Superannuation Law to preserve any part of a benefit, then the Trustee must:

- (a) pay that part of the benefit under Rule 6.1, 6.6(a) or 6.6(b) to a fund or organisation which also preserves it under Superannuation Law; or
- (b) retain it in the Fund until it may be paid under Superannuation Law.

## 5.4 RETAINED BENEFITS

Any part of a benefit retained under Rule 5.2 or 5.3 remains credited to the appropriate Contribution Account pending any transfers made pursuant to the Superannuation Law until payment and the Trustee must adjust the amount of the benefit on the basis of further credits and debits recorded in the Contribution Account. If the Member dies before the benefit is paid in full then the Trustee must pay the remainder of the benefit as if it were a Death Benefit.

## 5.5 TRUSTEE DETERMINATIONS

- (a) A benefit is only payable if the Rules permit it.
- (b) The Trustee may act on any proofs or presumptions which it considers satisfactory whether or not they are strictly legal proofs or presumptions.

## 5.6 ASSIGNMENTS

The Trustee is not bound to recognise any purported assignment or charge of a benefit, other than under the Family Law Act 1975 (Cth).

## 5.7 INTEREST

The Trustee may credit or debit interest at a rate it considers appropriate to a benefit which is paid after the date it becomes payable. However, the Trustee is not required to do so.

## 5.8 CORPORATIONS LAW

The Trustee must not pay a benefit to the extent that the payment results in the Trustee or an Employer contravening any law relating to corporations.

## 5.9 FORFEITURE OF BENEFITS

- (a) Subject to Superannuation Law part or all of a Member's Contribution Account and/or Pension Account may be forfeited:
  - (i) if the Member has purported to assign, alienate or charge or any other event occurs which results in another person becoming entitled to all or

part of the benefit. This rule has no effect on a Member's bankruptcy to the extent that its operation would be contrary to the Bankruptcy Act 1966 (Cth);

- (ii) upon the death of a member who had been receiving a pension payable in accordance with Rule 7; and
  - (iii) upon a Member, who had been receiving a pension payable in accordance with Rule 7, commuting that pension.
- (b) The Trustee must apply a forfeited benefit for one or more of the Members or the Members' Dependants or to a Reserve Account as the Trustee considers appropriate and Superannuation Law permits.

#### 5.10 FAMILY LAW ACT SPLITS

- (a) In giving effect to a Split, the Trustee must reduce:
  - (i) the amount in the Member's Contribution Account; or
  - (ii) any benefit payable to the Member from the Fund.
- (b) Subject to Superannuation Law, the manner and basis of the reduction in Rule 5.10(a) (including the apportionment of actual or anticipated costs, charges and expenses between the Member and the Non-Member Spouse) is as determined by the Trustee.
- (c) In giving effect to Rule 5.10(a):
  - (i) the Trustee will reduce the Member's interest or benefits from the underlying Investment Portfolios or assets of the Fund in such manner and in such proportions as it considers appropriate;
  - (ii) the Trustee will not reduce the interest or benefits payable in respect of any other Member.
- (d) If, at the time a benefit becomes payable in respect of a Member Spouse, a Payment Flag or Flagging Order applies to the interest, the Trustee will defer payment of the benefit until the Payment Flag or Flagging Order is lifted, unless the payment is to a successor fund (as defined in Superannuation Law).

#### 5.11 SUBJECT TO SUPERANNUATION LAW

Rule 5 is subject to the Superannuation Law which may expand or restrict the persons or class of persons who may be entitled to a Benefit and may change the circumstances that give rise to an entitlement to a Benefit.

### 6. PAYMENT OF BENEFITS

#### 6.1 WRITTEN REQUEST FOR PAYMENT

Upon the Trustee receiving a written request on or behalf of a Member for all or part of the Member's Benefits in the Fund to be paid, the benefit may be:

- (a) Cashed in; or

- (b) Rolled over or transferred; or
- (c) Allotted;

subject to and to the extent permitted by the SIS Act and SIS Regulations.

## 6.2 FORM OF PAYMENT

If the Trustee is requested under Rule 6.1 to pay all or part of a Member's Benefit in the Fund, the Trustee may pay the benefit in one or more of the following forms:

- (a) one or more lump sums;
- (b) one or more pensions;
- (c) the purchase of one or more annuities

if the payment complies with the Superannuation Law including but not limited to any cashing restrictions in the SIS Act and SIS Regulations.

## 6.3 PAYMENT OF PENSION

If a Member entitled to a Benefit requests the Trustee in writing to apply all or part of it to provide one or more Pensions from the Fund, then the Trustee must comply with the request subject to the Superannuation Law.

## 6.4 PURCHASE OF ANNUITY

If a Member entitled to a Benefit requests the Trustee in writing to apply all or part of it to purchase an Annuity in the name of the Member, or of the Member and one or more dependants, and the purchase complies with the Superannuation Law, then the Trustee must comply with the request.

## 6.5 PAYMENT OF LUMP SUM

If a Member entitled to a Benefit requests the Trustee in writing to apply all or part of it to provide one or more lump sums, then the Trustee must comply.

## 6.6 PAYMENT TO OTHER FUND

- (a) If a person entitled to a Benefit requests the Trustee in writing to pay all or part of it to another fund, and the payment complies with Superannuation Law, the Trustee must comply with the request.
- (b) The Trustee may pay all or part of a benefit to another fund without the consent of the person entitled to it if Superannuation Law permits.

## 6.7 UNCLAIMED BENEFITS

The Trustee must comply with Superannuation Law in relation to benefits which Superannuation Law:

- (a) treats as unclaimed money; or
- (b) requires to be transferred to another fund.

## 6.8 PAYMENT OF DEATH BENEFITS

- (b) On the death of a Member, where there is a Binding Nomination in respect of the deceased, the Trustee will, subject to Superannuation Law and the Binding Nomination Rules, pay the Death Benefit in accordance with the Binding Nomination and the Binding Nomination Rules.
- (b) On the death of a Member where there is no Binding Nomination in respect of the deceased, the Trustee will pay the Death Benefit in accordance with Superannuation Law to one or more of the former Member's Dependants or the legal personal representative of the Member or any other person to whom payment of the Death Benefit is permitted under Superannuation Law. The Death Benefit will be paid in the manner and in such proportions as the Trustee determines. Whilst the Trustee may give consideration to any Non-Binding Nomination by a Member the Trustee's discretion concerning the distribution of a Death Benefit will not be limited.

## 6.9 FORM OF DEATH BENEFIT

- (a) Upon the death of a Member, the Member's Benefits may be cashed in any one or more of the following forms:
  - (i) A single lump sum; or
  - (ii) An interim lump sum (not exceeding the amount of the Benefits ascertained at the date of death of the Member) and a final lump sum (not exceeding the balance of the benefits as finally ascertained in relation to the Member's death);Subject to Rule 6.9(b):
  - (iii) One or more pensions;
  - (iv) The purchase of one or more annuities.
- (b) If a Member dies on or after 1 July 2007 Rule 6.9(a)(iii) and (iv) apply to an entitled recipient only if, at the time of the Member's death, the entitled recipient:
  - (i) Is a dependant of the Member; and
  - (ii) In the case of a child of the Member:
    - A. Is less than eighteen years of age; or
    - B. Being eighteen or more years of age;
      - I. Is financially dependent on the Member and less than twenty-five years of age; or
      - II. Has a disability of the kind described in subsection 8(1) of the Disability Services Act 1986
- (c) If Benefits in relation to deceased Member are being paid to a child of the deceased member who is under eighteen years of age in the form of a pension or an annuity in accordance with Rule 6.9(b), the Benefits must be cashed as a lump sum on the earlier of:

(i) The day on which the annuity or pension is commuted, or the term or pension expires (unless the benefit is rolled over to commence a new annuity or pension); and

(ii) The day on which the child attains age twenty-five;

unless the child has a disability of the kind described in subsection 8(1) of the Disability Services Act 1986 on the day that would otherwise be applicable under Rule 6.9(c)(i) or (ii).

(d) The Trustee may adopt rules governing the operation of Binding Nominations and Non-Binding Nominations for the purpose of Rule 6.8. and the Binding and Non-Binding Nomination Rules will be as described in Schedule A to these Rules.

#### 6.10 TRANSFER OF ASSETS

At the written request of a person entitled to a benefit the Trustee may, in accordance with Superannuation Law pay the Benefit by transferring assets of equivalent value to the person or the person's nominee.

#### 6.11 TRUSTEE'S DISCHARGE

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

#### 6.12 FINANCIAL INCAPACITY

If the Trustee believes that a person who is entitled to a benefit is unable to manage his or her own financial affairs, and Superannuation Law permits, the Trustee may:

(a) pay the benefit to another person to be used for the advantage of the person entitled to it; and

(b) accept the other person's receipt as a good discharge.

The Trustee is not responsible for the application of the benefit by the person to whom it is paid.

#### 6.13 TAX

The Trustee may deduct from a payment from the Fund any amount which it is required to deduct for Tax.

#### 6.14 GENERAL

(a) The Trustee must pay all benefits in a form consistent with Superannuation Law.

(b) Rules 6.1 to 6.9 (inclusive) are subject to the Superannuation Law which may expand or restrict the manner in which Benefits may be paid and to whom the Benefits may be payable.

### 7. PENSION BENEFITS

#### 7.1 HOW TO PAY A PENSION

- (a) Where a Benefit is payable by way of pension under this Deed, the pension:
  - (i) Must comply with the Superannuation Law, including any minimum and maximum terms specified in the SIS Act and the SIS Regulations; and
  - (ii) Will be payable on other terms decided by the Trustee in its absolute discretion.

## 7.2 TYPES OF PENSION

- (a) Where the Trustee has determined to pay a Benefit by way of a pension, the types of pension payable may include but are not limited to:
  - (i) Market Linked Pension;
  - (ii) Account-Based Pension; and
  - (iii) Allocated Pension.

## 7.3 LIMITS ON BENEFITS

- (a) The Trustee shall not pay a pension or purchase an annuity except as permitted under the Superannuation Law.
- (b) The Trustee shall not pay a pension to or in respect of a Member that exceeds the balance of the Member's Accumulated Credit.

## 7.4 FREQUENCY OF PAYMENT

The Trustee must pay a pension to a Member at the times agreed between the Member and the Trustee in accordance with the Superannuation Law.

## 7.5 SELECTING PENSION LEVEL

- (a) For each Year of Income the pension payments to or in respect of a Member must be in accordance with the rules set out in Superannuation Law for pension benefits of the kind provided by the Fund.
- (b) At any time during a Financial Year a Member may select the level of pension payments for that Financial Year within the limits in the Superannuation Law. The selection must be in a manner approved by the Trustee.

## 7.6 COMMUTATION

- (a) A Member may commute the whole or a part of the Member's pension at any time by notifying the Trustee in a manner approved by the Trustee. A commutation may only be made as permitted by the Superannuation Law.
- (b) On a Member fully commuting the Member's pension, the Trustee must pay a lump sum benefit to the Member equal to the Accumulated Credit of the Member.
- (c) On a Member partially commuting the Member's pension, the Trustee must pay a lump sum benefit to the Member equal to the amount requested by the Member up to the amount of the Member's Accumulated Credit.

#### 7.7 COMPULSORY COMMUTATION

If Superannuation Law requires the Trustee to commute part of a Member's pension, the Trustee must comply with that requirement.

#### 7.8 PENSION ACCOUNT

Where a Benefit is paid by way of pension out of the Fund, the Trustee shall:

- (a) segregate assets for the sole purpose of enabling the Fund to satisfy the pension liability in respect of the Member;
- (b) keep in the name of that Member a separate Pension Account in which shall be recorded all matters relating to those assets and the payment of the pension and pay the pension out of the amount standing to the credit of that account;
- (c) record the following in the Member's Pension Account:
  - (i) amounts transferred under Rule 7.8(a) and (b) which the Trustee decides to credit to the Pension Account;
  - (ii) amounts paid as pensions under Rule 7;
  - (iii) life, disability or accident insurance premiums which the Trustee decides to debit to the account;
  - (iv) proceeds of life, disability or accident insurance policies to the extent that they were funded by premiums debited to the account;
  - (v) amounts paid as forfeited benefits or transferred out of the account according to the rules applicable to forfeited benefits;
  - (vi) amounts debited to the account for Tax or other expenses;
  - (vii) amounts credited or debited to the account for earnings or losses of the Fund;
  - (viii) amounts paid under Rule 12;
  - (ix) amounts paid from or transferred to reserves in accordance with Rule 8.6; and
  - (x) amounts which the Trustee is required to credit or debit to the account as the result of a Split.

#### 7.9 MISCELLANEOUS

Where the Trustee pays a pension under Rule 7:

- (a) the Trustee must continue to adjust the Member's Contribution Account under Rule 8.3; and
- (b) the Trustee must continue to adjust the Member's Pension Account under Rule 7.8;
- (c) on the Member's death, Rules 6.8 and 6.9 apply; and

- (d) the capital value of the pension and the income from it must not be used as security for a borrowing unless Superannuation Law permits; and
- (e) the pension must not be transferred to another person unless permitted by Superannuation Law.

#### 7.10 FAMILY LAW ACT MATTERS

Where the Trustee pays a pension to a Member the Trustee may adjust the frequency and level of pension payments to a Member as is required to give effect to a Split, or as otherwise required by Superannuation Law.

#### 7.11 SUBJECT TO SUPERANNUATION LAW

Rule 7 is subject to the Superannuation Law which may expand or restrict the types of pension, the circumstances that give rise to an entitlement to a Benefit being paid as a pension and the manner in which a pension is paid including minimum and maximum requirements.

### 8. RECORDS AND ACCOUNTS

#### 8.1 RECORDS

The Trustee must keep records for the Fund;

- (a) for the period; and
- (b) in the manner,

prescribed by Superannuation Law.

#### 8.2 ACCOUNTS AND AUDIT

- (a) The Trustee must appoint an auditor who satisfies Superannuation Law.
- (b) For each Financial Year the Trustee must prepare and lodge any financial statements for the Fund required by the Superannuation Law including but not limited to an annual taxation return.
- (c) The Trustee must ensure that, for each Financial Year, the auditor:
  - (i) audits the accounts and records of the Fund; and
  - (ii) reports in writing to the Trustee,within the time specified by Superannuation Law.
- (d) The Trustee must give to the Employer a copy of the financial statements and auditor's report if required by the Superannuation Law.

#### 8.3 CONTRIBUTION ACCOUNTS

The Trustee must record in each Contribution Account:



- (a) all contributions made by or for, the Member;
- (b) amounts transferred under Rule 2.3 which the Trustee decides to credit to the account;
- (c) life, disability or accident insurance premiums which the Trustee decides to debit to the account;
- (d) proceeds of life, disability or accident insurance policies to the extent that they were funded by premiums debited to the account;
- (e) amounts debited to the account for Tax or other expenses;
- (f) amounts credited or debited to the account for earnings or losses of the Fund;
- (g) amounts paid as benefits under Rule 6 from the account;
- (h) amounts transferred to other funds under Rule 2.4(a) from the account;
- (i) amounts transferred under Rule 7.8;
- (j) amounts paid under Rule 12;
- (k) amounts paid as forfeited benefits or transferred out of the account according to the rules applicable to forfeited benefits;
- (l) amounts paid from or transferred to reserves in accordance with Rule 8.6; and
- (m) amounts which the Trustee is required to credit or debit to the account as the result of a Split.

#### 8.4 TAX AND EXPENSES

The Trustee may debit to Contribution Accounts and Pension Accounts:

- (a) Tax incurred by the Trustee;
- (b) expenses of the Fund;
- (c) fees and administration expenses of the Trustee;
- (d) provisions for (a), (b) and (c);

in proportions which the Trustee considers fair and which are consistent with Superannuation Law.

#### 8.5 INVESTMENT PORTFOLIOS

- (a) The Trustee may maintain the Fund in separate parts called Investment Portfolios. For any Investment Portfolio the Trustee must select the assets which comprise the Investment Portfolio.
- (b) The Trustee may transfer assets between different Investment Portfolios.
- (c) The Trustee must divide a Contribution Account into sub-accounts representing the proportions in which the Contribution Account is invested in different Investment Portfolios.

- (d) The Trustee may make rules on when and how Members may give directions to apply:
  - (i) future contributions; or
  - (ii) existing balances in Contribution Accounts;to Investment Portfolios. The rules must be consistent with Superannuation Law.

## 8.6 RESERVE ACCOUNT

Trustee may operate a Reserve Account or multiple Reserve Accounts in a manner that is consistent with Superannuation Law.

## 9. MEETINGS OF TRUSTEES AND MEMBERS

### 9.1 TRUSTEES MEETINGS

- (a) Where the Trustees are individual persons, the Trustees may convene a meeting of the Trustees by one of their number giving one months notice in writing to each of the others, of the time, place and business to be conducted at the meeting. The notice period in this rule may be waived by unanimous agreement by all Trustees.
- (b) Before any business is discussed at a meeting of Trustees, they must appoint one of their number to chair the meeting, and the meeting must be conducted by that person in a fair and reasonable manner, but otherwise as that person determines.
- (c) Meetings of Trustees may be convened at any time, but must be convened at least once every calendar year, to consider:
  - (i) The accounts of the Fund and the Approved Auditor's report relating to those accounts;
  - (ii) The returns and other documents specified in Rules 8.1 and 8.2.
  - (iii) Any matters raised by the accounts and statements which require action or attention; and
  - (iv) Any other matters which the Trustees or the Directors, consider appropriate.
- (d) The quorum for meetings of Trustees is:
  - (i) One, in the case of a single individual Trustee;
  - (ii) Two or half of the total number of Trustees, whichever is greater, in all other cases.
- (e) A Trustee who is unable to be present at a meeting of the Trustees, as the case may be, may nominate in writing another person to attend the meeting as their proxy.

- (f) Where the Trustee is a company, the meetings of Directors shall, subject to meeting the requirements of the SIS Act and SIS Regulations, be governed by the Constitution of the Company (or the Replaceable Rules).

## 9.2 MEMBERS' MEETINGS

- (a) A Members' meeting must be convened by the Trustee, when:
  - (i) The Trustee considers it necessary; or
  - (ii) The Trustee or a Director, receives a meeting request, signed by not less than 25% of the current Members.
- (b) In order to convene a Members' meeting, the Trustees must give to each member one month's notice in writing that a Members' meeting is to be held, specifying the time and place and a general description of the business to be conducted at the meeting. The notice period in this Rule may be waived by the agreement of all Members.
- (c) Before any business is conducted at a Members' meetings, the Trustees or the Directors must appoint one of their number to chair the meeting, and the meeting must be conducted by that person in a fair and reasonable manner, but otherwise as that person determines.
- (d) Subject to the requirements of this Deed and to the SIS Act and SIS Regulations, the Trustees or the Directors of the Trustee, must use their best endeavours to comply with a resolution passed by a majority of the Members then present in person or by proxy at a Member's meeting.
- (e) The quorum for members' meetings is half of the total number of Members present in person or by proxy rounded up to the nearest whole number.
- (f) A Member who is unable to be present at a meeting of Members may nominate a person to attend the meeting as the Member's proxy in writing.

## 10. ASSETS, INVESTMENTS, BORROWINGS

### 10.1 ASSETS

- (a) The assets of the Fund consist of:
  - (i) money or other assets that the Trustee holds for the purposes of the Fund; and
  - (ii) investments that the Trustee makes and all income on those investments.
- (b) The Trustee holds the assets of the Fund on trust to apply them in the manner set out in the Rules.

### 10.2 INVESTMENTS

- (a) The Trustee may, subject to Rule 8.5, invest all money which is not required to meet current payments in any manner in which it could invest if it were personally entitled to the money, including (but not limited to):

- (i) in investments authorised by the law relating to investment of trust funds;
  - (ii) in policies of life, disability or accident insurance;
  - (iii) in trusts or common funds;
  - (iv) on deposit or loan, with or without security;
  - (v) in real property;
  - (vi) in shares, stocks, notes, options, debentures or other securities;
  - (vii) in options, hedging contracts, futures contracts and other financial instruments.
- (b) If Superannuation Law permits, the Trustee may:
- (i) mix investments with investments of other people or trusts; and
  - (ii) vary, replace, encumber and deal with the investments;
- as if it were dealing with its own property.
- (c) The Trustee must invest in a manner which complies with Superannuation Law.
- (d) The Trustee may only make a loan or give financial assistance to a person if that complies with Superannuation Law.
- (e) The Trustee may appoint nominees to hold investments. The appointment must comply with Superannuation Law.

### 10.3 BORROWING

The Trustee may borrow money or maintain an existing borrowing of money to the extent permitted by the SIS Act and SIS Regulations.

### 10.4 MEMBER DIRECTION

The Trustee may, subject to the other provisions of this Deed and of the Superannuation Law, accept and act upon a direction from a Member in respect of the investments in which the Contribution Account of the Member is invested.

### 10.5 INVESTMENT STRATEGY

- (a) the Trustee shall adopt and carry out an Investment Strategy for the Fund which complies with Superannuation Law.
- (b) the Investment Strategy may provide for separate member strategies in respect of the interests of individual members or groups of members.
- (c) the Investment Strategy shall be reviewed and may be altered or replaced at any time and from time to time as the Trustee considers appropriate.

## 11. TRUSTEE

### 11.1 NATURE

Subject to the Superannuation Law including section 60 and section 17A of the SIS Act, the Trustee may be a Constitutional Corporation, one or more natural persons or a body corporate.

### 11.2 REMOVAL

The Trustee ceases to be the Trustee when:

- (a) a written notice to that effect specifying the date of cessation and signed by all of the Members is served on the Trustee; or
- (b) the Trustee retires after having given each Member 30 days' written notice to that effect; or
- (c) the Trustee becomes a Disqualified Person in accordance with the SIS Act and SIS Regulations; or
- (d) Superannuation Law requires.

### 11.3 APPOINTMENT

- (a) If the Trustee is removed or retires under Rule 11.2, it must use reasonable endeavours to appoint a replacement trustee.
- (b) If:
  - (i) a replacement trustee is not appointed by the Trustee within 30 days of the date:
    - A. specified in the notice given under Rule 11.2(a); or
    - B. the notice given under Rule 11.2(b); or
  - (ii) for any other reason the Fund does not have a trustee for a period of 30 days, then the Fund will be terminated in accordance with Rule 14.
- (c) The appointment or retirement of a Trustee must:
  - (i) be by notice in writing to all of the Members;
  - (ii) comply with Superannuation Law; and
  - (iii) be in writing.
- (d) A retiring Trustee must transfer all assets to the new Trustee or its nominee.

### 11.4 VACANCY ON BOARD

A vacancy on the board of directors of the Trustee must be filled within any time and in the manner required by Superannuation Law.

### 11.5 TRUSTEE'S POWERS, COVENANTS, AUTHORITIES & RESTRICTIONS

- (a) Trustee's Covenants:-

By accepting the appointment to the office of Trustee, the Trustee covenants;

- (i) to act honestly in all matters concerning the entity;
  - (ii) to exercise, in relation to all matters affecting the entity, the same degree of care, skill and diligence as an ordinary prudent person would exercise in dealing with property of another for whom the person felt morally bound to provide;
  - (iii) to ensure that the trustee's duties and powers are performed and exercised in the best interests of the beneficiaries;
  - (iv) to keep the money and other assets of the entity separate from any money and assets, respectively:
    - A. that are held by the trustee personally; or
    - B. that are money or assets, as the case may be, of a standard employer-sponsor, or an associate of a standard employer-sponsor, of the entity;
  - (v) not to enter into any contract, or do anything else, that would prevent the trustee from, or hinder the trustee in, properly performing or exercising the trustee's functions and powers;
  - (vi) to formulate and give effect to an investment strategy that has regard to the whole of the circumstances of the entity including, but not limited to, the following:
    - A. the risk involved in making, holding and realising, and the likely return from, the entity's investments having regard to its objectives and its expected cash flow requirements;
    - B. the composition of the entity's investments as a whole including the extent to which the investments are diverse or involve the entity in being exposed to risks from inadequate diversification;
    - C. the liquidity of the entity's investments having regard to its expected cash flow requirements;
    - D. the ability of the entity to discharge its existing and prospective liabilities;
  - (vii) if there are any reserves of the entity--to formulate and to give effect to a strategy for their prudential management, consistent with the entity's investment strategy and its capacity to discharge its liabilities (whether actual or contingent) as and when they fall due;
  - (viii) to allow a beneficiary access to any prescribed information or any prescribed documents.
- (b) A covenant referred to in Rule 11.5(a)(v) does not prevent the trustee from engaging or authorising persons to do acts or things on behalf of the trustee.
- (c) A covenant by a corporate trustee of a superannuation entity that is to the effect of a covenant referred to in Rule 11.5(a) also operates as a covenant by each of the directors of the trustee to exercise a reasonable degree of care and diligence for the purposes of ensuring that the trustee carries out the covenants and so operates as if the directors were parties to the governing rules.

- (i) The reference in Rule 11.5(c) to a reasonable degree of care and diligence is a reference to the degree of care and diligence that a reasonable person in the position of director of the trustee would exercise in the trustee's circumstances.

(d) Matters to be considered in formulating Investment Strategy:-

In formulating one or more Investment Strategies for the purposes of Rule 11.5(a)(vi), the Trustee must ensure that each strategy has regard to all of the circumstances of the Fund or sub-plan (as the case may be), including but not limited to:

- (i) the risk involved in making, holding and realising, and the likely return from, the entity's investments, having regard to its objectives and expected cash flow requirements;
- (ii) the composition of the entity's investments as a whole, including the extent to which they are diverse or involve exposure of the entity to risks from inadequate diversification;
- (iii) the liquidity of the entity's investments, having regard to its expected cash flow requirements;
- (iv) the ability of the entity to discharge its existing and prospective liabilities.

(e) Beneficiaries may direct Trustee:-

An Investment Strategy made in accordance with Rule 11.5(a)(vi) may provide for a specified Beneficiary or class of Beneficiaries to give directions to the Trustee, where:

- (i) the directions relate to the strategy to be followed by the Trustee in relation to the investment of a particular asset or assets of the Fund; and
- (ii) the directions are given in circumstances where:
  - A. the Trustee gives to the Beneficiary, or to each member of a class of Beneficiaries, a choice of two or more investment strategies from which the Beneficiary, or class of Beneficiaries, may choose a strategy or combination of strategies;
  - B. the Beneficiary, or each member of the class of Beneficiaries, is given the investment objectives of each of the strategies mentioned in A. and all information the Trustee reasonably believes a person would reasonably need for the purpose of understanding the effect of, and any risk involved in, each of those strategies;
  - C. the Beneficiary, or each member of the class of Beneficiaries, is fully informed of the range of directions that may be given and the circumstances in which they may be changed;
  - D. the Trustee clearly identifies, when the Beneficiary, or each member of the class of Beneficiaries, is given a choice of two or more investment strategies, the strategy the Trustee will adopt if no direction is given;

- E. the direction from the Beneficiary, or each member of the class of Beneficiaries, to the Trustee is given after compliance with the above paragraphs and the direction specifies which of the strategies, or which combination of strategies referred to in A, is to be followed and any other matters applicable to the choice offered in accordance with the above paragraphs; and
- F. it conforms with any other matters prescribed by the SIS Regulations for the purposes of section 52(4) of the SIS Act.

(f) Trustee's Powers

The Trustee may do anything it considers appropriate to administer the Fund and comply with Superannuation Law, including (but not limited to):

- (i) giving receipts and discharges;
- (ii) conducting and settling legal proceedings;
- (iii) referring claims to arbitration;
- (iv) compromising any claim;
- (v) giving any guarantee or indemnity;
- (vi) insuring any risks;
- (vii) taking out a policy of insurance in respect of a member whether for life, disability, accident or otherwise;
- (viii) acting as an underwriter;
- (ix) making rules for rounding off contributions and benefits;
- (x) providing for and transferring liability for any tax;
- (xi) electing to be bound by any legislation;
- (xii) applying forfeited amounts to Contribution Accounts or Reserve Accounts;
- (xiii) applying amounts from Reserve Accounts to Contribution Accounts or otherwise as the trustee determines; and
- (xiv) purchasing, commencing or terminating the pensions referred to in Rule 7.

## 11.6 MANAGER

The Trustee may appoint any person to administer the Fund or to manage investments of the Fund or both. The appointment must:

- (a) be in writing on terms which the Trustee considers appropriate; and
- (b) comply with Superannuation Law.



#### 11.7 FUND SECRETARY

The Trustee may appoint a Fund Secretary to the Fund.

#### 11.8 DELEGATION

The Trustee may delegate any of its powers, duties and discretions to any person subject to the Superannuation Law.

#### 11.9 TRUSTEE'S LIABILITY

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

#### 11.10 TRUSTEE'S INDEMNITY

- (a) The Trustee may recover from the Fund any loss or expenditure incurred in relation to the Fund or the administration of the Trustee unless:
  - (i) it results from the Trustee's dishonesty or an intentional or reckless failure to exercise the degree of care and diligence required of it; or
  - (ii) Superannuation Law prevents it.
- (b) A Member or Employer must indemnify the Trustee for:
  - (i) any liability incurred; or
  - (ii) any overpayment made; or
  - (iii) any failure to provide for Tax,as a result of the Trustee relying on information given to it by that Member or Employer.
- (c) The benefit of Rules 11.9, 11.10(a) and 11.10(b) also applies to:
  - (i) any directors or employees of the Trustee or an Employer;
  - (ii) the Fund Secretary;
  - (iii) any other person nominated in writing by the Trustee;
  - (iv) a former Trustee or any person who previously fell within any of (i) to (iii).

#### 11.11 EMPLOYER AUTHORISATION

The Trustee may treat a written or oral authorisation given, or purported to be given, by a director of the Employer as a valid authorisation by the Employer.

#### 11.12 MEMBER AUTHORISATION

The Trustee may treat an authorisation purported to be given by a Member as given by the Member.

#### 11.13 TRUSTEE'S DISCRETIONS

- (a) The Trustee and any officer of the Trustee may exercise individually or jointly a power or discretion even though that person has another interest in the result of the exercise.
- (b) The Trustee is completely unrestricted in the exercise of its powers and discretions.

### 12. REMUNERATION OF TRUSTEE

#### 12.1 TRUSTEE'S FEES

- (a) The Trustee is not permitted to receive any remuneration from the Fund for any duties or services performed by the Trustee in relation to the Fund.
- (b) The Trustee is entitled to receive a fee in respect of each of the following:
  - (i) a Payment Flag;
  - (ii) a Payment Split;
  - (iii) implementing a Flag Lifting Agreement that does not provide for a Payment Split;
  - (iv) an order terminating the operation of a Payment Flag;
  - (v) an application made in accordance with Superannuation Law for information about a superannuation interest; or
  - (vi) any other thing done by the trustee in relation to a Flag Lifting Agreement, a Superannuation Agreement, a Flagging Order, a Splitting Order or any other order made in accordance with the Family Law Act 1975 (Cth).
- (c) The Trustee may determine the level of any fee referred to in Rule 12.1(b) in accordance with Superannuation Law.
- (d) The Trustee may debit or charge any fee referred to in Rule 12.1(b) from a Member or Non-Member Spouse in accordance with Superannuation Law.
- (e) The Trustee must disclose to Fund members details of the remuneration received in accordance with the requirements of Superannuation Law.
- (f) The Trustee may realise assets of the Fund to enable its fees to be paid.
- (g) The fees payable to the Trustee under Rule 12.1(b) are inclusive of GST.
- (h) Despite any other provision of these Rules, where the Trustee is satisfied that owing to changed economic circumstances (interpreted as set out below), it is reasonable to vary the fees and charges payable to the Trustee under Rule 12.1(b), the fees may be varied by a deed supplemental to these Rules by stipulating such other percentage amount as the Trustee determines, and any variation of the fees must be notified by notice of variation despatched not

more than three Business Days after the date of the notice to each member noted in the register on that day provided that any variation of the fees will not become effective prior to the expiration of reasonable notice (being not more than one month after the date of the notice of variation).

- (i) For the purposes of this clause:

**GST** means goods and services tax payable under the A New Tax System (Goods and Services Tax) Act 1999 and regulations.

**changed economic circumstances** includes, without limitation, any change in the rate of goods and services tax payable on the supply of the Trustee's services, or any amendment to the GST Law, including the *A New Tax System (Goods and Services Tax) Act 1999* and regulations.

### 13. ADMINISTRATION

#### 13.1 EXPENSES

All the expenses in connection with the Fund or the administration of the Trustee are payable from the Fund.

#### 13.2 DEED AND RULES

A Member may inspect a copy of the Deed and Rules at the Trustee's office during normal business hours.

#### 13.3 GIVING OF INFORMATION

- (a) Every person participating in the Fund or claiming a benefit must give the Trustee any information or documents that the Trustee requires to administer the Fund.
- (b) The Trustee may require a Member to have a medical examination.
- (c) The Trustee must give:
- (i) each Member;
  - (ii) each Employer;
  - (iii) the Superannuation Authority;
  - (iv) the trustee of any other fund to which a benefit is transferred;
  - (v) any other person;

the information which must be given under Superannuation Law at a particular time.

#### 13.4 CONFIDENTIALITY

The Trustee must treat as confidential any information relating to Members or Employers which it acquires as Trustee and only use the information for the purposes of the Fund or as required by law.

#### 13.5 DISPUTE RESOLUTION

If Superannuation Law requires, the Trustee must take reasonable steps to ensure that arrangements are in force under which:

- (a) any person entitled to a benefit from the Fund may inquire into, or complain about, the operation or management of the Fund in relation to that person; and
- (b) inquiries or complaints will be considered and dealt with within 90 days after they were made.

### 13.6 TAX FILE NUMBERS

The Trustee may and, if Superannuation Law so requires, shall request that all Members provide it with their respective Tax File Numbers. Such Tax File Numbers shall be kept, and can only be disclosed or otherwise used, strictly in accordance with Superannuation Law, Tax Act and the Privacy Act.

### 13.7 NOTICES

- (a) Any notice or other written communication in connection with the Fund is given to a person if it is:
  - (i) handed to the person; or
  - (ii) delivered to the person's last known address; or
  - (iii) posted by ordinary post from within Australia to the person's last known address.
- (b) If the notice or communication is posted, it is taken to be received on the third business day after posting.

### 13.8 POWER OF ATTORNEY

Each Member irrevocably appoints the Trustee as the Member's attorney to do all things which the Trustee considers appropriate to administer the Fund.

### 13.9 GOVERNING LAW

The Fund and the Deed and Rules are governed by the **Governing Law** described in Item 3 of the Schedule.

## 14. TERMINATION OF THE FUND

### 14.1 EVENTS OF TERMINATION

The Fund will be terminated if:

- (a) all of the Members give written notice to the Trustee that the Fund is to terminate at a date specified in the notice;
- (b) a replacement trustee is not appointed within 30 days of the Trustee being removed under Rule 11.2(a) or the date of notice given by the Trustee under Rule 11.2(b); or

- (c) For any reason the Fund does not have a trustee for a period of 30 days.

#### 14.2 NOTIFICATION

The Trustee shall notify the Members of the termination of the Fund in accordance with Superannuation Law.

#### 14.3 CONTRIBUTIONS

- (a) Any contributions in arrears at the Termination Date must be paid immediately.
- (b) The Trustee must not accept any other contributions after the Termination Date.

#### 14.4 APPLICATION OF FUND

On termination, the Trustee must apply the Fund assets in this order of priority:

- (a) to provide for all expenses and liabilities (other than benefits) for which the Trustee is or may become liable;
- (b) to provide in respect of each Member:
  - (i) any benefit which became payable before the Termination Date; or
  - (ii) if (i) does not apply - a benefit equal to the Accumulated Credit calculated as at the Termination Date; and
- (c) To increase any benefits as the Trustee decides, including applying any amounts in the Reserve Account to increase the Contribution Accounts of Members.

#### 14.5 PAYMENT OF BENEFITS

- (a) A Member may not receive a benefit under Rule 14.4 before Superannuation Law permits.
- (b) If a Member dies before receiving a benefit provided under Rule 14.4, the Trustee must pay it as if it were a Death Benefit.

### 15. AMENDMENT OF DEED AND RULES

#### 15.1 POWER TO AMEND

The Trustee may, subject to the Superannuation Law, amend any of the provisions of the Deed or Rules including this Rule 15.

#### 15.2 FORM OF AMENDMENT

An amendment must be in writing.

#### 15.3 DATE OF EFFECT

An amendment may take effect from a date before or after the time it is made.

#### 15.4 LIMITATION OF POWER

- (a) No amendment may alter a benefit entitlement contrary to Superannuation Law.

- (b) No amendment may enable an individual to be appointed as Trustee unless Superannuation Law permits.

#### 15.5 NOTIFICATION

The Trustee must notify the Members of the nature, purpose and effect of any amendment in accordance with Superannuation Law. However, failure to notify does not invalidate the amendment.

#### 16. SUPERANNUATION LAW

##### 16.1 COMPLIANCE RULE

- (a) All the standards required by Superannuation Law to be included in the governing rules of superannuation funds form part of these Rules, whether or not they are explicitly stated in the Rules.
- (b) However, if:
  - (i) a standard is no longer required to be included; or
  - (ii) the Superannuation Authority, apparently acting within its powers, does not require it to be complied with;then that standard ceases to be included by this Rule.
- (c) A standard included by Rule 16.1(a) prevails over any other rule which is inconsistent with it.

##### 16.2 SAVING PROVISION

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

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

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

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**Schedule A**

**Rules for Binding and Non-Binding Death Benefit Nominations adopted for the**

**FENCEWISE (QLD) PTY LTD SUPERANNUATION FUND**



## Rules for Binding and Non-Binding Death Benefit Nominations

Under the terms of the trust deed governing the FENCEWISE (QLD) PTY LTD SUPERANNUATION FUND Members may nominate dependants and their Legal Representative to receive the whole or a specified portion of the benefit payable in the event of the Member's death. This nomination may be in the form of a Binding Nomination or a Non-Binding Nomination. The trust deed also provides that the Trustee may prescribe rules for the making of binding nominations and Non-Binding Nominations and any other matter in respect of, or arising from, them.

The trustee has adopted these rules for that purpose. These rules may be amended by resolution of, or in writing by, the trustee at any time.

### 1. DEFINITIONS

**Binding Nomination** means the last effective Binding Nomination Form made confirmed or amended by a Nominating Member in accordance with these rules (as amended) which has not been revoked by the Member.

**Binding Nomination Form** means a form approved by the Trustee which, if completed and lodged in accordance with these rules at the time the Binding Nomination Form is completed, would constitute a Binding Nomination

**Death Benefit** means a benefit payable in respect of a member on the member's death under the governing rules of the Fund.

**Default Provisions** means the provisions in the trust deed of the Fund governing the payment of Death Benefits where there is no current Binding Nomination.

**Eligible Nominated Beneficiary** means a person who is nominated to receive a portion of the Death Benefit in respect of a Nominating Member and who is eligible to receive a benefit under the Superannuation Law at the date of the Nominating Member's death.

**Nominated Person** means a person who is nominated to receive a portion of the Death Benefit in respect of the Nominating Member in a Nomination Form.

**Nominating Member** means the member of the Fund who makes a Binding Nomination or a Non-Binding Nomination.

**Non-Binding Nomination** means the last effective Non-Binding Nomination Form made confirmed or amended by a Nominating Member

**Non-Binding Nomination Form** means a form approved by the Trustee which, if completed and lodged in accordance with these rules at the time the Non-Binding Nomination Form is completed, would constitute a Non-Binding Nomination.

**Superannuation Law** means any requirements under the Superannuation Industry (Supervision) Act 1993 (Cth), the Superannuation Industry (Supervision) Regulations 1994 (Cth), the Superannuation (Resolution of Complaints) Act 1993 (Cth), the Superannuation Guarantee (Administration) Act 1992 (Cth), the Family Law Act 1975 (Cth), the Corporations Act 2001 (Cth), the Social Security Act 1991 (Cth) or any other law in relation to superannuation funds, or by a Superannuation Authority:

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

- (c) which the Fund must satisfy to qualify for the most favourable social security treatment available to members of superannuation funds.

It includes any proposed requirements which the Trustee believes will have retrospective effect.

## **2. MAKING AND CONFIRMING OF A NON-BINDING NOMINATION**

- 2.1 The Trustee may prescribe the form and content of a Non-Binding Nomination Form.
- 2.2 In order for a completed Non-Binding Nomination Form to constitute a Non-Binding Nomination it must comply with the requirements of a Binding Nomination detailed in Rule 4 hereof.

## **3. EFFECT OF A NON-BINDING NOMINATION**

- 3.1 The Trustee may give consideration to a Non-Binding Nomination only if the Member has not made a Binding Nomination.
- 3.2 The Trustee's discretion to give consideration to a Member's Non-Binding Nomination is full and unfettered.
- 3.3 To remove any doubt, the Trustee may determine not to give any consideration to a Member's Non-Binding Nomination.
- 3.4 The events effecting a Binding Nomination in Rule 5 hereof apply to a Non-Binding Nomination.
- 3.5 A new Non-Binding Nomination may be made an existing Non-Binding Nomination amended in the manner detailed in Rule 7 hereof.

## **4. MAKING AND CONFIRMING OF A BINDING NOMINATION**

- 4.1 The trustee may prescribe the form and content of a Binding Nomination Form.
- 4.2 In order for a completed Binding Nomination Form to constitute a Binding Nomination it must:
  - (a) comply with all requirements prescribed by the SIS Regulations and these rules for the making of binding death benefit nominations; and
  - (b) be delivered into the trustee's possession prior to the member's death.
- 4.3 For the purposes of these rules in order to constitute a Binding Nomination:
  - (a) A Binding Nomination Form must be signed and dated by the Nominating Member in the presence of two witnesses, being person:
    - (i) each of whom has turned 18 years; and
    - (ii) neither of whom is a person mentioned in the notice.
  - (b) The Binding Nomination Form must contain a declaration, signed and dated by the witnesses stating that the notice was signed by the Member in their presence.

- (c) The Trustee must provide the member with information that the trustee reasonably believes the member reasonably needs to understand the rights of the member in respect of Binding Nominations.
- (d) Each of the persons mentioned in the Binding Nomination must be a legal personal representative or dependant of the Nominating Member.
- (e) The proportion of the benefit to be paid to each of the persons must be certain or readily ascertainable.

4.4 Unless sooner revoked by the Member, a Binding Nomination ceases to have effect:

- (a) At the end of the period of three years after the day it was first signed, or last confirmed or amended, by the member; or
- (b) If the governing rules of the fund fix a shorter period – at the end of that period.

4.5 The trustee will seek clarification from the Nominating Member where required by Superannuation Law.

4.6 The trustee may (but is not required to) ask the Nominating Member to confirm that a Nominated Person is an Eligible Nominated Beneficiary.

4.7 Eligibility is determined at the date of death. The fact that a Nominated Person is not an Eligible Nominated Beneficiary at the date the Binding Nomination Form is made or the date the trustee receives the Binding Nomination Form will not affect the nomination of that person or the validity of the Binding Nomination Form.

4.8 The trustee may require proof that a Binding Nomination Form was actually made by the person by whom it purports to have been made.

4.9 A Nominating Member may confirm an existing Binding Nomination prior to its ceasing to have effect by giving to the trustee a notice to that effect signed and dated by the Nominating Member.

## 5. **EVENTS AFFECTING AN EXISTING BINDING NOMINATION**

5.1 A Binding Nomination will cease to have any effect

- (a) In circumstances prescribed by Superannuation Law;
- (b) If the Nominating Member marries or remarries since the Binding Nomination was made;
- (c) If the Nominating Member divorces since the Binding Nomination was made.

## 6. **ADJUSTMENTS AND VARIATIONS TO BINDING NOMINATIONS**

6.1 In the event of:

- (a) the death of any Nominated Person prior to the death of the Nominating Member; or

- (b) the Nominated Person not being an Eligible Nominated Beneficiary at the date of the Nominating Member's death; or
- (c) the Nominated Person waiving their rights to receive any benefit,

then the benefit that is specified to be paid to the Nominated Person under the Binding Nomination Form will be distributed equally amongst the surviving Eligible Nominated Beneficiaries (if any). If there are no surviving Eligible Nominated Beneficiaries the Death Benefit will be paid in accordance with the Default Provisions.

- 6.2 In the event of the death of any Eligible Nominated Beneficiary after the death of the Nominating Member, the benefit that is specified to be paid to the Eligible Nominated Beneficiary pursuant to the Binding Nomination will be distributed to the legal personal representative of the Eligible Nominated Beneficiary.
- 6.3 In the event that the sum of the benefits to be distributed amongst the surviving Eligible Nominated Beneficiaries is other than 100% of the Death Benefit, and the trustee has not clarified the matter prior to the death of the Nominating Member, the proportions specified will be adjusted so that the sum of the proportions is 100% with the adjustments being proportional to the initial distributions calculated to one decimal point.

*For example:*

*A = 60%*

*B = 40%*

*C = 30%*

*The proportional adjustments would be worked out as follows:*

*A = 60%/130% = 46.2%*

*B = 40%/130% = 30.7%*

*C = 30%/130% = 23.1%*

- 6.4 In the event that a Binding Nomination contains Eligible Nominated Beneficiaries but does not specify any proportion of the Death Benefit to be distributed to any of them, and the trustee has not clarified the matter prior to the death of the Nominating Member, the Death Benefit will be distributed equally amongst all of the Eligible Nominated Beneficiaries.
- 6.5 In the event that a Binding Nomination contains Eligible Nominated Beneficiaries and specifies a proportion of the Death Benefit to be distributed in respect of some but not all of them, and the trustee has not clarified the matter prior to the Nominating Member's death, then:
- (a) If the sum of the proportions that are specified is less than 100% - the difference between (1) the sum of the proportions specified and (2) 100% will be distributed equally amongst the Eligible Nominated Beneficiaries in respect of whom no distribution is specified;
  - (b) If the sum of the proportions that are specified is equal to 100% - the Eligible Nominated Beneficiaries in respect of whom no distribution is specified will not be entitled to receive any portion of the Death Benefit.

7. **NEW BINDING NOMINATIONS AND AMENDMENTS TO EXISTING BINDING NOMINATIONS**

- 7.1 If the trustee receives a Binding Nomination Form which constitutes a Binding Nomination for a Member the most recent Binding Nomination takes effect immediately and all previous Binding Nominations cease to have any further effect from that time. Where the most recent Binding Nomination Form does not constitute a Binding Nomination the previous Binding Nomination ceases to have effect immediately and any benefit that becomes payable before any Binding Nomination is made by the member will be paid in accordance with the Default Provisions.
- 7.2 Binding Nominations may only be amended or revoked by the Nominating Member by written notice to the trustee signed by the member and witnessed by persons eligible to witness Binding Nominations under Rule 4 hereof.

**Schedule B – Part I**

**Application for Membership with Non-Binding Death Benefit Nomination for the**

**FENCEWISE (QLD) PTY LTD SUPERANNUATION FUND**

MEMBER DETAILS	
Full Name:	Mr Brent William Gray
Address:	15 Ewinger Court, Helensvale, QLD, 4212
Date of Birth:	19/4/1950
Occupation:	
Home Telephone:	07 5573 6183
Work Telephone:	
Mobile Telephone:	0413 348 013
Fax:	
Tax File Number:	413 368 993
<i>(please read Important Notice (below) before providing your Tax File Number)</i>	

**Application for Membership, Acknowledgements & Authorisation**

I hereby apply to become a member of the FENCEWISE (QLD) PTY LTD SUPERANNUATION FUND.

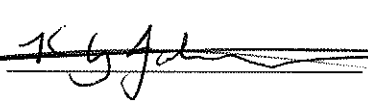
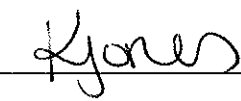
I acknowledge receipt of a current Product Disclosure Statement in respect of the Fund, supplied with this Application.

I understand that my membership is subject to terms and conditions specified in the Deed governing the Fund.

Member Signed: 

Member Name: Brent William Gray

Date: 23/11/07

Witness Signed: ~~~~      Witness Signed: 

Witness Name: Keir Johnson      Witness Name: KATIE JONES

Date: 23/11/07      Date: 23/11/07

**Important Notice:** The Trustee of the superannuation fund is required to tell you the following things before you provide it with your tax file number. Your tax file number is confidential, and you should know the following things before you decide to provide it.

The Trustee can and may be required to request your tax file number under the Superannuation Industry (Supervision) Act 1993. If you do provide your tax file number to the Trustee, it will only be used for legal purposes. This includes finding or identifying your superannuation benefits where other information is insufficient, calculating tax on any eligible termination payment you may be entitled to, and providing information to the Commissioner of Taxation. These purposes may change in the future.

If you provide your tax file number to the Trustee, it may be provided to the Trustee of any other superannuation fund to which your benefits are transferred in the future. The Trustee will not pass your tax file number to any other fund if you inform it, in writing, that you do not want to pass it on. The Trustee may also give it to the Commissioner of Taxation. Otherwise the Trustee will treat it as confidential and comply with the provisions of the Superannuation Industry (Supervision) Act 1993, relevant taxation legislation and the Privacy Act 1988 (Cth) and the Privacy Policy for the Fund.

A Member may be penalised (including but not limited to taxation penalties) if the Member does not provide the Trustee with his or her Tax File Number.

NON-BINDING NOMINATION NOMINATION OF DEPENDANTS AND/OR YOUR ESTATE		
Name	Relationship to you	Proportion of Benefit (%)
		%
		%
		%

\*\*\*\*Note: if nominating your Estate, insert "Legal Personal Representative" under 'Name' then complete the 'Proportion of Benefit'.

**Member Declaration**

I, \_\_\_\_\_ of \_\_\_\_\_

as a member of the Fund, request the Trustee/s to pay my death benefit to the above persons in the proportions shown.

I understand that:

- (a) I can amend or revoke this Non-Binding Nomination at any time by providing a new Non-Binding Nomination to the Trustee/s of the Fund in accordance with the Non-Binding Nomination Rules;
- (b) Unless amended or revoked earlier, this Non-Binding Nomination is valid for a period of 3 years from the date it is first signed or last confirmed.
- (c) This Nomination revokes and amends any previous notice supplied to the Trustee/s of the Fund in regard to my nominated Beneficiaries;



- (d) If this Nomination is not correctly completed, it may be invalid.
- (e) If I have nominated persons who are not "dependants" in accordance with the Superannuation law, the direction contained in the Nomination, will be void and of no effect and the Trustee will have full and fettered discretion as to when the benefit is payable and in what proportion.

Member Signed: \_\_\_\_\_

Member Name: Brent William Gray

Date: 23/11/07

This Non-Binding Death Benefit Nomination was signed by the abovenamed member in my presence:

Witness Signed: \_\_\_\_\_ Witness Signed: \_\_\_\_\_

Witness Name: \_\_\_\_\_ Witness Name: \_\_\_\_\_

Date: \_\_\_\_\_ Date: \_\_\_\_\_

This form must be signed, and dated, by the Member in the presence of 2 Witnesses, each of whom has turned 18 years and neither of whom is a person mentioned in the Nomination.

**Schedule B – Part II**

**Application for Membership with Binding Death Benefit Nomination for the**

**FENCEWISE (QLD) PTY LTD SUPERANNUATION FUND**

MEMBER DETAILS	
Full Name:	
Address:	
Date of Birth:	
Occupation:	
Home Telephone:	Work Telephone:
Mobile Telephone:	Fax:
Tax File Number: <i>(please read Important Notice (below) before providing your Tax File Number)</i>	

**Application for Membership, Acknowledgements & Authorisation**

I hereby apply to become a member of the FENCEWISE (QLD) PTY LTD SUPERANNUATION FUND.

I acknowledge receipt of a current Product Disclosure Statement in respect of the Fund, supplied with this Application.

I understand that my membership is subject to terms and conditions specified in the Deed governing the Fund.

Member Signed: \_\_\_\_\_

Member Name: \_\_\_\_\_

Date: \_\_\_\_\_

Witness Signed: \_\_\_\_\_ Witness Signed: \_\_\_\_\_

Witness Name: \_\_\_\_\_ Witness Name: \_\_\_\_\_

Date: \_\_\_\_\_ Date: \_\_\_\_\_

**Important Notice:** The Trustee of the superannuation fund is required to tell you the following things before you provide it with your tax file number. Your tax file number is confidential, and you should know the following things before you decide to provide it.

The Trustee can and may be required to request your tax file number under the Superannuation Industry (Supervision) Act 1993. If you do provide your tax file number to the Trustee, it will only be used for legal purposes. This includes finding or identifying your superannuation benefits where other information is insufficient, calculating tax on any eligible termination payment you may be entitled to, and providing information to the Commissioner of Taxation. These purposes may change in the future.

If you provide your tax file number to the Trustee, it may be provided to the Trustee of any other superannuation fund to which your benefits are transferred in the future. The Trustee will not pass your tax file number to any other fund if you inform it, in writing, that you do not want to pass it on. The Trustee may also give it to the Commissioner of Taxation. Otherwise the Trustee will treat it as confidential and comply with the provisions of the Superannuation Industry (Supervision) Act 1993, relevant taxation legislation and the Privacy Act 1988 (Cth) and the Privacy Policy for the Fund.

A Member may be penalised (including but not limited to taxation penalties) if the Member does not provide the Trustee with his or her Tax File Number.

BINDING NOMINATION NOMINATION OF DEPENDANTS AND/OR YOUR ESTATE		
Name	Relationship to you	Proportion of Benefit (%)
		%
		%
		%

\*\*\*\*Note: if nominating your Estate, insert "Legal Personal Representative" under 'Name' then complete the 'Proportion of Benefit'.

**Member Declaration**

I, \_\_\_\_\_ of \_\_\_\_\_

as a member of the Fund, direct the Trustees to pay my death benefit to the above persons in the proportions shown above.

I understand that:

- (a) I can amend or revoke this Binding Nomination at any time by providing a new Binding Nomination to the Trustee/s of the Fund in accordance with the Binding Nomination Rules;
- (b) Unless amended or revoked earlier, this Binding Nomination is binding on the Trustee/s for a period of 3 years from the date it is first signed or last confirmed.

- (c) This Nomination revokes and amends any previous notice supplied to the Trustee/s of the Fund in regard to my nominated Beneficiaries;
- (d) If this Nomination is not correctly completed, it may be invalid.
- (e) If I have nominated persons who are not "dependants" in accordance with the Superannuation law, the direction contained in the Nomination, will be void and of no effect and the Trustee will have full and fettered discretion as to when the benefit is payable and in what proportion.

I acknowledge that I have been provided with information by the Trustee/s of the Fund that enables me to understand my rights to direct Trustee/s to pay my Death Benefit in accordance with this Binding Nomination.

Member Signed: \_\_\_\_\_

Member Name: \_\_\_\_\_

Date: \_\_\_\_\_

This Binding Nomination was signed by the abovenamed member in my presence:

Witness Signed: \_\_\_\_\_ Witness Signed: \_\_\_\_\_

Witness Name: \_\_\_\_\_ Witness Name: \_\_\_\_\_

Date: \_\_\_\_\_ Date: \_\_\_\_\_

This form must be signed, and dated, by the Member in the presence of 2 Witnesses, each of whom has turned 18 years and neither of whom is a person mentioned in the Nomination.

**Schedule B – Part III**

**Application for Membership  
without Binding or Non-Binding Death Benefit Nomination  
for the**

**FENCEWISE (QLD) PTY LTD SUPERANNUATION FUND**

<b>MEMBER DETAILS</b>	
Full Name:	
Address:	
Date of Birth:	
Occupation:	
Home Telephone:	Work Telephone:
Mobile Telephone:	Fax:
Tax File Number: <i>(please read Important Notice (below) before providing your Tax File Number)</i>	

**Application for Membership, Acknowledgements & Authorisation**

I hereby apply to become a member of the FENCEWISE (QLD) PTY LTD SUPERANNUATION FUND.

I acknowledge receipt of a current Product Disclosure Statement in respect of the Fund, supplied with this Application.

I understand that my membership is subject to terms and conditions specified in the Deed governing the Fund.

Member Signed: \_\_\_\_\_

Member Name: \_\_\_\_\_

Date: \_\_\_\_\_

Witness Signed: \_\_\_\_\_ Witness Signed: \_\_\_\_\_

Witness Name: \_\_\_\_\_ Witness Name: \_\_\_\_\_

Date: \_\_\_\_\_ Date: \_\_\_\_\_

**Important Notice:** *The Trustee of the superannuation fund is required to tell you the following things before you provide it with your tax file number. Your tax file number is confidential, and you should know the following things before you decide to provide it.*

*The Trustee can and may be required to request your tax file number under the Superannuation Industry (Supervision) Act 1993. If you do provide your tax file number to the Trustee, it will only be used for legal purposes. This includes finding or identifying your superannuation benefits where other information is insufficient, calculating tax on any eligible termination payment you may be entitled to, and providing information to the Commissioner of Taxation. These purposes may change in the future.*

*If you provide your tax file number to the Trustee, it may be provided to the Trustee of any other superannuation fund to which your benefits are transferred in the future. The Trustee will not pass your tax file number to any other fund if you inform it, in writing, that you do not want to pass it on. The Trustee may also give it to the Commissioner of Taxation. Otherwise the Trustee will treat it as confidential and comply with the provisions of the Superannuation Industry (Supervision) Act 1993, relevant taxation legislation and the Privacy Act 1988 (Cth) and the Privacy Policy for the Fund.*

*A Member may be penalised (including but not limited to taxation penalties) if the Member does not provide the Trustee with his or her Tax File Number.*