

Establishment Trust Deed

Dedman Super

**Pro Forms Precedent
reviewed and approved by**

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**Schedule, Parties and Execution Clauses
Prepared by**

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THIS TRUST DEED is made on the Date of this Deed specified in the Schedule.

TRUSTEE:

The person named as the Trustee in the Schedule
("the Trustee")

RECITALS:

- A. This Deed contains the governing rules of an indefinitely continuing superannuation fund ("the Fund") known by the name specified in the Schedule.
- B. This Deed requires that:
 - (i) the Fund have the sole or primary purpose of providing Old-Age Pensions and may also have the ancillary purpose of providing other Benefits described in this Deed; or
 - (ii) the Fund have a Corporate Trustee as the Trustee of the Fund.
- C. The Trustee has consented to act as the Trustee of the Fund.
- D. This Deed reflects the intention of the Trustee that the Fund operate as an Australian complying regulated self managed superannuation fund and comply with the Act in order that the Fund is eligible for Concessional Taxation Treatment.

Executed by the parties as a Trust Deed

EXECUTED by
Dedman Holdings Pty Ltd **ACN 111 847 057**
in accordance with Section 127(1) of the Corporations Act 2001:



Alison Dedman
Director



Rodger Bruce Grayson
Director

**Schedule
Particulars of the Fund**

Name of the Fund:

Dedman Super

Date of this Trust Deed:

8/12/22

Trustee:

Dedman Holdings Pty Ltd **ACN 111 847 057**

TABLE OF CONTENTS

1. INTERPRETATION PROVISIONS	1
1.1 Terms defined in the Act.....	1
1.2 How to apply the Dictionary	1
1.3 Interpretation	1
1.4 Establishment of trust.....	2
1.5 Rules for Self Managed Superannuation Funds.....	2
1.6 Sole purpose	2
2. MEMBERSHIP	2
2.1 Who may apply	2
2.2 Becoming a Member	2
2.3 Some ex-Spouses treated as Members	2
2.4 Ceasing to be a Member	2
2.5 Categories and sub-plans.....	3
2.6 Restrictions for Member-contributed WA property.....	3
2.7 Restrictions for Member-contributed NSW property	3
3. PROVISION OF INFORMATION BY THE TRUSTEE.....	3
3.1 Requirement to give information.....	3
3.2 Cost of providing information.....	3
4. CONTRIBUTIONS	4
4.1 Who may make contributions	4
5. BENEFITS AND ENTITLEMENTS	4
5.1 Pensions minimums and commutations	4
5.2 Benefits a Member may receive	4
5.3 How to calculate benefits.....	6
5.4 Beneficiary and Death Benefit Nominations	7
5.5 Death Benefit Rules.....	7
5.6 Order of priority.....	8
5.7 Dealing with insurance	8
5.8 How to pay a Pension and how to pay a lump sum benefit	8
5.9 Types of Pensions which may be paid	9
5.10 Restrictions on when and how benefits may be paid	9
5.11 Member-contributed property	9
6. ROLLOVERS AND TRANSFERS OF BENEFITS	10
6.1 Into the Fund	10
6.2 Out of the Fund.....	10
6.3 Trustee's duties	11
6.4 Splitting contributions	11
7. EMPLOYERS' CONTRIBUTIONS TO THE FUND	11
7.1 Employers who may contribute	11
7.2 SuperStream compliance	11
8. THE TRUSTEE.....	11
8.1 Appointment, resignation and removal	11
8.2 Covenants, powers, authorities and restrictions	13
8.3 In-house Assets and other restricted investments.....	17
8.4 Collectables.....	17
8.5 Rules apply to others.....	17
9. ACCOUNTS, AUDIT, RECORDS AND RETURNS.....	17
9.1 Unallocated contributions	17
9.2 Member Benefit Accounts	17
9.3 Accounts for non-Member Spouses	18
9.4 Other reserves.....	18
9.5 Trustee to keep records of types of benefits.....	18
9.6 Trustee to keep accounting records	19
9.7 Preparation of accounts.....	19
9.8 Audit of the accounts.....	19
9.9 Preparation and lodgement of returns	19
10. MEETINGS OF TRUSTEES AND MEMBERS.....	19
10.1 Trustees or Directors meetings	19
10.2 Resolving disputes between trustees	20

10.3	Members' meetings	22
10.4	Member dies or becomes Legally Disabled	23
10.5	Circular resolution.....	23
11.	INQUIRIES AND COMPLAINTS	23
12.	ADMINISTRATIVE MATTERS	23
12.1	Interpretation of these Rules	23
12.2	Effect of changes in Relevant Law	23
12.3	Limits on rights of Members	24
12.4	Right to inspect.....	24
12.5	Confidentiality.....	24
12.6	Receipts and payments with assets	24
12.7	Members to provide information	24
12.8	Variation provision.....	24
12.9	Additional variation provision.....	24
12.10	Saving provision	25
13.	WINDING UP THE FUND.....	25
13.1	Conditions for termination.....	25
13.2	Steps to take on winding-up	25
SCHEDULE 1	26
	Dictionary.....	26

RULES

PLEASE NOTE that the material referred to in these Rules is constantly changing and you must keep up to date with those changes. If you are unsure about the currency of any information in the Rules, please contact us immediately or your accountant, financial planner or other advisor.

YOU SHOULD NOT ATTEMPT TO MANAGE YOUR OWN SUPERANNUATION FUND WITHOUT CONSULTING YOUR ACCOUNTANT, FINANCIAL PLANNER, LAWYER OR OTHER ADVISER.

1. INTERPRETATION PROVISIONS

1.1 Terms defined in the Act

- (a) Any word or expression which is given a defined meaning in the Act has the same meaning when used in these Rules. If any word or expression defined in the Dictionary in Schedule 1 conflicts or is inconsistent with any term or expression defined in the Act, the word or expression will have the meaning given in the Act.
- (b) If a definition used in these Rules expands any defined term contained in the Act, the expanded meaning does not, by itself, result in a conflict or inconsistency under Rule 1.1(a).

1.2 How to apply the Dictionary

Subject to Rule 1.1, the words and expressions set out in the Dictionary in Schedule 1:

- (a) apply to these Rules; and
- (b) have those meanings when used in these Rules.

1.3 Interpretation

- (a) In these Rules, unless the context or subject matter requires otherwise, references to:
 - (i) **singular** words includes the plural and vice versa;
 - (ii) any **gender** includes every gender;
 - (iii) a **person** includes natural persons, firms, companies, corporations, bodies corporate, trustees, trusts, associations, partnerships, government authorities, and other legal entities and includes successors and assigns from time to time;
 - (iv) **writing** includes printing, typing, facsimile and other means of representing or reproducing words, figures, drawings or symbols in a visible and tangible or electronic form, in English;
 - (v) **signature** and **signing** mean due execution of a document by a person, corporation or other relevant entity and include signing by an agent or attorney or representative (if a body corporate);
 - (vi) **months** mean calendar months;
 - (vii) **statutes** include statutes amending, modifying, rewriting, consolidating or replacing the statutes referred to and all regulations, orders-in-council, rules, by-laws, orders in council and ordinances made under those statutes;
 - (viii) **sections** of statutes or terms defined in statutes refer to corresponding sections or defined terms in amended, consolidated or replacement statutes;
 - (ix) **regulations** or terms defined in regulations refer to corresponding regulations or defined terms in amended, consolidated or replacement regulations;
 - (x) an **agreement** or **document** (including these Rules) means that agreement or document as amended, novated or supplemented and includes all parts of it including clauses, recitals, schedules, appendices and exhibits to it;
 - (xi) a **party** includes that party's executors, administrators, substitutes, successors and assigns;
 - (xii) **Rules, clauses** or **schedules** are references to the Rules, clauses or schedules contained in these Rules;
 - (xiii) where a person is entitled to **vote** or holds the **right to vote** on any matter by virtue of these Rules, the person may vote by proxy or attorney or representative (if a body corporate). A reference to a person being present means present in person or by proxy.
- (b) In these Rules, the following rules apply unless the context or subject matter requires otherwise:
 - (i) **headings** and the **table of contents** are used for convenience only and must be disregarded in the interpretation of these Rules;

- (ii) if a word or phrase is given a **defined meaning**, another grammatical form of that word or phrase has a corresponding meaning;
- (iii) a requirement to give a person **notice** in writing must be satisfied by posting the notice to that person's last known address;
- (iv) no **rule of construction** of documents will apply to the disadvantage of a party, on the basis that the party put forward the document or any relevant part of it;
- (v) **notes and references** to statutes (or sections of statutes) or other documents contained in bold text after any term defined in these Rules are used to assist in the reading of these Rules and must be disregarded in the legal interpretation of these Rules.

1.4 Establishment of trust

Where these Rules are adopted:

- (a) as the rules of a new SMSF, the Trustee acknowledges the receipt or anticipated receipt of funds or other property to be held on the trusts in these Rules; and
- (b) as replacement rules in respect of an existing SMSF, the Trustee acknowledges that it holds the assets and property of the Fund on the trusts in these Rules to the exclusion of other Governing Rules contained in any previous instrument.

1.5 Rules for Self Managed Superannuation Funds

The Trustee will ensure that the Fund meets the conditions necessary under the Act and Regulations, from time to time, to be considered a Self Managed Superannuation Fund.

1.6 Sole purpose

These Rules are subject to the requirement that:

- (a) where the Trustee is a natural person or persons, the sole or primary purpose of the Fund must always be the provision of Old-age Pensions; or
- (b) where the Trustee is a constitutional corporation, this Fund is subject to the requirement that the Trustee must always be a constitutional corporation.

2. MEMBERSHIP

2.1 Who may apply

- (a) The Trustee may admit as a Member, any person who may become a Member under the Act and Regulations, from time to time.

2.2 Becoming a Member

- (a) **Submit application.** Any person may apply for membership of the Fund by completing and submitting an application to the Trustee, in any form accepted by the Trustee for that purpose.
- (b) **Applicant agrees to these Rules.** A person who applies for and is admitted as a Member, is deemed to be bound by these Rules.
- (c) **Membership other than by application.** If a completed written application for membership is not provided by an person, the payment of a contribution by or on behalf of a person and the acceptance by the Trustee of that contribution will be deemed to be acceptance of that person as a Member on the date that the contribution is accepted by the Trustee.
- (d) **Membership by receipt of a Pension.** Where a person who is not a Member becomes entitled to a Pension from the Fund, that person shall be admitted as a Member once they have become a Trustee or a Director of the Corporate Trustee. Upon admission to membership, that person shall be deemed to be bound by these Rules.

2.3 Some ex-Spouses treated as Members

Where a Superannuation Interest is subject to a Splitting Order and the Non-member Spouse was not a Member immediately before the order is made, the Trustee must treat a Non-member Spouse as a Member.

2.4 Ceasing to be a Member

A person ceases to be a Member if the person's Benefit Account has a balance of nil and the remaining Trustees or Members determine that the person is no longer a Member.

2.5 Categories and sub-plans

- (a) **Trustee may divide Members into categories and sub-plans.** The Trustee may divide the Members and Beneficiaries into different categories or sub-plans for any purposes which it considers appropriate. The benefits and entitlements of each category, and the criteria for admission into each category will be as determined by the Trustee in its absolute discretion.
- (b) **Allocation of assets.** The Trustee may, to the extent permitted by the Relevant Law, designate or allocate specific assets of the Fund to specific accounts, Benefit Accounts, sub-plans or groups as determined by the Trustee in its absolute discretion.
- (c) **No benefit reduction without approval.** Subject to the Relevant Law, the benefits and entitlements of any Members or Beneficiaries must not be reduced without the prior written approval of the affected Members or Beneficiaries.

2.6 Restrictions for Member-contributed WA property

Regardless of any other provision in these Rules, but subject to Rule 5.11, where the Fund acquires Member-contributed WA Property:

- (a) either:
 - (i) the Transferor of the Member-contributed WA Property must be the only Member and the Fund must not admit any further Members, so long as the Fund still owns the Member-contributed WA Property; or
 - (ii) the Member-contributed WA Property must be held by the Fund specifically for the Transferor of the Member-contributed WA Property and must not be combined or pooled with the contributions or other assets of another Member other than the Transferor and no other Member is entitled to obtain or make any claim to any interest in the Member-contributed WA Property; and
- (b) any Member-contributed WA Property held under Rule 2.6(a) can only be held in the Fund to be provided to the Transferor as a retirement benefit.

2.7 Restrictions for Member-contributed NSW property

Regardless of any other provision in these Rules, but subject to Rule 5.11, where the Fund acquires Member-contributed NSW Property:

- (a) either:
 - (i) the Transferor of the Member-contributed NSW Property must be the only Member and the Fund must not admit any further Members, so long as the Fund owns the Member-contributed NSW Property; or
 - (ii) the Member-contributed NSW Property must be held by the Trustee solely for the benefit of the Transferor; and
- (b) any Member-contributed NSW Property must be used solely for the purpose of providing a retirement benefit to the Transferor; and
- (c) Member-contributed NSW Property to which Rules 2.7(a) and 2.7(b) apply:
 - (i) must be held by the Trustee specifically for the benefit of the Transferor as a Member; and
 - (ii) cannot be pooled with any property held for another Member and
 - (iii) no other Member can obtain an interest in the Member-contributed NSW Property.

3. PROVISION OF INFORMATION BY THE TRUSTEE

3.1 Requirement to give information

The Trustee must consider whether or not an obligation under the Relevant Law exists to provide information in various circumstances, including the timing of that information and the person, people or entities to whom that information should be provided.

3.2 Cost of providing information

There may be circumstances in which it is appropriate that the person, people or entities to whom the information is to be provided should bear the cost of providing such information, however where that information is required to be provided by the Relevant Law, the Trustee must consider the need to provide that information and consider the recovery of costs as separate matters.

4. CONTRIBUTIONS

4.1 Who may make contributions

The Trustee may accept contributions to the Fund that are made in respect of a Member, by entities or people and in circumstances allowable under the Relevant Law, from time to time. These contributions include (but not limited to) contributions which are:

- (a) from a Member's employer;
- (b) from or on behalf of a Member;
- (c) Government Co-contributions;
- (d) Splittable Contributions;
- (e) Downsizer Contributions.

5. BENEFITS AND ENTITLEMENTS

5.1 Pensions minimums and commutations

- (a) **Auto-Pension commencement where payments below minimums.** Where a Member is receiving an Account Based Pension, if the Member is paid an amount less than the minimum amount required by the Relevant Law during a financial year and the Pension ceases for that reason, the Trustee must, on the first day of July in the following financial year, commence an Account Based Pension on the same terms and conditions as the Pension that ceased, unless the Member notifies the Trustee otherwise.
- (b) **Trustee to commute payments above minimums for certain Pensions.** Where a Member is receiving one or more Account Based Pensions, if the Member is paid an amount greater than their aggregate minimum payments (calculated in accordance with Part 1 of Schedule 1) during a financial year in respect of that or those pensions, the Trustee must pay the excess in the following order, until the amounts paid in excess of the aggregate minimum payments are exhausted:
 - (i) where the Member has Unrestricted Non-preserved Benefits which are not in Retirement Phase, from those amounts;
 - (ii) where the Member is being paid more than one Pension and unless the Trustee decides it would be in the Member's best interests to do otherwise, as full or partial commutations from the Pensions with the highest taxable components, to the lowest;
 - (iii) where the Member is being paid one Pension, as partial or full commutations from that Pension, and this paragraph will apply unless the Member notifies the Trustee in writing that part or all of the payment or payments in excess of the minimum are to be treated in a different manner.

5.2 Benefits a Member may receive

- (a) **Retirement at the normal time.** A Member who Retires or attains the age of 65 years is entitled to receive a Normal Retirement Benefit.
- (b) **Benefits before the normal time.** A Member who has attained Preservation Age but has not yet Retired is entitled to receive a Normal Retirement Benefit, but subject to the benefit being paid as a pension which cannot be commuted to a lump sum before the Member Retires or attains the age of 65 years, or in any other form allowable under the Relevant Law, from time to time.
- (c) **Total and Permanent Disablement.** A Member who ceases Gainful Employment because of Total and Permanent Disablement is entitled to receive a Total and Permanent Disablement Benefit.
- (d) **Total and Temporary Disablement.** Upon the Total and Temporary Disablement of a Member, the Member is entitled to receive a Total and Temporary Disablement Benefit.
- (e) **Terminal Illness Benefit.** Subject to the Act and Regulations, upon a Member being diagnosed as Terminally Ill, the Member is entitled to receive a Terminal Illness Benefit.
- (f) **Death Benefits.** A Death Benefit becomes payable upon the death of:
 - (i) a Member; or
 - (ii) a reversionary beneficiary receiving a Pension,
 to the extent that the type of Pension or other benefit being received allows for the calculation and payment of a Death Benefit.
- (g) **Reversionary Pension.** A Member receiving a Pension may nominate by notice to the Trustee, either at the commencement of the Pension or at any subsequent time, one or more reversionary beneficiaries

who are to continue to receive that Pension after the Member's death. A Member may, at any time, by notice to the Trustee, revoke a nomination of one or more reversionary beneficiaries.

- (h) **Reversionary Pension if Member dies.** If a Member dies while receiving a Reversionary Pension and the terms applying to that Pension nominate a reversionary beneficiary (however described), subject to the Relevant Law, the Trustee must continue to pay that Pension in favour of the reversionary beneficiary on the same terms and conditions as applied to the deceased Member.
- (i) **Pension to Spouse if Member dies.** If a Member dies while receiving a Pension, the Member's Spouse may apply to the Trustee to have that Pension continued in their favour. The Trustee may, in its absolute discretion, decide to continue that Pension. The amount of that Pension will not exceed the amount calculated in accordance with the Act and Regulations. Where a Pension nominates a reversionary beneficiary (other than the Member's Spouse) or the payment of the Pension to the Member's Spouse would be contrary to a nomination under Rule 5.4 or an agreement under Rule 5.5, the Trustee cannot elect to continue the Pension in favour of the deceased Member's Spouse.
- (j) **No right to elect to receive Death Benefit as Pension.** Unless Rule 5.4 or 5.5 requires a payment in accordance with a Binding Death Nomination or a Death Benefit Rule to be made by way of a Pension, a person entitled to receive a Death Benefit does not have a right to elect to receive that benefit by way of a Pension. However, the person entitled to receive a Death Benefit may apply to the Trustee for part or all of their Death Benefit entitlement be paid as one or more Pensions and the Trustee, in its absolute discretion, may decide to grant the request.
- (k) **Other cases.** A person who ceases to be a Member, otherwise than by death, and who is not entitled to a:
- (i) Normal Retirement Benefit; or
 - (ii) Total and Permanent Disablement Benefit,
- will be entitled to:
- (iii) receive the balance of his or her Benefit Account, subject to Rules 5.9 and 5.10; or
 - (iv) have the balance of his or her Benefit Account transferred to another Regulated Superannuation Fund, Approved Deposit Fund, EPSSS or RSA, in accordance with Rule 6.2.
- (l) **Reject Contributions.** Subject to the Relevant Law, if the Trustee receives:
- (i) a request or direction from a Member to reject a contribution (wholly or partially);
 - (ii) a contribution in error;
 - (iii) a contribution which does or may result in the Trustee's inability to comply with the Relevant Law;
 - (iv) a contribution which may not be accepted under with the Relevant Law; or
 - (v) a contribution which may lawfully be rejected or repaid under the Relevant Law,
- the Trustee may reject or repay the contribution (wholly or partially) to or at the direction of the person making the contribution after deducting any expenses incurred in the receipt or return of the contribution and any tax liability imposed on the Trustee as a result of the receipt of the contribution.
- (m) **Overpayments.** If, for any reason, a Member receives an amount of a benefit in excess of the amount due to the Member, subject to the Relevant Law, the Trustee may recover the excess by:
- (i) reducing the balance of the Member's Benefit Account;
 - (ii) reducing the amount of any future payments due to the Member;
 - (iii) any other method permitted by law and the Relevant Law.
- (n) **Early Release.** If the Trustee receives a written request for the early release of some or all of a Member's entitlements and if:
- (i) the Member's circumstances constitute grounds for early release; and
 - (ii) where required, the Trustee receives written approval from the Regulator,
- the Trustee may pay the benefits and entitlements to the Member, net of any taxes or reasonable charges applicable to the payment of those benefits and entitlements, and subject to any restrictions required as to the manner and amount of that payment.
- (o) **Release Authority.** If the Trustee receives a release authority from the Regulator, the Trustee must pay the amount specified in that authority and in accordance with that authority to the person or persons entitled to it.
- (p) **Payments to commence.** Where a Member or another person, becomes entitled to receive any payment of a benefit under the preceding paragraphs, the Trustee must pay those amounts in

accordance with the terms of these Rules and the Relevant Law and within the time required by the Relevant Law and, if none is specified, within a reasonable time.

- (q) **Effect of Family Law Act.** Where, pursuant to an order under the Family Law Act, a Superannuation Interest has been created in favour of a Non-member Spouse, a reference in this Rule 5.2 to a Member will be read as including a Non-member Spouse.

5.3 How to calculate benefits

NOTE: While the primary form of benefit is a Pension, Lump Sum benefits may still be paid. See Rule 5.8 for details.

- (a) **More than one Benefit Account.** A Member may have one or more Benefit Accounts which may be an accumulation account or accounts from which Pensions are drawn or any combination of them or any other type of account permitted by the Relevant Law, as determined by the Trustee.
- (b) **Normal Retirement Benefit.** A Member's Normal Retirement Benefit will be a Pension of an amount determined by the Trustee, having regard to:
- (i) the balance of the Member's Benefit Account intended to fund the Pension at the date the Pension commences to be paid;
 - (ii) the period over which and the terms upon which the Pension is to be payable;
 - (iii) the expected investment earnings of the Fund to be attributable to the relevant Benefit Account;
 - (iv) the operating costs of the Fund, costs associated with the termination of the Fund and any administrative, insurance and taxation costs relating to the operation and termination of the Fund, which are anticipated to be attributable to the relevant Benefit Account;
 - (v) the cost of any annuities, Pensions and income streams purchased or to be purchased by the Trustee in respect of the Member or the Member's Beneficiaries;
 - (vi) the terms of any agreement or other instrument containing the terms and conditions upon which the Pension is to be paid;
 - (vii) any restrictions placed upon the payment of annuities, Pensions and income streams by the Act and Regulations; and
 - (viii) any lump sum payment, or total or partial commutation in accordance with Rule 5.8.
- (c) **Benefit payable until nil balance.** A Member's Normal Retirement Benefit will:
- (i) be calculated to produce a nil balance in the Member's relevant Benefit Account from which Pensions are drawn after satisfying the terms on which the Pension is to be paid; and
 - (ii) in any event, ceases to be payable when the balance in the Member's relevant Benefit Account from which Pensions are drawn is nil.
- (d) **Total and Permanent Disablement Benefit.** A Member's Total and Permanent Disablement Benefit will be an amount up to the balance of the total of the Member's Benefit Accounts less any taxes or reasonable charges determined by the Trustee to be applicable to the payment of those benefits.
- (e) **Total and Temporary Disablement.** A Member's Total and Temporary Disablement Benefit will, subject to any requirements imposed by the Regulator on the payment of similar benefits, be a Non-commutable Income Stream cashed from the Fund for:
- (i) the purpose of continuing (in whole or in part) the gain or reward which the Member was receiving before the Temporary Incapacity; and
 - (ii) a period not exceeding the period during which the Member is prevented from undertaking Employment of the kind engaged in immediately before the Temporary Incapacity,
- but in any event must not exceed an amount equal to the balance of the total of the Member's Benefit Accounts, less any taxes or reasonable charges determined by the Trustee to be applicable to the payment of those benefits.
- (f) **Terminal Illness Benefit.** A Member's Terminal Illness Benefit will be an amount up to the balance of the total of the Member's Benefit Accounts less any taxes or reasonable charges determined by the Trustee to be applicable to the payment of those benefits.
- (g) **Death Benefit.** A Member's Death Benefit will be an amount equal to the balance of the total of the Member's Benefit Accounts less:
- (i) any amount set aside to fund the payment of any reversionary Pension after the Member's death;

- (ii) any taxes or reasonable charges determined by the Trustee to be applicable to the payment of that benefit; and
- (iii) the amount necessary to meet any obligations with respect to a Pension or other payments required to be met from the Member's benefits and entitlements,

and, unless Rule 5.4 requires a payment in accordance with a Binding Death Nomination or Rule 5.5 requires a payment in accordance with a Death Benefit Rule, will be payable in any amounts and to any of the following persons as the Trustee reasonably considers to be appropriate in the circumstances:

- (iv) one or more of the Member's Designated Beneficiaries;
- (v) one or more of the Member's Dependants;
- (vi) the Member's legal personal representative.

5.4 Beneficiary and Death Benefit Nominations

- (a) **Requirements.** A Member may, from time to time, give to the Trustee written notice of nominated Beneficiaries to whom the Member directs any Death Benefit to be paid and, if more than one, the amount or proportion to be paid to each.
- (b) **Exclusion.** A notice under Rule 5.4(a) may include a direction by the Member about persons to whom a Benefit is not to be paid.
- (c) **Testamentary Instrument.** A notice under Rule 5.4(a) may be contained within a testamentary instrument and may be given to the Trustee after the Member's death and does not need to be given by the Member personally.
- (d) **Binding.** To be binding the content of the notice under Rule 5.4(a) does not require an express statement that it is binding upon the Trustee and it is sufficient if the notice uses words or language that satisfies the Trustee that the notice was intended by the Member to be binding upon the Trustee.
- (e) **Contents.** A notice under Rule 5.4(a) may:
 - (i) specify the type, amount and proportion of different components of Benefit to be paid;
 - (ii) specify whether a Pension including a Reversionary Pension is to be provided;
 - (iii) contain conditions which must be satisfied or met in order for a Death Benefit to be paid;
 - (iv) specify a period of time or date after which any direction which the Member elected to be binding upon the Trustees is to be no longer binding but is otherwise to remain valid;
 - (v) specify a period of time or date after which the notice lapses;
 - (vi) specify the circumstances in which directions in the notice are to be treated as no longer binding upon the Trustee including but not limited to:
 - A. the marriage, separation, divorce or death of a nominated Beneficiary;
 - B. the marriage, separation, divorce of a Member;
 - C. where a nominated Beneficiary consents;
 - (vii) specify payment of a Benefit to a trust in which the beneficiaries are limited to those persons who are the Member's Dependants for the purposes of section 302-195 of the Income Tax Assessment Act 1997;
 - (viii) be revoked, modified, amended or varied by subsequent notice in writing given to the Trustee in the manner and at any time contemplated by the giving of notice under this Rule.
- (f) **Preservation.** Where the Governing Rules have been amended and a valid nomination would have been binding upon the Trustee in respect of a Member's death benefits under those previous rules, despite anything contained in these Rules, that nomination will continue to bind the Trustee until it is revoked or replaced in accordance with these Rules.

5.5 Death Benefit Rules.

The Trustee and any Member may enter into an agreement in writing about the payment of any Death Benefit to nominated Beneficiaries. The agreement may include terms and conditions of the type set out in Rules 5.4(e)(i) to 5.4(e)(vi). The terms of an agreement form part of these Rules as between the Member and the Trustee and will be read together with the Rules as follows:

- (a) the agreement prevails over any notice given under Rule 5.4 unless the notice expressly revokes or replaces the agreement made under this Rule 5.5;
- (b) the agreement replaces any previous agreement made under this Rule;
- (c) any previous notice given under Rule 5.4 is to be treated as ineffective for the purposes of Rule 5.4;

- (d) the terms of the agreement are to prevail if there is any inconsistency between the agreement and these Rules;
- (e) the agreement may specify the manner in which the terms of the agreement may be modified, revoked or amended; and
- (f) if part of an agreement is invalid because a Nominated Beneficiary is not eligible to receive a Death Benefit payment under the Regulations then that part of the Death Benefit shall be distributed in accordance with Rule 5.3(g).

5.6 Order of priority

- (a) **Invalid Nomination.** Where a Binding Death Nomination or a Death Benefit Rule is invalid, in whole or in part, to the extent that it is invalid, the Trustee must pay the Member's Death Benefit in accordance with Rule 5.3(g).
- (b) **Automatic revocation.** A Binding Death Nomination or a Death Benefit Rule, will automatically revoke any earlier Binding Death Nomination or Death Benefit Rule given by the Member or agreed to between the Trustee and the Member.
- (c) **Reversionary Pensions.** Where a Member is receiving a Pension in respect of which a reversionary beneficiary has been named, unless the Member has revoked that reversion, or the reversionary beneficiary is no longer entitled to receive a Reversionary Pension under the Relevant Law, the entitlement of the reversionary beneficiary in respect of that Pension has priority over any Binding Death Nomination or a Death Benefit Rule given by the Member and binding on the Trustee unless the Act or Regulations require otherwise.

5.7 Dealing with insurance

- (a) **Insurance relating to benefits.** The Trustee may take or hold one or more policies of insurance or assurance in relation to a Member as Benefit Payment Insurance or Additional Insurance.
- (b) **Insurance applied to liability.** Whenever a payment is received by the Trustee under any insurance policy held by the Trustee in respect of a Member, the payment will be applied:
 - (i) in the case of Benefit Payment Insurance, towards satisfaction of the Fund's liability to pay any one or more of a Member's benefits; or
 - (ii) in the case of Additional Insurance, in addition to the Fund's liability to pay any one or more of a Member's benefits,
 as agreed by the Member and the Trustee.
- (c) **Insurance not designated.** If a policy referred to in Rule 5.7(a) has been effected and the policy is not designated as Benefit Payment Insurance or Additional Insurance, the policy will be deemed to be Benefit Payment Insurance.
- (d) **Treatment of Additional Insurance.** Where the Trustee has effected Additional Insurance and an amount becomes payable to the Trustee under it, the Trustee must add the amount payable, net of any reasonable fees, charges and taxes, to the Member's Benefit Account prior to calculating the amount of the Member's benefits or entitlements payable in accordance with these Rules.
- (e) **Treatment of Benefit Payment Insurance.** Where the Trustee has effected Benefit Payment Insurance and an amount becomes payable to the Trustee under it, the Trustee must first apply that amount towards satisfaction of the Fund's liability to pay the Member's benefits or entitlements in accordance with these Rules and the Trustee will reduce the Member's Benefit Account by the amount applied. Any amount remaining will be dealt with by the Trustee in its discretion as follows:
 - (i) where any amounts have been deducted from the Member's Benefit Account to pay any premiums in relation to the insurance, by paying or applying similar amounts to or on behalf of the Member in addition to the Fund's liability to pay benefits or entitlements in accordance with these Rules;
 - (ii) by paying amounts to or on behalf of the Member in addition to the amounts set out in Rule 5.7(b) and in addition to the Fund's liability to pay benefits or entitlements in accordance with these Rules;
 - (iii) by paying any expenses and liabilities of the Fund, whether or not those amounts are in whole or in part related to the Member's benefits and entitlements; and/or
 - (iv) by reallocating any amounts to a reserve to be dealt with as the Trustee sees fit.

5.8 How to pay a Pension and how to pay a lump sum benefit

- (a) **How to pay a Pension.** Any Pension payable under these Rules:

- (i) must comply with at least the minimum terms specified in the Act and the Regulations; and
 - (ii) will be payable on other terms (if any) decided by the Trustee.
- (b) **How to pay a lump sum benefit (or change a Pension to a lump sum).** Subject to the Act and Regulations, any person who is entitled to receive a Pension, Annuity or income stream from the Fund other than a Total and Temporary Disablement Benefit, may direct the Trustee to:
- (i) pay any amount as a lump sum; or
 - (ii) commute any amount to a lump sum,
- but only to the extent permitted by the terms of the Pension, Annuity or income stream. The amount of any lump sum will be equal to the total of the balances of the Member's Benefit Accounts related to the payment less any taxes and other reasonable charges which the Trustee considers are applicable to the payment or commutation.
- (c) **How to reduce a Pension when commuting to a lump sum benefit.** Where a person exercises the right in Rule 5.8(b)(ii), the Trustee must discount the amount to which the person is entitled to the extent which the Trustee considers necessary to take account of the commutation. The Fund and the Trustee will then be discharged and relieved of any further liability in respect of the amount of the discount.
- (d) **How to pay benefits to minors and certain other people.** Where any Beneficiary is under a Legal Disability, the Trustee will be entitled to pay or apply the Beneficiary's benefits or entitlements:
- (i) to the Beneficiary; or
 - (ii) to another person for the sole purpose of that person paying or applying those benefits or entitlements for, or on behalf of, the Beneficiary or the Beneficiary's Dependants; or
 - (iii) to a trust established for the benefit of the Beneficiary or the Beneficiary's Dependants,
- and that payment or application will constitute an effective discharge to the Fund and the Trustee. The Trustee need not be concerned and is not liable to see to the application of those benefits or entitlements after the time of their payment or application.
- (e) **Effect of Family Law Act.** A reference to a Member in this Rule 5.8 includes a Non-member Spouse. If a Superannuation Interest is created in favour of a Non-member Spouse and the order creating that interest does not require the Non-member Spouse's benefits or entitlements to be paid as a Pension, the Trustee is not required to pay those benefits or entitlements as a Pension.

5.9 Types of Pensions which may be paid

The Trustee may pay any Pension allowable under the Act and Regulations. A Pension must be subject to the terms and conditions contained in the Act and Regulations in relation to that type of Pension, however the Trustee and the Member may agree upon further terms and conditions, as allowable, from time to time.

5.10 Restrictions on when and how benefits may be paid

Subject to the provisions of this Deed and the Relevant Law, a Member's Benefits may be cashed in any one or more of the following ways:

- (a) One or more lump sums.
- (b) One or more Pensions.
- (c) The purchase of one or more Annuities.
- (d) In any other ways allowed by the Relevant Law, from time to time.

5.11 Member-contributed property

- (a) **Member-contributed Property subject to different payment rules.** Despite any other Rule, where the Fund holds Member-contributed WA Property or Member-contributed NSW Property, any Rule purporting to enable a beneficial interest to be obtained by any person other than the Transferor of the Member-contributed WA Property or Member-contributed NSW Property do not apply to that Member-contributed WA Property or Member-contributed NSW Property.
- (b) **Options for Trustee.** Where an event occurs which would normally entitle the Trustee to create a beneficial interest in Member-contributed WA Property or Member-contributed NSW Property in a person other than the Transferor of the Member-contributed WA Property or Member-contributed NSW Property, the Trustee must deal with the Member-contributed WA Property or Member-contributed NSW Property only in one of the following ways:
 - (i) by separating the Member-contributed WA Property or Member-contributed NSW Property from the other assets supporting the Transferor's Benefit Account and dealing with the Member-contributed WA Property or Member-contributed NSW Property in a manner that the beneficial

interest in that property remains solely with the Transferor of the Member-contributed WA Property or Member-contributed NSW Property or, if the Transferor has died, the Transferor's estate; or

- (ii) after taking such professional advice as is considered prudent by the Trustee, in any other manner as the Trustee considers appropriate, but not so as to create a beneficial interest in any person other than the Transferor of the Member-contributed WA Property or Member-contributed NSW Property.

6. ROLLOVERS AND TRANSFERS OF BENEFITS

6.1 Into the Fund

- (a) **Members may.** A Member may request that the Trustee accept a rollover or transfer into the Fund of any existing superannuation benefits or entitlements which are able to be rolled over or transferred into the Fund under the Relevant Law.
- (b) **Trustee to decide.** The Trustee must consider a request made in accordance with Rule 6.1(a) and may accept or reject the rollover or transfer in whole or in part.
- (c) **Some rollovers and transfers cannot be accepted.** The Trustee must not accept a rollover or transfer of any benefits or entitlements which would or would be likely to cause a breach of a Civil Penalty Provision or constitute an offence under the Act.
- (d) **Most benefits rolled over or transferred into the Fund retain the same status.** Except as otherwise provided by the Act and Regulations, for the purpose of determining the status of benefits or entitlements under these Rules, any benefits or entitlements rolled over or transferred into the Fund will retain the same character in the Fund as they had in the fund from which they were transferred.

6.2 Out of the Fund

- (a) **Who may request.** A request to roll over or transfer any benefits or entitlements out of the Fund may only be made by:
 - (i) a Member;
 - (ii) in the case of a Member's death or Total and Permanent Disablement, the person or persons otherwise entitled to receive a benefit or entitlement; or
 - (iii) a Member's legal personal representative.
- (b) **Trustee must not rollover or transfer benefits with objections.** Subject to Rule 10.2, if a person notified under Rule 6.2(a) objects to the rollover or transfer by notice to the Trustee containing reasons, the Trustee must not roll over or transfer those benefits and must give notice of the objection and of the identity of the objector to the person making the request.
- (c) **Conditions of rollover or transfer out.** The Trustee will roll over or transfer benefits or entitlements in accordance with a request under Rule 6.2(a) if:
 - (i) no person is required to be notified of a request for a rollover or transfer;
 - (ii) no objection has been received from an interested person within 7 days of giving notice; or
 - (iii) the Trustee is satisfied that any objection received has been removed.
- (d) **Time for rolling over or transferring out.** Subject to Rule 10.2, unless another provision of this Rule 6.2 applies to a request to roll over or transfer benefits or entitlements, the Trustee must roll over or transfer the amounts within a reasonable time of receiving such a request containing the information required by this Rule 6.2.
- (e) **SuperStream Requirements.** The Trustee shall comply with the Relevant Law in relation to rollovers and transfers, including such SuperStream requirements as apply, from time to time.
- (f) **Non-member Spouse benefits.** Where a Superannuation Interest has been created in favour of a Non-member Spouse under a Family Law Act order and that order does not restrict the transfer or roll over of the Non-member Spouse's Superannuation Interest, that interest may be rolled over or transferred out of the Fund:
 - (i) upon the request of the Non-member Spouse, subject to the request complying with the terms of this Rule 6.2; or
 - (ii) if the Trustee, in its discretion, decides to do so and the Trustee complies with all conditions imposed by the order,

and after all reasonable costs of rolling over or transferring that interest out of the Fund have been deducted from the Non-member Spouse's Superannuation Interest.

6.3 Trustee's duties

- (a) **Duty to ensure transferee is regulated.** When the Trustee receives a request under Rule 6.2(a), the Trustee must, before allowing any rollover or transfer, ensure that the entity accepting the benefits or entitlements is permitted by the Relevant Law to receive the rollover or transfer, and it is sufficient for the Trustee to receive from the entity accepting the benefits or entitlements, confirmation in writing of its status.
- (b) **Duty to ensure proper deductions made.** Where a rollover, transfer or payment of benefits or entitlements out of the Fund is to be made, the Trustee must ensure that:
- (i) all taxes, expenses, accrued and actual liabilities required to be deducted from the Member's Benefit Account have been deducted; and
 - (ii) all income, gains and accretions required to be credited to the Member's Benefit Account have been credited,
- prior to determining the amount of benefits or entitlements available for rollover, transfer or payment to the Member.
- (c) **People to be notified if Member has died.** If a Member dies and benefits or entitlements become payable to any person other than the Member's legal personal representative, the Trustee may notify each person to whom benefits or entitlements are payable of the reasons why benefits or entitlements are payable to them, the amounts payable and the terms upon which they are to be paid.
- (d) **Dealing with Death Benefits if Beneficiaries cannot be located.** If the Trustee cannot, after making all reasonable attempts in accordance with Rule 6.3(c), locate a person to whom any benefits or entitlements are payable, the Trustee may pay those benefits or entitlements, to the Member's legal personal representative, or to any one or more of the remaining Designated Beneficiaries, if any, in any proportions as the Trustee decides. No person will have any claim or cause of action against the Trustee or the Fund as a result of the Trustee exercising its discretion in accordance with this Rule.

6.4 Splitting contributions

- (a) **Contributions that may be split.** Where allowable under the Relevant Law, the Trustee may allow a member to split contributions with another person, upon such terms as the Relevant Law either allows or requires, and upon such other terms as the Trustee may, in its discretion, determine.
- (b) **Trustee may create Member account.** If the person who will be receiving a Splittable Contribution does not already have a Member account, the person must apply for Membership, in accordance with Rule 2.2 of these Rules. A Trustee cannot accept an application to split contributions in respect of a Member until the Trustee has accepted the person as a Member.
- (c) **Trustee's discretion.** The decision to offer the option to split contributions and the decision to accept a particular application to split contributions under this Rule 6.4 is entirely at the discretion of the Trustee.
- (d) **This Rule does not affect Family Law Act splits.** For the avoidance of doubt, this Rule 6.4 does not apply to benefits which are split, pursuant to the operation of the Family Law Act.

7. EMPLOYERS' CONTRIBUTIONS TO THE FUND

7.1 Employers who may contribute

Subject to Rule 4.1, the Trustee may accept contributions from an Employer or past Employer whether or not the Employer has agreed to the terms and conditions of these Rules.

7.2 SuperStream compliance

Where necessary, the Trustee will comply with the SuperStream standards set out in the Superannuation Data and Payments Standards Legislative 2012 Instruments and associated schedules, as modified or amended from time to time.

8. THE TRUSTEE

8.1 Appointment, resignation and removal

- (a) **Not Disqualified Person.** A Disqualified Person cannot be a Trustee or a Director of a Corporate Trustee.
- (b) **Appointment.** The Members have the right to appoint one or more Trustees or Directors of a Corporate Trustee. The right to appoint a Trustee or Director of a Corporate Trustee may be exercised by:
- (i) a sole Member, where the Fund only has 1 Member; or

- (ii) a resolution passed by a majority of the Members present at a meeting called for the purpose or by circular resolution signed by all of the Members, in all other cases, and

the legal personal representative of a Member who is deceased or under a Legal Disability will be treated as a Member and has the right of a Member for the purposes of this Rule.

- (c) **Consent to be in writing.** Any person appointed or to be appointed to be a Trustee or Director of a Corporate Trustee must consent in writing to the appointment and, upon consenting, is deemed to accept and be bound by the terms, conditions, duties and obligations specified in these Rules.
- (d) **New Trustees or directors to sign declaration.** Where a person becomes a Trustee or a Director of a Corporate Trustee of the Fund after 30 June 2007, they must sign a declaration in a form approved by the Regulator, stating that they understand the obligations and responsibilities of a trustee of an SMSF. This declaration must be completed and signed within 21 days of their appointment and retained for not less than 10 years.
- (e) **How the Trustee may resign.** A Trustee or a Director of a Corporate Trustee may resign from the office of Trustee or Director of a Corporate Trustee at any time, by giving notice in writing to the Members and to the legal personal representative of a Member who is deceased or under a Legal Disability.
- (f) **How the Trustee may be removed.** The Members have the right to remove a Trustee or a Director of a Corporate Trustee at any time. The right to remove a Trustee or Director of a Corporate Trustee, may be exercised by written notice given by:
 - (i) a sole Member, where the Fund only has 1 Member; or
 - (ii) a resolution passed by a majority of the Members present at a meeting called for the purpose or by circular resolution signed by all of the Members, in all other cases, and

the legal personal representative of a Member who is deceased or under a Legal Disability will be treated as a Member and has the right of a Member for the purposes of this Rule.

- (g) **Removal of the Trustee in other circumstances.** A Trustee ceases to be a Trustee upon the happening of any of the following events:
 - (i) the Trustee, being a natural person:
 - A. dies;
 - B. becomes incapable of dealing with his or her own affairs;
 - C. is convicted of an offence of dishonesty or otherwise becomes disqualified from office by operation of law;
 - D. becomes bankrupt;
 - E. makes an assignment to or enters into a composition with his or her creditors, or seeks the protection of any statute for relief from creditors;
 - F. becomes a Disqualified Person.
 - (ii) the Trustee, being a corporation:
 - A. has an application made, resolution passed or an order made for its liquidation or winding up;
 - B. is deemed to be insolvent, or any act or event constituting grounds for winding up by a court occurs;
 - C. is struck off, de-registered or otherwise ceases to exist or to have full capacity; or
 - D. has a receiver or official manager appointed to the whole or any part of its undertaking;
 - E. becomes disqualified from office by operation of law; or
 - F. becomes a Disqualified Person.
- (h) **Member dies or becomes Legally Disabled.** If a Member dies or becomes Legally Disabled, the Member's legal personal representative may elect to become, and will, on that election being made, be appointed as:
 - (i) a Trustee where the Trustee of the Fund is or are natural persons; or
 - (ii) a Director of the Corporate Trustee where the Trustee is a Constitutional Corporation, but subject to the constitution of the Corporate Trustee,

and the Member's legal personal representative will be deemed to have been appointed during the period:

- (iii) in the case of the Member's death, beginning at the date of the Member's death and ending when death benefits first commence to be payable in respect of the Member or such other date as may be allowed by the Relevant Law; or
 - (iv) in the case of the Member's Legal Disability, beginning at the date when the Member's legal personal representative assumes control of the Member's affairs and ending either when that person ceases to act in the capacity of legal personal representative for the Member, or such other date as may be allowed by the Relevant Law.
- (i) **Trustee discharged.** When a Trustee has been removed or has resigned in accordance with these Rules:
- (i) that Trustee will be discharged from the trusts in these Rules to the extent allowed by law from the effective date of removal or resignation; but
 - (ii) without affecting any liability of the Trustee which has accrued, or may accrue, because of any thing done, or omitted to be done, by the Trustee prior to the effective date of removal or resignation; and
 - (iii) without affecting any obligation of the Fund or any liability of the Fund arising under any agreement or security to which the Fund is a party entered into prior to the removal or resignation of the Trustee,
- even if there is only one Trustee remaining provided that the Fund remains an SMSF.

8.2 Covenants, powers, authorities and restrictions

- (a) **Trustee's covenants.** A person, by accepting the appointment to the office of Trustee or Director of a Corporate Trustee, covenants:
- (i) to act honestly in all matters concerning the Fund;
 - (ii) to exercise, in relation to all matters affecting the Fund, the same degree of 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 Fund separate from any money and assets respectively that are held by the Trustee personally or in any other capacity;
 - (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 for the Fund;
 - (vii) if the Fund has any reserves, to formulate and to give effect to a strategy for their prudential management, consistent with the Fund's investment strategy and its capacity to discharge its liabilities (whether actual or contingent) as and when they fall due; and
 - (viii) to allow any Beneficiary access to information or documents which are prescribed by a Relevant Law to be accessible by them.
- (b) **Trustee may authorise others to act.** A covenant in Rule 8.2(a) does not prevent the Trustee from engaging, or authorising persons to do, acts or things on behalf of the Trustee.
- (c) **Matters to be considered in formulating investment strategy.** In formulating and maintaining one or more investment strategies for the purposes of Rule 8.2(a), the Trustee must ensure that each strategy has regard to all 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 Fund's investments, having regard to the Fund's or sub-plan's (as the case may be) objectives and expected cash flow requirements;
 - (ii) the composition of the investments as a whole, including the extent to which they are diverse or involve exposure of the Fund or sub-plan (as the case may be) to risks from inadequate diversification;
 - (iii) the liquidity of the investments, having regard to the Fund's or sub-plan's (as the case may be) expected cashflow requirements;
 - (iv) the ability of the Fund or sub-plan (as the case may be) to discharge its existing and prospective liabilities; and

- (v) whether insurance on the life or disablement of one or more of the Members can or should be purchased,
- and the Trustee should review any investment strategies regularly to ensure that they remain current and in accordance with the Fund's present circumstances.
- (d) **Beneficiaries may direct Trustee.** An investment strategy made in accordance with Rule 8.2(a) 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 Regulations for the purposes of section 52B(4) of the Act.
- (e) **General powers of Trustee.** Subject to the Relevant Law, the Trustee has all the rights of a natural person to do any thing, or to engage in any transaction or dealing, on behalf of the Fund as it could do if it were the beneficial owner of the Fund and absolutely entitled to it.
- (f) **Specific powers of Trustee.** The following powers are specific examples of the Trustee's powers in Rule 8.2(e) and should not be interpreted as limiting those powers:
- (i) to invest in such corporeal or incorporeal property, rights, currency, or other things of value as the Trustee decides;
 - (ii) to invest in or purchase any securities permitted by the Relevant Law;
 - (iii) to enter into any derivative contract or purchase, sell, deal or trade in any derivatives product. This right includes, without limitation, power for any purpose to enter into and perform or to deal with or in any:
 - A. options and futures contracts;
 - B. warrants or instalment warrants;
 - C. contracts for difference;
 - D. certificates of deposit;
 - E. default swap contracts; and/or
 - F. any other form of derivative contract,
 and otherwise to do and perform all things to operate, utilise or deal with the facilities of any stock or futures exchange either directly or through any broker or agent in any market in any part of the world;
 - (iv) to purchase, acquire, create, hold, rent, lease, license, sell or otherwise dispose of assets and investments in any property, rights or privileges, including derivatives assets and contracts, which the Trustee is authorised by law to acquire or dispose of, on terms and conditions as the Trustee decides;
 - (v) to invest in digital currencies, cryptocurrencies, initial coin offering and other digital assets;

- (vi) to grant any lease, sub-lease or other rights in relation to any property of the Fund for any term or terms and whether or not that term or terms exceeds 21 years or any other term allowable under the Relevant Law;
- (vii) to carry on a business, to the extent that it is allowable under the Relevant Law, from time to time;
- (viii) to appoint and/or remove or suspend, the Fund's Auditor, or any accountants, lawyers, Custodians, managers, secretaries, clerks, agents and other servants or consultants, and may appoint any of them permanently, temporarily or for special services and may determine the scope and extent of their powers and duties, on terms as to remuneration or salaries as the Trustee decides;
- (ix) to appoint any person to be a Custodian for the purpose of holding or retaining the legal title of or to any asset, property, investment or other thing acquired or to be acquired by or for the benefit of the Fund;
- (x) to institute, conduct, defend, compound, compromise or abandon any legal or other proceedings by or against the Fund or its officers or otherwise, concerning the affairs of the Fund and also to compound and allow time for payments or satisfaction of any debts due and of any claims or demands made by or against the Fund;
- (xi) to make and give receipts, releases and other discharges for money payable to the Fund and for any claims and demands against the Fund and to pay expenses as it considers properly relate to the Fund, including any income tax liability which may attach to income of the Fund or contributions made to it;
- (xii) to open accounts and to retain on current or deposit account at any bank or financial institution, any moneys as it considers proper and to make regulations for the operation of those accounts, including the signing and endorsement of cheques in connection with them;
- (xiii) to borrow moneys, incur liabilities, pledge or charge the assets of the Fund as security, but only to the extent allowed or allowable in accordance with the Act and Regulations. Any borrowing or raising may include (without limitation):
 - A. the drawing, endorsing, accepting, negotiation or other dealing in bills of exchange, promissory notes, cheques or other negotiable instruments;
 - B. any other form of borrowing or raising of money which is authorised by the Act;
- (xiv) to purchase annuities, pensions and income streams, and to effect policies of insurance or assurance in relation to Members for the purpose of providing benefits under these Rules;
- (xv) to revalue the Fund's assets, and to allocate the revaluation amount to the Members and Beneficiaries;
- (xvi) to determine who will be entitled to sign, on the Fund's behalf, receipts, acceptances, endorsements, releases, contracts and documents;
- (xvii) to pay benefits and entitlements out of the Fund to persons entitled to them;
- (xviii) to decide, as and when required, who are Dependants for the purposes of these Rules;
- (xix) to enter into any negotiations and contracts, to rescind and vary all contracts, to execute any deeds, and to do all or any things in the name of and on behalf of the Fund as it may consider expedient for or in relation to any of the matters referred to in these Rules or otherwise for the purposes of the Fund;
- (xx) to enter into an agreement with a Member varying the benefits or entitlements, or the contributions otherwise payable in respect of that Member, in any manner which the Trustee decides, subject to the terms of these Rules and to the consent of affected Members;
- (xxi) to enter into contracts, transactions or agreements, whether they be for sale, lease or any other purpose, with one or more individual trustees, with one or more Directors of a Corporate Trustee, or with a Corporate Trustee itself, notwithstanding that they have or may obtain an interest or benefit in their own or other capacities;
- (xxii) to enter into contracts, transactions or agreements, whether they be for sale, lease or any other purpose, in respect of another trust where one or more individual Trustees or the Corporate Trustee, is a trustee of that trust;
- (xxiii) generally, to exercise or concur in exercising all of the Trustee's powers and discretions contained in these Rules or otherwise conferred by law notwithstanding that any Trustee or any Director or shareholder of a Corporate Trustee or any person being a relative of a Trustee or of a Director or shareholder of a Corporate Trustee has, or may have, a direct or personal interest (whether as

trustee of any other settlement or in his or her personal capacity or as a shareholder or Director or Member or as a relative of the Trustee or relative of a Director or shareholder of a Trustee or Member or partner of any company or partnership or as a unit holder in any unit trust or beneficiary of any discretionary trust or otherwise) in the mode or result of exercising such power or discretion or may benefit either directly or indirectly as a result of the exercise of any such power or discretion and notwithstanding that the Trustee for the time being is the sole Trustee.

- (g) **Trustee may delegate.** Regardless of any other provision of these Rules but subject to the Relevant Law, the Trustee may delegate, in writing, any of its powers or discretions to one or more other persons.
- (h) **Trustee's indemnity.** The persons listed in Rule 8.2(i) have a right of indemnity out of the assets of the Fund in respect of any expenses incurred or liabilities resulting from any activities carried out by those persons in the exercise or purported exercise of the powers, duties, responsibilities and discretions imposed or authorised by the trusts constituted by these Rules except where those expenses or liabilities arise from or as a result of:
- (i) a breach of trust by a person in Rule 8.2(i)(i) and/or (ii) if the person:
 - A. fails to act honestly in a matter concerning the Fund; or
 - B. intentionally or recklessly fails to exercise in relation to a matter affecting the Fund, the degree of care and diligence that the Trustee was required to exercise; or
 - (ii) an act or omission by a person in Rule 8.2(i)(iii) and/or (iv) if the person:
 - A. fails to act honestly in a matter concerning the Fund; or
 - B. intentionally or recklessly fails to exercise in relation to a matter affecting the Fund, the degree of care and diligence that the Trustee was required to exercise; or
 - (iii) a liability for a monetary penalty under a Civil Penalty Provision.
- (i) **Persons entitled to indemnity.** The following persons are entitled to claim the indemnity in Rule 8.2(h):
- (i) the Trustee;
 - (ii) the Directors and other officers of the Trustee, in the case of a Corporate Trustee;
 - (iii) any Custodian; and
 - (iv) any Investment Manager.
- (j) **Trustee not liable.** Without prejudice to the indemnity in Rule 8.2(h) those persons listed in Rule 8.2(i) will not be liable for any loss or damage arising from any:
- (i) act or omission in the exercise of any powers, duties, responsibilities or discretions;
 - (ii) contract entered into or document executed in relation to the Fund;
 - (iii) error in judgment;
 - (iv) neglect, default, intent to defraud, wilful misconduct, defalcation, or act or omission of any manager, agent, professional adviser, banker, stockbroker, or other person engaged by the Trustee for the purposes of the Fund; or
 - (v) breach of duty or of trust, or any neglect or otherwise.
- (k) **Limited Recourse Borrowing Arrangements.** Subject to the investment strategy of the Fund, the Trustee has the power to borrow money under arrangements of the kind contemplated by Section 67A of the Act and to enter into any and all such arrangements for that purpose, including:
- (i) the granting of indemnities to lenders for the purpose of furthering these arrangements;
 - (ii) the granting of any security for the performance of any obligation or other dealing or engagement incurred or to be entered into by the Trustee or by any other person. The Trustee's power includes the power to grant any mortgage, charge or encumbrance over all or any part of any asset or property to be acquired in accordance with Section 67A of the Act;
 - (iii) despite the covenants in Rule 8.2(a), to give proxies and powers of attorney (with or without power of substitution) and appoint representatives for voting or acting on behalf of the Trustee in relation to any part of the Fund. Without limitation, the Trustee may empower its attorney to take any action and/or perform any act on behalf of the Trustee and to sign and execute any deed, agreement or document that the Trustee may lawfully do, including the exercise of any of the Trustee's rights or obligations and the execution of mortgage and security documents. The Trustee may in its discretion, grant powers of attorney or proxies to any third party including any mortgagee, lender or financier of the Fund.

8.3 In-house Assets and other restricted investments

The Trustee must not make any investments and, to the extent necessary, must divest the Fund of investments, in order to ensure that the Fund does not breach the Relevant Law.

8.4 Collectables

Regardless of any other provision in these Rules, the Trustee must comply with the Act and Regulations regarding making and maintaining investments in Collectables.

8.5 Rules apply to others

All of the rules and restrictions contained in these Rules which affect or apply to any act or thing done or not to be done by the Trustee, will apply to any act or thing done or not done on behalf of the Trustee by any person including, without limitation, any Director of a Corporate Trustee, Custodian or Investment Manager appointed by the Trustee.

9. ACCOUNTS, AUDIT, RECORDS AND RETURNS

9.1 Unallocated contributions

- (a) **Unallocated contribution reserve.** Subject to the Act and Regulations, the Trustee may establish and keep, in respect of the Fund or, where there are one or more sub-plans, in respect of each sub-plan, an unallocated contribution reserve, to which the Trustee may credit all contributions as the Trustee sees fit.
- (b) **Allocations within 28 days.** Where, during a Year of Income, an amount has accumulated in the unallocated contribution reserve, the Trustee must:
 - (i) use the reserve for any purposes of the Fund as the Trustee decides; and
 - (ii) allocate all of the amounts in the reserve to one or more Members' Benefit Accounts, in the proportions determined by the Trustee within 28 days after the end of the month in which any such amounts are received, even if such allocation occurs after the Year of Income in which the contribution was made.
- (c) **Change in allocation.** If required by the Act and Regulations, or otherwise if the Trustee decides to do so, the Trustee may decide to allocate some or all contributions made by or on behalf of a Member directly to the Member's Benefit Account, even if those contributions are of a type which would normally be allocated to the unallocated contribution reserve.

9.2 Member Benefit Accounts

The Trustee must establish and keep, in respect of each Member, a Benefit Account or Accounts, to which must be added:

- (a) all contributions made by, for, or in relation to the Member which form part of a Member's Minimum Benefits;
- (b) all contributions allocated to the Member's Benefit Account from the unallocated contribution reserve;
- (c) all benefits or entitlements (including Superannuation Lump Sums) transferred into the Fund by, for, or in relation to the Member, in accordance with these Rules;
- (d) subject to Rule 9.4 all investment earnings of the Fund or, where the Member is a member of a sub-plan, of that sub-plan, allocated to that Member's Benefit Account attributable to the amounts in (a) and (b);
- (e) the current surrender value of any policy of capital guaranteed life assurance taken out by the Trustee upon the life of that Member;
- (f) the proceeds, or part proceeds, of any policies of insurance which the Trustee decides to allocate, or is obliged to allocate in respect of that Member;
- (g) any amounts which the Trustee decides to pay in respect of the Member, pursuant to Section 295-485 of the Tax Act;
- (h) any reserves held by the Fund or, where the Member is a member of a sub-plan, by that sub-plan, which the Trustee has allocated to that Member's Benefit Account;
- (i) any refunds of taxes or surcharges and any interest applicable to such amounts, where the tax or surcharge was deducted directly from contributions made by or on behalf of that Member;
- (j) any increase in the value of any investment or other asset held by the Fund (whether actual or notional) which is reasonably attributable to the Member's Benefit Account;

- (k) any other amount that the Trustee reasonably determines should be credited to the Member's Benefit Account,

and against which must be deducted:

- (l) all direct costs of establishing, operating and terminating the Fund and any administrative, insurance and taxation costs relating to the establishment, operation and termination of the Fund allocated to the Member's Benefit Account; and
- (m) any overpayments of Government Co-contribution which the Fund is required to repay;
- (n) any amounts required to be paid to the Commissioner of Taxation as a result of the Member's failure to quote his or her tax file number to the Fund within the prescribed time;
- (o) any other taxes or surcharges applicable to contributions made by or on behalf of a Member which are required to be withheld or deducted directly from such contributions;
- (p) any decrease in the value of any investment or other asset held by the Fund (whether actual or notional) which is reasonably attributable to the Member's Benefit Account;
- (q) any other amount that the Trustee reasonably determines should be debited to the Member's Benefit Account,

and the Trustee must allocate all amounts in a fair, reasonable and consistent manner, having regard to any special circumstances relating to one or more Members which might otherwise affect the allocation of amounts to a Member's Benefit Account. Where the Trustee has made the allocations in accordance with these principles, its decision will be final.

9.3 Accounts for non-Member Spouses

- (a) **Compliance with Family Court Orders.** When any order is made under the Family Law Act in respect of a Member's Superannuation Interest, the Trustee may be required to:
 - (i) create and maintain a new Benefit Account for a Non-member Spouse;
 - (ii) split the amount standing to the credit of a Member's Benefit Account with the Non-member Spouse;
 - (iii) identify a component or percentage of a Member's Superannuation Interest which is to be paid to the Non-member Spouse;
 - (iv) transfer or roll over a Non-member Spouse's Superannuation Interest to another regulated superannuation fund, approved deposit fund, EPSSS or RSA; and/or
 - (v) notify the Non-member Spouse and the Member of orders requiring a Payment Split and other matters.
- (b) **Cost of complying.** If Rule 9.3(a) applies, the reasonable costs incurred in complying with any Family Court order, including the costs of the Trustee seeking professional advice, may be deducted from the Non-member Spouse's interest.
- (c) **Splitting Pensions.** Where, pursuant to the Family Law Act, an order is made which affects the Superannuation Interest of a Member receiving a Pension, the Trustee may deduct any reasonable costs incurred in complying with those orders from the capital sum supporting the Pension to be paid to the Non-member Spouse, or from the periodical payments of the Pension to be paid to the Non-member Spouse.

9.4 Other reserves

Subject to the Act and Regulations, the Trustee may, in its discretion, establish other reserves, including but not limited to investment reserves, pension reserves, anti-detriment reserves, in respect of amounts not presently allocated to Members' Benefit Accounts or to other reserves. The cost of meeting expenses, taxes or other outgoings as the Trustee decides, may be deducted from the reserve. The balance of the reserve may be allocated to the Benefit Accounts of one or more Members or, where the Fund is divided into sub-plans, of Members of that sub-plan at a time and in a manner which the Trustee chooses. The Trustee must make any allocation in a fair, reasonable and consistent manner having regard to any special circumstances relating to one or more Members which might otherwise affect the allocation.

9.5 Trustee to keep records of types of benefits

In addition to maintaining details of the value of Benefit Accounts for each Member, the Trustee must keep records in a manner to enable the Trustee to determine the amounts and components of a Member's benefits and entitlements, as required by the Relevant Law, from time to time.

9.6 Trustee to keep accounting records

The Trustee must:

- (a) keep accounting records in writing which correctly record and explain the transactions and financial position of the Fund; and
- (b) keep its accounting records to enable the preparation of:
 - (i) the accounts and statements required under Rule 9.7; and
 - (ii) the returns of the Fund required under Rule 9.9; and
- (c) keep its accounting records to enable those accounts, statements and returns to be conveniently and properly audited in accordance with the Act; and
- (d) keep the accounting records of the Fund, or cause them to be kept, in Australia for at least 5 years after the end of the Year of Income to which they relate.

9.7 Preparation of accounts

The Trustee must, in respect of each Year of Income, prepare financial information in respect of the Fund including:

- (a) a statement of financial position of the Fund;
- (b) a statement of the Market Value of each of the assets of the Fund;
- (c) an operating statement of the Fund; and
- (d) other financial information required by the Regulator,

and prepare that financial information in a form or manner determined by the Trustee.

9.8 Audit of the accounts

The Trustee must appoint, and has the power to dismiss, an Approved Auditor. The Trustee must ensure that the Fund's financial information prepared in respect of a Year of Income is audited by the Auditor.

9.9 Preparation and lodgement of returns

The Trustee must, in respect of each Year of Income, prepare and lodge:

- (a) with the Regulator:
 - (i) an annual return, in the approved form;
 - (ii) a certificate, in the approved form, in respect of that Year of Income; and
 - (iii) any report given to the Trustee by the Auditor in respect of that Year of Income, where required; and
- (b) with the Taxation Commissioner, an annual return, in the approved form.

10. MEETINGS OF TRUSTEES AND MEMBERS

10.1 Trustees or Directors meetings

- (a) **How to call a meeting.** The Trustees, or the Directors of a Corporate Trustee, may convene a meeting of the Trustees, or of the Directors, as the case may be, by 1 of their number giving not less than 7 days 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 of all Trustees and/or all Directors. No notice and no meeting is required in the case of a sole Trustee or a sole Director of a Corporate Trustee.
- (b) **Appointing a chair.** Before any business is discussed at a meeting of Trustees or Directors, 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. Where there is only one Director or individual Trustee, that person shall be chair.
- (c) **Meetings at least annually.** Meetings of Trustees or Directors may be convened at any time, but must be convened at least once in 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 Rule 9.9;
 - (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) **Quorum.** The quorum for meetings of Trustees or Directors is two or half of the total number of Trustees or Directors, whichever is greater, except where there is only one Director or individual Trustee, in which case the quorum is one.
- (e) **Voting by proxy.** A Trustee and/or a Director who is unable to be present at a meeting of the Trustees or the Directors, as the case may be, may nominate another person to attend the meeting as their proxy, subject to the following requirements:
- (i) the person nominated as proxy must carry into and put before the meeting an authority, signed by the person in whose place the proxy is attending, in a form approved by the Trustee.
 - (ii) a person may be nominated as a proxy for one meeting only. The same person may be nominated for any subsequent meeting.
 - (iii) a person nominated as proxy, who is not otherwise a Trustee or a Director of the Trustee, must be asked to leave the meeting if the chairperson considers that a subject to be discussed is of a sensitive or confidential nature.
 - (iv) a person nominated as proxy must be given an opportunity to read and to table any written statement from their appointor and must vote strictly in accordance with the directions of that person, but a proxy, who is not otherwise a Trustee or a Director of the Trustee, is not further entitled to participate in the discussions and conduct of the meeting.
- (f) **Circular resolution.** Trustees or Directors may pass a resolution without a meeting of Trustees or Directors if all of the Trustees or Directors:
- (i) sign a document stating that they are in favour of the resolution in which case duplicate copies of the document may be used; and/or
 - (ii) indicate electronically that they are in favour of the resolution in which case separate electronic communications and/or forms of electronic communications may be used,
- and a resolution is deemed to be passed at the time when the last Trustees or Directors signs or confirms they are in favour of the resolution.

10.2 Resolving disputes between trustees

- (a) **Usual decision-making to be unanimous.** In any proceedings of individual Trustees, or Directors of a Corporate Trustee, decisions shall be made on a unanimous basis.
- (b) **Changes to usual decision-making arrangements.** The individual Trustees, or Directors of a Corporate Trustee, may unanimously decide that another basis for decision making be adopted:
- (i) in respect of a particular decision; or
 - (ii) for a period of time; or
 - (iii) from that point onwards, until any one or more of them gives notice in writing to the other Trustees or Directors that they no longer wish the alternative arrangements to apply.
- (c) **Where unanimous agreement cannot be reached.** Except in the circumstances outlined in paragraph (b) above, should the individual Trustees, or Directors of a Corporate Trustee, not be able to agree upon a unanimous decision or course of action at any point in time (the "**Disputed Actions**"), and if a Trustee or Director who is out voted does not accept that decision (a "**Dissenter**"), then the following provisions apply in the following order:
- (i) **Notice to be given.** A Dissenter shall within 1 week of the Disputed Actions give their fellow Trustees or Directors notice in writing that they do not accept that decision (a "**Disputed Actions Notice**").
 - (ii) **Single member funds or funds with nil balance members.** If there are no Members who are recently deceased and in respect of whom a benefit payment decision has yet to be made, then the position of the Trustees or Directors of a Corporate Trustee will be recalculated on the basis that:
 - A. in the event that there is a single Member, the Trustee or Director who is or represents the Member shall have the casting vote; and
 - B. in the event that a Trustee or Director also is or represents a Member of the Fund with a nil balance, that person's corresponding vote as Trustee or Director will not be counted, however the Trustees or Directors who are also Members, and who do not have a nil balance, must agree in writing to personally indemnify the other Trustees or Directors against any legal or

financial consequences of the Disputed Actions, unless the indemnified Trustees or Directors initiate the legal action, or cause the financial consequences.

- (iii) **Willing Members prepared to voluntarily roll out.** If a Disputed Actions Notice has been given, and any Member is prepared to voluntarily roll the balance of their Member's Benefit Account out of the Fund (the "**Willing Members**"), then they will be permitted to do so, as long as they provide details of an alternative regulated superannuation fund to which their benefits may be transferred within 14 days of the notification of their decision to roll out, and subject to Rule 10.2 (g). Until the Willing Members have been rolled out of the Fund, the Disputed Actions will not be undertaken.
- (iv) **Funds where Members have small balances to be compulsorily rolled out.** If a Disputed Actions Notice has been given, and all of the Dissenters did not roll out as Members pursuant to paragraph (iii) above, then the Trustees or Directors who represent corresponding Members balances making up at least 80% of the market value of the Fund's assets (the "**Majority Members**") may commence to compulsorily rollover any Member who is also a Dissenter and whose balance is 20% or less of the market value of the Fund's assets ("**Minority Members**"), subject to paragraph (f) of this Rule, as follows:
 - A. if a Minority Member nominates an alternative regulated superannuation fund to accept the rollover – that fund; or
 - B. if a Minority Member does not so nominate - an ATO-held super arrangement.

Until the Minority Members have been rolled out of the Fund, the Disputed Actions will not be undertaken.
- (v) **Mediation or court action as a remedy in other cases.** In the event that the Disputed Actions have not been resolved pursuant to the preceding paragraphs, any one of the Trustees or Directors may request the Australian Mediation Association to select a mediator to resolve the matter and:
 - A. all Trustees and Directors shall attend any mediation hearings scheduled.
 - B. any Trustee or Director who has been notified of, but does not attend a scheduled mediation:
 - I shall be entitled to one alternative mediation date; and
 - II should they fail to attend that alternative mediation date, shall be deemed to accept its outcome.
 - C. in the event that the Trustees or Directors are not able to resolve the matters which are the subject of the mediation, one or more of the parties may apply to the relevant court in the State or Territory in which the Fund is based, for a determination of the matter.
- (d) **Stay of decision while Minority Member rolled out.** For the avoidance of doubt, if a Minority Member is being compulsorily rolled out of the Fund, then the Majority Members may not cause the Fund to engage in the Disputed Actions until such time as all Minority Members have been rolled out of the Fund.
- (e) **Requirement to prepare accounts prior to rollover.** Prior to any rollover, the Fund's administrators will prepare management accounts showing the best estimate of the Members' present account balances, less a provision for accrued income and capital gains taxes, and any other reasonable provisions relating to the income and expenses of the Fund, accrued and incurred up to the date of those accounts.
- (f) **Stay of compulsory rollover during significant market declines.** If the All Ordinaries Index has declined by more than 20% during the 12 months preceding the Disputed Actions Notice being given, then the Minority Members are entitled to a deferral of 12 months, or the period taken for the All Ordinaries Index to regain its level from 12 months prior to the Disputed Actions Notice being given, whichever is the earlier, before any compulsory rollover is initiated.
- (g) **Stay of voluntary rollover during certain periods.** If a Member has requested a voluntary rollover of their benefits from the Fund in accordance with this Rule 10.2, then any other individual Trustee, or any other Director of a Corporate Trustee, may elect to defer the roll out:
 - (i) if the All Ordinaries Index has declined by more than 20% during the 12 months prior to the rollover request – for 12 months, or the period taken for the All Ordinaries Index to regain its level from 12 months prior to the rollover request, whichever is the earlier; or
 - (ii) if, in order to pay out the Member, one or more illiquid, non-listed assets representing more than 20% of the Fund's total assets would need to be sold – 12 months from the date the rollover

request is made, or a sufficient number of illiquid, non-listed assets are sold and the proceeds received, whichever is earlier; or

- (iii) if, in order to pay out the Member, one or more of the Fund's assets which is leased to a business owned or operated by a Fund Member, or a Related Party of a Member, would need to be sold – the time taken to sell and receive the proceeds from the sale of that or those assets,

however, during this time any of the individual Trustees, or any Director of a Corporate Trustee, may initiate the mediation provisions in Rule 10.2(c)(v).

- (h) **Limit on this Rule for Legal Disability or Family Law Act proceedings.** The provisions of this Rule, other than those which require mediation or recourse to a court of law, shall not apply where:
 - (i) the Disputed Actions concern the payment of benefits of a Member who is under a Legal Disability; or
 - (ii) where one or more of the Members is party to proceedings under the Family Law Act.
- (i) **When this Rule does not apply.** The preceding provisions of this Rule shall not apply if the Disputed Actions would be:
 - (i) illegal; or
 - (ii) reasonably likely, in the opinion of the Fund's auditor, to cause:
 - A. a breach of the Act and Regulations; or
 - B. part or all of the Fund's income to be non-arm's length income.
- (j) **Continuation of good governance.** During any period where this Rule applies, the individual Trustees, or Directors of a Corporate Trustee shall continue to deal with each other in good faith and undertake all elements of their duties in a timely fashion.
- (k) **Preservation of Rights.** Apart from as otherwise specifically provided, nothing in this Rule shall prevent one or more parties from pursuing their usual legal and equitable rights and entitlements.
- (l) **Parties may voluntarily withdraw.** All of parties who served Disputed Actions Notices may jointly, by further notice in writing to all of the other individual Trustees or Directors of a Corporate Trustee, withdraw their Disputed Actions Notice, however the withdrawing parties must agree to:
 - (i) their Member Benefit Accounts being debited with all of the Fund's expenses in relation to the Disputed Actions accrued after the Disputed Actions Notice was given; or
 - (ii) a portion of the Fund's expenses in relation to the Disputed Actions, which is agreed between all Trustees or all Directors, being debited to their Member Benefit Accounts; or
 - (iii) a mediation in accordance with this Rule being held, which is restricted to a decision on the allocation of such expenses.

10.3 Members' meetings

- (a) **When to hold meetings.** 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 Members having at least 25% of the amount of the account balances of the current Members.
- (b) **How to call a meeting.** In order to convene a Members' meeting, the Trustees must give to each Member not less than 7 days 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. No notice and no meeting is required in the case of a sole Member.
- (c) **Appointing a chair.** 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) **Capacity of meetings.** Subject to the requirements of these Rules and to the Act and 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 Members' meeting.
- (e) **Quorum.** 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) **Voting by proxy.** 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, subject to the following requirements:

- (i) the person nominated as proxy must carry into and put before the meeting an authority, signed by the Member in whose place the proxy is attending, in a form approved by the Trustee.
- (ii) a person may be nominated as a proxy for one meeting only. The same person may be nominated for any subsequent meeting.
- (iii) a person nominated as proxy must vote strictly in accordance with the directions of the appointing Member. A proxy, who is not otherwise a Member, is not further entitled to participate in the discussions and conduct of the meeting.

10.4 Member dies or becomes Legally Disabled

If a Member dies or becomes Legally Disabled, the Member's legal personal representative has a right to attend meetings of Members and to vote as a Member at any meeting of Members and:

- (a) upon the Member's legal personal representative becoming a Trustee where the Trustee of the Fund is or are natural persons, has a right to vote as a Trustee; and
- (b) upon the Member's legal personal representative becoming a Director of the Corporate Trustee where the Trustee is a Constitutional Corporation, has a right to vote as a Director of the Corporate Trustee.

10.5 Circular resolution.

Members may pass a resolution without a meeting of Members if all of the Members:

- (a) sign a document stating that they are in favour of the resolution in which case duplicate copies of the document may be used; and/or
- (b) indicate electronically that they are in favour of the resolution in which case separate electronic communications and/or forms of electronic communications may be used,

and a resolution is deemed to be passed at the time when the last Member signs or confirms they are in favour of the resolution.

11. INQUIRIES AND COMPLAINTS

- (a) **Dealing with complaints.** The Trustee must, within 90 days, consider any inquiry or complaint by one or more Members which has been raised either in a Members' meeting or in writing. Where an inquiry or complaint is not dealt with to the satisfaction of the Member or Members within that time, the parties must arrange for a convenient time and place to meet with each other, for the purpose of resolving the matter.
- (b) **Conduct of meetings.** The parties present at a meeting under Rule 11(a):
 - (i) may, by agreement, appoint a person to chair the meeting, but it is not necessary to do so;
 - (ii) must appoint a person to take and distribute, to all parties in attendance, written minutes of the proceedings; and
 - (iii) may agree to convene one or more further meetings to address the issues in dispute.

12. ADMINISTRATIVE MATTERS

12.1 Interpretation of these Rules

Subject to the Relevant law, the interpretation and application of these Rules will be determined by the Trustee and that determination will be binding and final.

12.2 Effect of changes in Relevant Law

The Trustee is authorised and empowered to act in accordance with the Relevant Law (including the requirements for the Fund to be a complying superannuation fund and a Regulated Superannuation Fund) and, to the extent that there is any inconsistency between these Rules and the Relevant Law, the Relevant Law will prevail. For the avoidance of doubt and regardless of the terms of these Rules:

- (a) the Trustee may act in accordance with the Relevant Law regardless of the terms of these Rules;
- (b) the Trustee must act in accordance with the Relevant Law where the provisions of the Relevant Law are mandatory;
- (c) the Trustee is authorised to do any act or thing which is permitted by the Relevant Law regardless of the terms of these Rules;
- (d) the Trustee is authorised to refrain from doing any act or thing which is restricted or prohibited by the Relevant Law regardless of the terms of these Rules.

12.3 Limits on rights of Members

No person, whether as a Member or otherwise, will have any claim, right or interest to, in respect of, or against the Trustee, the Fund, or any contributions made to the Fund, except under and in accordance with these Rules.

12.4 Right to inspect

Every Member has the right to inspect a copy of these Rules, at a time and a place which is convenient to the Trustee.

12.5 Confidentiality

- (a) **Confidential Information.** Subject to the Relevant Law, no Member has any right to enquire, or to be given any information concerning the interest of another Member.
- (b) **Other confidential information.** The Trustee must observe strict confidentiality with regard to the affairs, accounts and transactions of the Fund, but this does not prevent the publication of financial, statistical or other information to all Members, generally, whenever the Trustee decides.

12.6 Receipts and payments with assets

Subject to Rule 5.9 and to the Act and Regulations, where:

- (a) any contribution, benefit or entitlement of a Member or Members is or are payable, transferable or receivable by or to the Fund; or
- (b) any liabilities incurred by or on behalf of the Fund are to be satisfied; or
- (c) any property is due to or is to be acquired by the Fund,

the Trustee may, with the agreement of the person to or from whom a payment is required to be made, in lieu of money, and at its discretion, make or receive settlement of the relevant amount by:

- (d) transferring, in specie, property of the Fund to; or
- (e) receiving a transfer of property from, that person, at the property's Market Value.

12.7 Members to provide information

Every Member and every person claiming a benefit or entitlement, or receiving a Pension, or other benefit or entitlement, must give the Trustee any information or authorisation and produce any documents which the Trustee considers necessary for the purposes of giving effect to these Rules.

12.8 Variation provision

The Trustee may at any time amend, revoke, replace or modify all or any of the Governing Rules and/or the provisions of these Rules, by deed or other written instrument, or by resolution in writing. Any amendment, revocation, replacement or modification must not:

- (a) alter the objects of the Fund;
- (b) reduce the benefits and entitlements payable to Members without the prior written approval of the Members unless the amendments are required to comply with the Relevant Law;
- (c) alter the rights and benefits of existing Members in any manner so that, on the whole, equity between Members is not maintained in accordance with their Member Benefit Account balances;
- (d) where the Fund holds Member-contributed WA Property and/or Member-contributed NSW Property, alter the undertakings contained in Rule 2.6 or 2.7; or
- (e) be contrary to or inconsistent with the Act and Regulations.

12.9 Additional variation provision

- (a) Provided the Fund is subscribed to and recorded as Active on superdepot.net.au (the "Site"), SuperDepot Pty Ltd ACN 122 036 248 may at any time amend, revoke, replace or modify all or any of the Governing Rules and/or the provisions of these Rules, by uploading new Governing Rules to the records of the Fund on the Site. Any amendment, revocation, replacement or modification must not:
 - (i) alter the objects of the Fund;
 - (ii) reduce the benefits and entitlements payable to Members without the prior written approval of the Members unless the amendments are required to comply with the Relevant Law;
 - (iii) alter the rights and benefits of existing Members in any manner so that, on the whole, equity between Members is not maintained in accordance with their Member Benefit Account balances;

- (iv) where the Fund holds Member-contributed WA Property and/or Member-contributed NSW Property, alter the undertakings contained in Rule 2.6 or 2.7; or
 - (v) be contrary to or inconsistent with the Act and Regulations.
- (b) Where the Fund is subscribed to and recorded as Active on the Site, any new Governing Rules uploaded by SuperDepot Pty Ltd ACN 122 036 248 to the records of the Fund on the Site will be taken to be the Governing Rules of the Fund as from the date of upload and the then existing Governing Rules will be replaced by the new Governing Rules.
 - (c) The Trustee may exercise the power in Rule 12.8 to revoke all or any of the new Governing Rules at any time.
 - (d) The Trustee delegates the power to amend, revoke, replace or modify all or any of the Governing Rules and/or the provisions of these Rules to SuperDepot Pty Ltd ACN 122 036 248, but only whilst the Fund is subscribed to and recorded as Active on the Site.

12.10 Saving provision

The exercise of the power in Rule 12.8 or Rule 12.9 will not invalidate or alter the terms of any:

- (a) Binding Death Nomination given by a Member;
- (b) Death Benefit Rule made between the Trustee and by a Member;
- (c) Pension rules in respect of Pensions commenced to be paid prior to the exercise of that power;
- (d) Superannuation will or other testamentary instrument executed by a Member prior to the exercise of that power,

and whether or not the terms of, or provisions applicable to, any of them does not comply with the operative Governing Rules of the Fund applying after the exercise of that power.

13. WINDING UP THE FUND

13.1 Conditions for termination

The trusts created by these Rules will terminate:

- (a) where the Members, by unanimous resolution vote to wind up the Fund;
- (b) where the Trustee becomes aware that the Fund is insolvent, on the day on which the Regulator's permission to wind-up is obtained; or
- (c) in any other circumstances when there are no Members or Beneficiaries and the Trustee considers it to be unlikely that there will be any new Members, on the day determined by the Trustee.

13.2 Steps to take on winding-up

When it becomes clear to the Trustee that Rule 13.1 will apply, the Trustee will take all necessary steps to distribute any remaining assets of the Fund and to satisfy any outstanding liabilities, and will then:

- (a) notify any remaining interested parties of its intention to wind-up the Fund;
- (b) notify the Regulator and the Taxation Commissioner of its intention to wind-up the Fund;
- (c) comply with any other requirements of the Act and the Regulations concerning the winding-up of Funds; and
- (d) take any further steps which, in the Trustee's opinion, are required to wind-up the Fund.

SCHEDULE 1

Dictionary

Many of the terms you will encounter in these Rules are specifically defined in the Superannuation Industry (Supervision) Act 1993 (Cth) or any one of a number of other pieces of Commonwealth legislation. Due to the complex nature of superannuation, the definitions used by the legislation and by the documents establishing your Fund can be difficult to read and / or understand.

Please seek professional advice if you are unsure about any matter concerning your Superannuation Fund.

The Dictionary uses plain English versions of some definitions. These must be used as a guide to interpreting these Rules. **PLEASE NOTE** that the definitions set out in the Relevant Law will apply to these Rules regardless of the terms provided in the Dictionary.

Not all of the definitions in the legislation are included in this Dictionary. If you require clarification of any defined term or have any questions about these Rules or about anything you do not understand you should immediately contact your accountant or legal advisor.

PART 1

REFERENCES TO THE ACT

- (a) Unless otherwise stated, references to sections or regulations appearing after defined terms refer to sections of the Act or Regulations.
- (b) Any terms or expressions used in these Rules which are not defined in these Rules have the meanings given to them by the Act or the Regulations as the case requires.

PART 2

DEFINITIONS

In these Rules, unless the context or subject matter requires otherwise:

Act means the Superannuation Industry (Supervision) Act 1993 (Cth);

Additional Insurance means insurance effected by the Trustee to provide benefits in addition to the Trustee's liability to pay Total and Temporary Disablement Benefits, Total and Permanent Disablement Benefits or Death Benefits;

Adopted Child means a person adopted by another person under any law of (or recognised in) any state or territory of Australia relating to the adoption of children; **section 10**

Annuity means a benefit which meets the standards of Regulation 1.05; **Reg 1.05**

Anti-detriment Payment, means a payment made pursuant to Section 295-485 of the Tax Act;

Approved Auditor means a person included in a class of persons specified in the Regulations, but excludes a person disqualified under the Act; **section 10**

Approved Deposit Fund has the meaning given by the Act; **section 10**

APRA means the Australian Prudential Regulation Authority;

ASIC means the Australian Securities and Investments Commission;

Associate has the meaning given by section 12 of the Act; **section 10**

Beneficiary means a person who has a beneficial interest in the Fund and includes, in all cases, the legal personal representative of such a person; **section 10**

Benefit Account means an account established and maintained under Rule 9.2;

Benefit Payment Insurance means insurance effected by the Trustee to discharge the Trustee's liability to pay Total and Temporary Disablement Benefits, Total and Permanent Disablement Benefits or Death Benefits;

Binding Death Nomination means a nomination which complies with Rule 5.4;

Cashing Restriction means, in relation to a Condition of Release, the corresponding cashing restriction specified in Column 3 of Schedule 1 to the Regulations;

Child, in relation to a person, includes:

- (a) an Adopted Child, a step child or an ex nuptial child of the person; and
- (b) a child of the person's Spouse; and
- (c) a person who is a child of the person within the meaning of the Family Law Act 1975; **section 10**

Civil Penalty Provision has the meaning in section 193 of the Act;

Collectables has the meaning given by the Act: **section 62A**

Condition of Release means a condition of release specified in Column 2 of Schedule 1 to the Regulations;

Constitutional Corporation means a trading corporation or a financial corporation formed within the Commonwealth (within the meaning of paragraph 51(xx) of the Commonwealth of Australia Constitution Act); **section 10**

Contributions Cap means a Member's concessional contributions cap or non-concessional contributions cap for the purposes of the Income Tax Assessment Act 1997; **section 291-20 and section 292-85**

Control, for the purpose of Part 8 has the meaning given in section 70E of the Act;

Corporate Trustee means a Constitutional Corporation that is a Trustee; **section 10**

Corporations Act means the Corporations Act 2001 (Cth);

Custodian means a person (other than a Trustee) who, under a contract with a Trustee or an Investment Manager, performs custodial functions in relation to any of the assets of the Fund; **section 10**

Death Benefit means a benefit payable under Rule 5.3(g);

Death Benefit Pension, means a new pension which commences to be payable from the Fund to a beneficiary of a deceased Member, after that Member's death;

Death Benefit Rule means an agreement between the Trustee and a Member which complies with Rule 5.5;

Dependant includes a Spouse, any Child and any person with whom a person has an Interdependency Relationship; **section 10**

Director has the same meaning as in the Corporations Act;

Disqualified Person has the meaning given by the Act; **section 120**

Downsizer Contribution has the meaning given by the Regulations; **Reg 7.04**

Employee has its natural meaning as that meaning is contained and expanded by section 15A of the Act; **section 10 section 15A**

Employer has its natural meaning as that meaning is contained and expanded by section 15A of the Act; **section 10 section 15A**

Employer Sponsor means an Employer who does or would contribute to the Fund for the benefit of:

- (a) a Member who is an Employee of the Employer or its Associate; or
- (b) the Dependants of the Member on the death of the Member; **section 16**

Entity means an individual, a body corporate, a partnership, or a trust;

EPSSS means an exempt public sector superannuation scheme; **Reg 1.03**

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

Full-time means Gainfully Employed for at least 30 hours each week; **Reg 1.03**

Fund means the superannuation fund, the Trustee of which has adopted these Rules;

Gainfully Employed or **Gainful Employment** means employed or self-employed for gain or reward in any business, trade, profession, vocation, calling, occupation or employment; **Reg 1.03**

Governing Rules or **Rules** means the governing rules (as defined in the Act) of the Fund which include these rules and any provision applied to the Fund by any Relevant Law; **section 10**

Government Co-contributions means contributions made in respect of a Member by the Government under

Interdependency Relationship means circumstances in which 2 persons (whether or not related by family):

- (a) have a close personal relationship, live together, one or each of them provides the other with financial support and one or each of them provides the other with domestic support and personal care; or
- (b) have a close personal relationship but do not satisfy paragraph (a) because either or both of them suffer from a physical, intellectual or psychiatric disability,

but excludes relationships which are excluded by the Regulations; **section 10 section 10A**

Investment Manager means a person appointed by a Trustee to Invest on behalf of the Trustee; **section 10**

In-house Asset has the meaning given in Part 8 of the Act;

Lease Arrangement means any agreement, arrangement or understanding in the nature of a lease (other than a lease) between the Trustee and another person, under which the other person is to use, or control the

use of, property owned by the Fund, whether or not the agreement, arrangement or understanding is enforceable, or intended to be enforceable, by legal proceedings;

Legal Disability or Legally Disabled in relation to a natural person means a lack of legal capacity because the person is:

- (a) a minor;
- (b) an intellectually disabled person who is liable to have their affairs administered by another person under any law dealing with the intellectually disabled; or
- (c) suffering from a mental illness or is mentally disabled and who is liable to have their affairs administered by another person under any law dealing with mental health or the mentally disabled;

Legal Personal Representative means the executor of the will or administrator of the estate of a deceased person, the trustee of the estate of a person under a legal disability or a person who holds an enduring power of attorney granted by a person;

Loan includes the provision of credit or any other form of financial accommodation, whether or not enforceable, or intended to be enforceable, by legal proceedings;

Mandated Employer Contributions means contributions required to be made by, or on behalf of, an Employer that are equal to the sum of:

- (a) the contributions to be made by, or on behalf of, the Employer to the Fund in relation to a Member, that:
 - (i) reduce the Employer's potential liability under section 5 of the Superannuation Guarantee Charge Act 1992; or
 - (ii) are payments of shortfall components under the Superannuation Guarantee (Administration) Act 1992; and
- (b) the contributions (other than contributions specified in (i)) to be made by, or on behalf of, the Employer to the Fund in relation to a Member in or towards satisfaction of the Employer's obligation to make contributions for the Member under an agreement certified, or an award made, on or after 1 July 1986 by an industrial authority;

Market Value means the amount that a willing buyer of an asset could reasonably be expected to pay to acquire the asset from a willing seller if the following assumptions were made:

- (a) that the buyer and the seller dealt with each other at arm's length in relation to the sale; and
- (b) that the sale occurred after proper marketing of the asset; and
- (c) that the buyer and the seller acted knowledgeably and prudentially in relation to the sale; **section 10**

Member means any person who has become a member of the Fund and who has not ceased to be a Member, and:

- (a) where the Fund is a Self Managed Superannuation Fund; or
- (b) in all other cases, unless the Trustee declares otherwise by resolution in writing,

includes a person who receives a Pension, or who has deferred his or her entitlement to receive a benefit from the Fund; **section 10**

Membership Application means an application to be admitted as a Member in a form which the Trustee approves;

Member-contributed NSW Property means dutiable property for the purposes of the Duties Act 1997 (NSW), which is transferred to the Trustee of the Fund by a Transferor and, in respect of which property, duty has been assessed and paid under section 62A of the Duties Act 1997 (NSW), and includes the proceeds of the sale of the whole or part of any such property;

Member-contributed WA Property means dutiable property for the purposes of the Duties Act 2008 (WA), which is transferred to the Trustee of the Fund by a Transferor and, in respect of which property, stamp duty has been assessed and paid under section 122 of the Duties Act 2008 (WA), and includes the proceeds of the sale of the whole or part of any such property;

Minimum Benefit means all of a Member's benefits in the Fund;

Non-commutable Income Stream has the meaning given by the Regulations; **Reg 6.01**

Non-concessional Contribution has the meaning given in the Income Tax Assessment Act 1997; **section 995-1 and section 292-90**

Non-member Spouse means a person who is the non-member spouse in relation to a Payment Split; **Reg 1.03**

Normal Retirement Benefit is the benefit to which a Member who meets the criteria set out in Rules 5.2(a) or 5.2(b) is entitled and which is calculated in accordance with Rules 5.3(b) and 5.3(c);

Old-age Pension has the meaning in paragraph 51(xxiii) of the Commonwealth of Australia Constitution Act; **section 10**

Part 8 Associate, in relation to an Entity has the meanings given in Subdivision B of Part 8 of the Act;

Part-time Basis means Gainfully Employed for at least 40 hours in a period of 30 consecutive days during a Year of Income;

Payment Split, means a payment split under Part VIIIB of the Family Law Act;

Pension, except in the expression **Old-age Pension**, includes a benefit provided by the Fund, if the benefit is taken, under the Regulations, to be a pension for the purposes of the Act; **section 10**

Preservation Age means:

- (a) for a person born before 1 July 1960--55 years; or
- (b) for a person born during the year 1 July 1960 to 30 June 1961--56 years; or
- (c) for a person born during the year 1 July 1961 to 30 June 1962--57 years; or
- (d) for a person born during the year 1 July 1962 to 30 June 1963--58 years; or
- (e) for a person born during the year 1 July 1963 to 30 June 1964--59 years; or
- (f) for a person born after 30 June 1964--60 years.

Preserved Benefits means the total of all benefits and entitlements standing to the credit of the Member's Benefit Account, less the sum of:

- (a) Restricted Non-preserved Benefits; and
- (b) Unrestricted Non-preserved Benefits;

Regulated Superannuation Fund means a Superannuation Fund which has a trustee and:

- (a) the trustee is a Constitutional Corporation as required by its trust deed or governing rules; or
- (b) the trust deed or governing rules provide that the sole or primary purpose of the fund is the provision of Old-age Pensions,
- (c) and in relation to which the trustee has elected in writing in a form approved by the Regulator that the Act will apply to the fund; **section 10 section 19**

Regulations means the Superannuation Industry (Supervision) Regulations 1994 (Cth);

Regulator means the body having the responsibility for administering the Act and the activities of the Fund and includes APRA, ASIC or the Taxation Commissioner; **section 10**

Related Party means any of the following:

- (a) a Member;
- (b) a Standard Employer Sponsor;
- (c) a Part 8 Associate of a person or entity referred to in paragraph (a) or (b); or
- (d) a Non-member Spouse with a Superannuation Interest;

Related Trust has the meaning given by the Act; **section 10**

Relative of an individual (except in Rule 1.5) means the following:

- (a) a parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or Adopted Child of the individual or of his or her Spouse;
- (b) the Spouse of the individual or of any other individual referred to in paragraph (a),

and for the purposes of paragraph (a), if one individual is the child of another individual because of the definition of Child in these Rules, relationships traced to, from or through the individual are to be determined in the same way as if the individual were the natural child of the other individual;

Relevant Law means the Act and Regulations, the Tax Act, the Corporations Act and any other laws governing the provision of superannuation and retirement benefits in Australia, from time to time and any regulations made under them;

Restricted Non-preserved Benefits means the total of the amount of any restricted non-preserved benefits that are received from another Regulated Superannuation Fund, a Retirement Savings Account established under the Retirement Savings Account Act 1997, or an EPSSS;

Retire means:

- (a) where a person has reached at least their Preservation Age and is less than 60 years of age, an arrangement under which the Member was Gainfully Employed has come to an end and the Trustee is reasonably satisfied that the Member intends never again to become Gainfully Employed on at least a Part-time Basis;
- (b) where a person is at least aged 60 years and less than 65 years, an arrangement under which the Member was Gainfully Employed ceased on or after the Member's 60th birthday;
- (c) where a person is at least aged 65 years, this definition is not relevant, as other provisions govern the permissibility or compulsion to take superannuation benefits;

Retirement Phase has the meaning given in the Income Tax Assessment Act 1997; **section 995-1 and section 307-80**

Reversionary Pension means a Pension which continues to be paid to one or more reversionary beneficiaries after the death of the Member who was receiving that Pension immediately before his or her death;

RSA or Retirement Savings Account has the meaning given in the Act; **section 10 and section 8 of the Retirement Savings Accounts Act 1997**

Self Managed Superannuation Fund or SMSF, has the meaning given in the Act; **section 17A**

Splittable Contribution has the meaning given in Rule 6.4(a);

Splitting Order means a splitting order under Part VIII B of the Family Law Act;

Spouse of a person includes:

- (a) another person (whether of the same sex or a different sex) with whom the person is in a relationship that is registered under a law of a State or Territory prescribed for the purposes of Section 22B of the Acts Interpretation Act 1901 (Cth) as a kind of relationship prescribed for the purposes of that section; and
- (b) another person who, although not legally married to the person, lives with the person on a genuine domestic basis in a relationship as a couple; **section 10**

Standard Employer Sponsor means, an Employer Sponsor who does or would contribute, wholly or partly pursuant to an arrangement between the Employer Sponsor and the Trustee;

Superannuation Fund means:

- (a) a fund that is:
 - (i) an indefinitely continuing fund; and
 - (ii) a provident, benefit, superannuation or retirement fund; or
- (b) a public sector superannuation scheme;

Superannuation Interest means a beneficial interest in the Fund; **section 10**

Superannuation Lump Sum has the meaning given by subsection 995-1(1) of the Tax Act;

Tax Act means, as the case requires, the Income Tax Assessment Act 1936 (Cth), or the Income Tax Assessment Act 1997 (Cth);

Taxation Commissioner means the person appointed or acting as the Commissioner of Taxation under the Taxation Administration Act 1953 (Cth);

Temporary Incapacity means ill-health (whether physical or mental) that caused a Member to cease to be Gainfully Employed but does not constitute Total and Permanent Disablement;

Terminal Illness Benefit means a benefit payable under Rule 5.3(f);

Terminally Ill means a condition that the Member is suffering, which two medical practitioners (at least one of these a specialist) certify would, in the normal course, result in death within a period of 24 months;

Total and Permanent Disablement means ill-health (whether physical or mental), where the Trustee is reasonably satisfied that the Member is unlikely, ever again to engage in Gainful Employment for which the Member is reasonably qualified by education, training or experience;

Total and Permanent Disablement Benefit means a benefit payable under Rule 5.3(d);

Total and Temporary Disablement Benefit means a benefit payable under Rule 5.3(e);

Transfer Balance Cap has the meaning given in the Tax Act; **section 995-1 and section 294-35 and section 294-185**

Transferor means a Member who transfers Member-contributed WA Property or Member-contributed NSW Property to the Trustee of the Fund;

Trustee means the first Trustee of the Fund and / or any other person appointed as an addition to or replacement or substitute for that person. The Trustee may be one or more persons at any time;

Unrestricted Non-preserved Benefits means the sum of:

- (a) the total of the Member's Unrestricted Non-preserved Contributions;
- (b) the amount of the Member's Preserved Benefits and Restricted Non-preserved Benefits which have met a Condition of Release and have a nil Cashing Restriction;
- (c) the amount of unrestricted non-preserved benefits received by the Fund in respect of the Member on or after the day on which the Fund becomes a Regulated Superannuation Fund; and
- (d) the investment earnings on the amounts specified in paragraphs (a) and (c) for the period before 1 July 1999,

less administrative, insurance and taxation costs and other direct costs relating to the establishment, operation and termination of the Fund applicable to the amounts in (a) to (d) above at the relevant time;

Unrestricted Non-preserved Contributions has the meaning given by the Regulations; **Reg 6.10**

Year of Income means the period from 1 July of a 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. **section 10**

For further information please contact your accountant, financial planner, lawyer or other advisor or go to www.ato.gov.au.