

12.2 The Trustee of the Fund may enter into any Contract of Life Insurance both within and outside Australia issued by any life insurance company, friendly society or other entity that provides insurance to Trustees or Members of a SMSF provided that the Superannuation Laws allow. Any premiums paid by the Trustee of the Fund may be deducted from Earnings of the Fund but may alternatively be deducted from one or all Member Superannuation Interests or Reserve Accounts. Where the Trustee is prohibited under the Superannuation Laws from acquiring a specific type or style of Contract of Life Insurance the Trustee must not acquire this policy.

Warning: *The Commissioner has noted that if insurance premiums have been deducted from a Member's account then any payout should be made to that account. Any premium repayments made from General Expenses of the Fund may not be deductible to the Fund. SISR 4.07D limits the types of insurance policies and proceeds that the Fund may receive where the policy is entered into after 1 July 2014. The allowed types include permanent disability, temporary incapacity and life insurance benefits.*

12.3 The Trustee of the Fund is authorised to create a Self Insurance Reserve Account with such terms and conditions as the Trustee decides provided that the Superannuation Laws allow.

12.4 No Member, Dependant of a Member, Legal Personal Representative of a Member or any other person has any interest in any Contract of Life Insurance or Self Insurance Reserve Account held by the Trustee even where it may be held in the name or for the benefit of the Member unless required by the Superannuation Laws or the Regulator.

12.5 Subject to the Superannuation Laws at the time, the Trustee may distribute, transfer or otherwise deal with any proceeds or distribution payable from or pursuant to a Contract of Life Insurance in accordance with any Insurance Strategy.

12.6 No Member, Dependant of a Member, Legal Personal Representative of a Member or any other person has any interest in the proceeds or distribution from a Contract of Life Insurance or Self Insurance Reserve Account.

Part Three - Rules to Maintain and Operate the Fund

Rule 13 – Fund Assets, Contracts and Transactions to be in Trustee's Name

13.1 The Trustee is to hold all Assets of the Fund in the name of the Trustee; however, a Custodian may hold an Asset on behalf of the Trustee provided the Superannuation Laws allow. Where there is a change in name of the Trustee or a change in Trustee, the Trustee, as soon as practicable, must register all of the Fund's assets to reflect the change of name of the Trustee.

Note: *Where the Trustee of the Fund is a Corporate Trustee any change in Membership of the Fund by an additional Member or a Member's death requires a change of Directorship of the Corporate Trustee. This change does not require a change in investment registers or titles offices in which the Fund holds investments. In contrast, SMSFs with individual Trustees where there is an addition of a new Member Trustee, or the death of a previous Member Trustee, require the Trustees to provide appropriate notification to all investment registers and titles offices of the changes to the Trustee of the Fund.*

13.2 Any contract, transaction or agreement of whatever nature undertaken by the Fund must be in the name of the Trustee unless the Trustee has appointed a Custodian or other person to act on behalf or as agent for the Trustee.

Note: *The Superannuation Laws state that "SIS regulation 4.09A requires that a trustee of an SMSF keeps money and other assets of the fund separate from any money or assets held by the trustee personally or by a standard employer-sponsor or an associate of a standard employer-sponsor."*

13.3 No Member, Dependant of a Member or deceased Member, Member's Legal

Personal Representative, deceased Member's Legal Estate, Spouse, former Spouse or other Beneficiary, Employer Sponsor or Related Party of the same has any right, entitlement to any Asset of the Fund or may enter into any contract, transaction or agreement of whatsoever nature with the Fund unless the Superannuation Laws allow and the Fund continues to retain its Complying SMSF status.

- 13.4** Where the Trustee enters into a transaction, arrangement, declaration or agreement, whether in writing or orally and the transaction, arrangement, declaration or agreement would result, in the opinion of the Fund's Auditor, that the Fund may be treated as a Non-Complying SMSF or be subject to a fine, the Trustee and other party to the transaction, arrangement, declaration or agreement are to treat the actions as void ab-initio. The Trustee is to ensure that both parties are to be put in, as best as possible, the same financial condition as arose prior to the entering into of the relevant transaction, arrangement, declaration or agreement.

Rule 14 – Trustee Responsibilities

- 14.1** It is the responsibility of the Trustee, at all times, including under any Trustee Law to:

- a) Ensure that the Fund remains a Complying SMSF;
- b) Ensure that the Fund Trust Deed and Rules remain current and duly executed;
- c) Act honestly in all matters concerning the Fund;
- d) Exercise, in all matters affecting the Fund and its Members, the same degree of care, skill and diligence as any normal prudent Trustee;
- e) Ensure that the Trustee's duties and powers are performed and exercised in the best interests of Members of the Fund;
- f) Not enter into any contract, transaction or agreement or do anything that would prevent or hinder the Trustee in suitably performing or exercising the Trustee's functions and powers;
- g) Disclose any conflict of interest in any dealing with or undertaking any transaction or investment on behalf of the Fund;
- h) Provide to Members access to all and any information required to be given or viewed by Members under the Superannuation Laws but subject to the *Privacy Act 1988*;
- i) Ensure the efficient administration of the Fund including, but not limited to, the payment of all taxes, excess contributions taxes and other imposts that must be paid by the Fund and the lodgement of all compulsory documentation to the Regulator in respect of the Fund and ensure that the Fund meets its Superannuation Law compliance responsibilities;
- j) Keep all records, documents and minutes of valid Trustee meetings to enable the efficient administration and audit of the Fund by the Auditor and the Regulator so as to comply with all Superannuation Laws in respect of the keeping of records, documents and minutes for the Fund;
- k) Notify the Regulator, in accordance with the provisions of the Superannuation Laws, of significant events and other events that occur in the Fund including any change in Trustee where required. The Trustee is to notify the Regulator of these events within the time period required;
- l) Not seek to delegate Trustee powers and responsibilities under the Rules of the Fund or the Superannuation Laws unless otherwise permitted;
- m) Keep informed of the Superannuation Laws, and if required by the Superannuation Laws or the Regulator, undertake any education or other mandatory or voluntary knowledge requirements;

- n) Deal with the Regulator and any other regulatory authority as required under the Superannuation Laws;
- o) Create an Investment Strategy as well as an Insurance Strategy for the Fund;
- p) Be aware of any changes to the Superannuation Laws that requires the Trustee of the Fund to remain a Complying SMSF;
- q) Pay on time any fines levied by the Regulator or Court; and
- r) Engage in such further conduct as required by the Superannuation Laws and the Regulator.

14.2 The Trustee must not be paid or otherwise receive any remuneration for acting or carrying out its responsibilities as Trustee of the Fund unless otherwise permitted under the Superannuation Laws and/or any determination by the Regulator.

14.3 Where required by the Superannuation Laws, the Trustee may hear any complaint by a Member or their Legal Personal Representative regarding the Member's Superannuation Interest or Superannuation Benefit. The Trustee must attend to the complaint in a timely manner and respond to the complainant in an appropriate method.

Rule 15 – Trustee Powers

15.1 Subject to the Superannuation Laws, the Trustee has unlimited powers as to the administration and control of the Assets of the Fund, including but not limited to segregating and/or partitioning of an Asset of the Fund for the sole or exclusive benefit of one or more Members of the Fund to ensure concessional taxation, exemption taxation, concessional or exempt stamp duties or land taxes. The administration and control of the Assets of the Fund by the Trustee are identical to those as if the Trustee were the legal and absolute beneficial owner of those Assets. These include the right to sell, call in, convert into money, grant options or rights to purchase, mortgage, charge, sub-charge, or otherwise deal with or dispose of or transfer any item, Asset or part of an Asset comprising the whole or part of the Fund including a Member's Superannuation Interest or a Reserve Account.

15.2 The Trustee has all the powers that a Trustee has at law and all the powers specifically conferred on the Trustee by these Rules or the Superannuation Laws including, but not limited to the powers to:

- a) **engage SMSF Professionals and other advisers:** employ or engage agents, administrators, accountants, financial planners, lawyers or other professionals in the execution of transactions, undertakings, acquisitions, disposal and other powers of the Trustee and to transact any business or to do any act required to be done in connection with the administration, maintenance or on-going operation of the Fund including engaging a SMSF Auditor and to act upon the opinion or advice of any such person without being responsible for any loss or damage occasioned by acting in accordance therewith;
- b) **enter into contracts and undertake transactions:** enter into contracts, undertakings and other transactions for the benefit of the Fund and its Members whatsoever and wheresoever situate including both within Australia and outside Australia;
- c) **acquire and dispose of corporate, trust securities or equity or hybrid equity interest of any other entity:** acquire or dispose of any company, trust, partnership or other entity in which the Trustee holds an equity or equity like interest including shares, stocks, debentures, options, convertible notes, hybrid securities or is otherwise interested or concerned ("securities") and to exercise all of the powers authorised under the constituent and any other relevant documents concerning the powers of equity, debt and other interest holders of the entity;

- d) **acquire Insurance Policies:** acquire such insurance policies as the Trustee deems appropriate for the circumstances, provided the Superannuation Laws allow the Trustee to effect or acquire policies of insurance from entities within or outside Australia in respect of any Asset of the Fund or on or in respect of the life of any Member concerning sickness, incapacity, trauma or accident to any Member, to pay premiums, transfer, surrender, change the status of and deal with these policies in any manner whatsoever, whether or not these policies are individual policies on the life of one person or a group policy on the lives of two or more persons, to purchase or enter into insurance or investment bonds whether or not the bonds are linked to a policy over the life of any person and such other policies as may be appropriate, including but not limited to insurance to cover audit fees or penalties;
 - e) **deal with real property:** acquire, dispose of, develop, turn into fractional or part interests, exchange, strata title, subdivide, partition within the Fund for a Member or specific Member's benefit, mortgage, sub-mortgage, lease, sub-lease, grant, maintain, insure, improve, renovate, re-lease or vary any right or easement or otherwise deal with any interest in real property;
 - f) **enter into lease arrangements:** rent premises from any person, acquire the interest of any lessee in any lease, purchase, hire, take on lease, grant leases, sub-leases, tenancies or rights of any nature to any interest in real estate, motor vehicles, computer hardware and software, fixtures and fittings, furniture, utensils, plant and equipment and other personal property of any description;
 - g) **lease property owned by the Fund:** lease and let property owned by the Fund or held by the Trustee pursuant to the provisions of these Rules and the Superannuation Laws upon terms and conditions as the Trustee may decide, to accept surrenders from, and to make arrangements with a lessee or tenant as the Trustee may consider appropriate;
 - h) **lend money:** lend Assets of the Fund, including money, subject to the Superannuation Laws and the Fund retaining its Complying SMSF status and not being penalised to lend and advance moneys including to related companies, trusts and other entities including an employer provided the Trustee monitors the in-house Assets nature of any loan; however, the Trustee shall not lend to Members or their Relatives whilst there is a prohibition against this lending in the Superannuation Laws and any such loan arrangement will be treated as void ab-initio with the borrower required to pay back any such advanced monies of the Fund immediately;
 - i) **borrow money:** borrow money, subject to the Superannuation Laws and the Fund retaining its Complying SMSF status, to borrow or raise any financial accommodation in respect of the acquisition of a single acquirable Asset including under an arrangement such as an instalment warrant or other borrowing or limited recourse lending arrangement allowed and in accordance with the SISA sections 67, 67A and 67B or any other section allowing a Trustee of a SMSF to borrow under the Superannuation Laws, and to assign, pledge, mortgage or charge any of the Fund as security for such financial accommodation;
- Note:** *The limited recourse lending laws contained in the SISA, sections 67A and 67B, provide an exemption to the Trustee borrowing money. However, without a specific borrowing power – aligning the Rules with the borrowing exemptions – the Trustee cannot borrow even if it meets the exemption conditions in section 67A.*
- j) **bank bills:** raise money in any lawful manner including by drawing, endorsing, accepting or otherwise dealing with any bill of exchange, promissory note or other negotiable instrument. The Trustee may secure the repayment of any moneys so raised with interest or repayments at such rate as the Trustee thinks fit and upon any terms and conditions in all respects as the Trustee

thinks fit. Any money raised by the Trustee will form part of the Fund;

- k) **to create trusts and legal entities:** create trusts, companies and other entities for the purpose of investment, carrying out a business or doing any other thing by the Trustee including any Bare Trust, custodian trust, Holding Trust, discretionary or cloned Trust arrangement, subject to restrictions under the Superannuation Laws;
- l) **enter into futures contracts and options:** both within and outside Australia to buy sell, open, close-out or otherwise deal in futures contracts of all kinds, to enter into, vary, exercise, abandon or sell any put or call option, CFD or rights, to place bids, make offers, hedge and effect orders including buying, selling, straddle, switch and stop-loss order, to tender and take delivery of commodities and currencies which are the subject of any futures contract or option and otherwise to do and perform all things so as to operate on, utilise or deal with the facilities of any stock or futures exchange no matter where situate provided the Trustee maintains a risk management strategy if required under the Superannuation Laws;
- m) **deal with personal property:** acquire, dispose of, exchange, hire, lease, maintain, improve, mortgage or otherwise deal with any interest in personal property;
- n) **deal with intellectual property:** apply for, purchase, create or otherwise acquire and to sell patents, patent rights, copyrights, trademarks, designs, formulae, licences, concessions, know-how and the like, conferring any exclusive or non-exclusive or limited right to use of any other intellectual property rights and to use, exercise, develop or grant licences in respect of or otherwise turn to account the property rights or information so acquired;
- o) **obtain agencies, franchises and licences:** apply for, purchase and hold any permit, agency, franchise or licence which may be desirable or required to enable or facilitate the carrying on of any business which the Trustee is empowered to engage in and to surrender, relinquish, sell, vary or assign the same provide the said agency, licence or business does not breach the "Sole Purpose Test" or the Superannuation Laws;
- p) **pay management expenses:** pay out of the Assets, Reserve Accounts or the Earnings of the Fund all costs charges and expenses incidental to the management and operation of the Fund or to the exercise of any power, authority or discretion contained in the Rules or the Deed;
- q) **pay General Expenses:** pay insurance premiums, rates, taxes, rents, and outgoings in connection with any Assets of the Fund from the Assets, Reserve Accounts or primarily the Earnings of the Fund and to manage such Assets and effect improvements and repairs as the Trustee may consider necessary or advisable;
- r) **set aside money in the Fund:** set aside out of the Earnings of the Fund or Reserves from time to time such money as may in the opinion of the Trustee be sufficient to meet any debt, tax or obligation due or accruing;
- s) **deal with itself:** acquire as property of the Fund, real or personal property the legal and beneficial interest in which is at the date of such acquisition the absolute property of the Trustee or Fund Custodian, provided that any property so acquired is acquired for a consideration being not greater than the current Market Value of the property and upon which such acquisition the beneficial interest in and to the property shall be held by the Trustee according to the Rules and subject to the restriction in respect to such transaction(s) under the Superannuation Laws;
- t) **deal with choses-in-action:** acquire choses-in-action, including debts and obligations of all kinds for value or by way of gift or at a discount or at a premium and to assign, release, vary, relinquish or otherwise deal with the

chooses-in-action in any way whatsoever on such terms and conditions as the Trustee may see fit;

- u) **receive gifts or distributions:** receive property by gift inter-vivos or by distribution under a will, SMSF Will or under the provisions of any other trust or otherwise from any person as an addition to the Fund, whether subject to liabilities or not and to hold these gifts or distributions according to the Rules whether for a Member, Members or to be allocated or carried to Reserves and to administer such additions under these provisions;
- v) **instigate legal proceedings:** institute, join in and defend proceedings at law or by way of mediation or arbitration and to proceed to the final end and determination of, or to compromise the same and to compromise and settle any such dispute or proceedings for such consideration and upon the terms and conditions as the Trustee may decide;
- w) **bloodline benefits:** limit the range of persons, including directly or indirectly by means of passage through an estate, trust, partnership or any other transmission entity or mechanism, that may obtain a Death Benefit from the Fund in the event of a Member's death, including limiting a payment from the Fund to the Legal Personal Representative of the deceased Member's Estate where the Administrator or Executor of the Estate may not pay regard to any limitation of the distribution of a Member's Death Benefits to their bloodline. This also includes the limiting of future Members to the Fund to be bloodline Members and a Reserve in the Fund to be a Bloodline Reserve. It is up to the Trustee to properly define the Bloodline concerned and may request Members to undertake blood, DNA or other examination to prove as such. This power does not apply where a Member has made a Binding Death Nomination or SMSF Will directing the payment to an eligible SISA dependant and/or the Member's Legal Estate, nor does the power apply in the event a Member has an Auto-Reversionary Pension and the Reversionary Beneficiary survives the Member;
- x) **trade in foreign and digital currency:** undertake, contract, carry out or do anything including acquiring Assets in a foreign or digital currency and dealing in a foreign or digital currency (including BitCoin);
- y) **create, conduct and run a business:** establish, create, carry out, conduct, maintain, sell, dispose of a business whether in conjunction with or to a related party including a Member or Trustee – either directly or indirectly through a company, trust, partnership, joint venture or other entity provided the Superannuation Laws allow;
- z) **enter into partnership or joint venture:** establish, create, carry out, conduct, maintain, sell, dispose of a partnership or joint venture whether in conjunction with or to a related party including a Member or Trustee – either directly or indirectly through a company, trust, partnership, joint venture or other entity provided the Superannuation Laws allow;
- aa) **indemnities:** give indemnities to or on behalf of any party the Trustee deems fit, to the extent permitted by the Superannuation Laws;
- bb) **appoint a custodian:** appoint any person as Custodian to hold legal title for any Asset acquired or to be acquired by the Trustee under such terms as the Trustee thinks fit;
- cc) **power to appoint an attorney:** delegate the exercise of all or any of the powers or discretionary authorities hereby conferred on the Trustee and execute any powers of attorney or other instruments necessary to effectuate such purpose;
- dd) **Trustee's duties:** any of its directors, employees, delegates or agents may be involved in the exercise of the Trustee's powers and discretions even if they have a conflict of interest or duty;

- ee) **conflict of interest:** generally to exercise or concur in exercising all the foregoing powers and discretions contained in this Deed or the Fund's Governing Rules or otherwise conferred notwithstanding that any person being a Trustee or any person being a Director or Shareholder of a Trustee hereof (being a company) has or may have a direct or personal interest (whether as trustee of any other settlement or in his person capacity or a shareholder or director 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 howsoever) 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;
- ff) **bank accounts, cash management trusts and promissory notes:** open in the name of the Trustee of the Fund bank accounts, cash management trusts, term deposits and any other cash style products including the giving and taking of promissory notes and Bills of Exchange;
- gg) **real property:** purchase, take on, lease or licence, develop, construct, hold, impose, sell, transfer, convey, surrender, lease, licence or otherwise deal with any real property and, without limiting the generality of this rule, to develop any commercial or retail premises and hold or sell, transfer, convey, surrender, lease or licence such premises;
- hh) **grant or take options:** grant or take any put or call option for the purchase of any real or personal property of the Fund, whether the sale occurring on exercise of such option will be at a profit or not;
- ii) **invest and sell, vary or transpose investments:** invest in its name or under its control the Fund in any one or more of the investments authorised by this document with power in its absolute discretion either to retain the investment in that form or to see or convert into money any of those investments for cash or on terms (so as to allow a purchaser any time for payment of the whole or part of the purchase price or without interest and with or without security) and power in its absolute discretion from time to time to vary or transpose any investments into others authorised by these rules;
- jj) **no profit:** without limitation to the above, exercise any of its powers, including the power to sell and the powers to deal with real or personal whether at a profit or not; and
- kk) **exercise all other powers:** do all such other things as may be incidental to the exercise of the powers, rights, discretions and authorities hereby conferred on the Trustee;

15.3 The Trustee, subject to the Superannuation Laws and the Fund retaining its Complying SMSF status, may create one or more SMSF's with the same Rules, Members and Trustee including a Cloned SMSF.

15.4 Subject to the Superannuation Laws and the Fund retaining its Complying SMSF status, the Trustee may be indemnified from the Assets of the Fund for any loss, damages, fine or award against the Trustee arising from their role as Trustee of the Fund.

Rule 16 –Trustee Meetings and Decision Making

16.1 The Trustee shall hold a Trustee Meeting when any significant event, transaction, acquisition or disposal or other event directly related to the Fund is proposed. These matters include, but are not limited to, those that relate to an Asset of the Fund, Superannuation Interest, Investment Strategy, Reserve Account, Superannuation Benefit, Member of the Fund or where otherwise required under the Superannuation Laws.

- 16.2** There is no requirement for a formal notice of a Trustee Meeting; however, every Trustee or a Director of the Company that is Trustee must be afforded the opportunity of participating in the Trustee Meeting where possible and any notice is to be reasonable. A Trustee of the Fund may call a Trustee Meeting however any such meeting may not be frivolous and is to meet the needs and requirements of Rule 16.1.
- 16.3** A quorum for a meeting is where at least 50% of all available Trustees attend the Trustee Meeting and may include one Trustee.
- 16.4** Unless the Initial Trustee decides otherwise, for each decision by the Trustee or Replacement Trustee at a Trustee Meeting the Trustee or Replacement Trustee is to hold that number of votes equal to each \$1 of the total Member Superannuation Interest Entitlements they represent as last recorded by the Trustee. Any Additional Trustee is to be provided with the number of votes as prescribed by the sole Member Trustee. The Trustees may at any Trustee Meeting, in accordance with the proportional voting rule, decide upon the appropriate voting arrangements to apply for that Trustee Meeting, any matter to be determined in the Trustee Meeting or in respect of any future Trustee Meetings or matters to be decided upon in those meetings. Any Reserve Account balances are not to be used for voting purposes.

Note: *A SMSF may have four Members, generally from one family and comprising Members with different ages and vastly different superannuation interest balances. Under most trusts, each Trustee is afforded one vote at a Trustee meeting with the chairperson having a casting vote in the event of the Trustee votes being tied. However, with some Members holding all of their retirement savings in a SMSF, the opportunity of taking pecuniary advantage of the one Trustee – one vote rule arises. Although both voting methods – one vote with chairman casting vote v proportional voting, have not been canvassed in a Court of Law, to enshrine the proportional rule with certainty and security a NowInfinity special purpose corporate Trustee should be used where proportional voting is the norm under the Corporations Act 2001.*

- 16.5** A Trustee Meeting shall be valid where attendance by a Trustee is by telephone, internet conferencing (including, but not limited to Skype and Zoom), circulating minute, facsimile or any other form which provides each Trustee the opportunity of attending, discussing and determining the items of the Trustee Meeting agenda, including but not limited to a method of casting a vote on any matter considered.
- 16.6** A resolution shall be passed where more than 50% of the votes available at the Trustee Meeting determined in favour of the resolution. The resolution shall be signed by the Trustees or the Chairman to reflect the passing of the resolution and may include analog or digital signatures.
- 16.7** Subject to the Superannuation Laws and despite Rule 16.4, at any Trustee Meeting dealing with a deceased Member's Death Benefits or a Member's Incapacity Superannuation Benefits, the Member's Legal Personal Representative or the Member (whilst alive and legally capable and competent) may vote on any resolution dealing with the deceased or incapacitated Member's Superannuation Interest, Death Benefits or Superannuation Benefits.
- 16.8** If the Member has not made a valid Binding Death Nomination, Non-Lapsing Binding Death Nomination and/or SMSF Will which nominates an eligible SISA dependant and/or the Member's Estate, or the Member's Superannuation Interest(s) is not subject to an Auto-Reversionary Pension for which the Reversionary Beneficiary(ies) survive the Member, then the Trustee may limit the persons or entities that may claim or can benefit from the payment of any Death Benefits, either directly or indirectly following upon the death of a Member of the Fund and this may include the payment of benefits only to a Member's bloodline. In order to limit the persons or entities the Trustee must resolve in a Trustee's Meeting those persons or entities that may benefit from any Death Benefit

payment upon the death of one, more or all Members of the Fund. The Trustee may also make any such limitation a Special Rule of the Fund.

- 16.9** The Trustee of the Fund is to record and maintain all decisions of the Trustee for the lesser of ten or more years, or such period required by the Superannuation Laws.

Rule 17 – Trustee to keep Accounts

- 17.1** At the Trustee’s discretion, the Trustee is authorised to create various Accounts for the Fund, including, but not limited to cash flow statements, operating statements, Balance Sheets, Earnings accounts, Reserve Accounts and Member Superannuation Interests; which accounts are to be maintained in accordance with the terms and conditions dictated by the Superannuation Laws and in the absence of direction, then in such reasonable manner determined by the Trustee.
- 17.2** The Trustee is to maintain accounts for the Fund, Member’s Superannuation Interests, Reserve Account and for any other Account created by the Trustee and detail the additions and deductions from such Accounts according to the Rules of the Fund or the Superannuation Laws as required.
- 17.3** For accounting purposes, the Trustee may determine the Value of the Assets of the Fund or a Member’s Superannuation Interest at any time, subject to the Audit Standards, Regulator’s requirements and otherwise obligated by the Superannuation Laws.

Note: *Where the Superannuation Laws require a specific valuation method for Assets including property, shares, collectables and other investments of the Fund the Trustee is to abide by those Rules as if they were Rules of this Fund. In that regard SISR 8.02B requires, when preparing accounts and statements required by SISA section 35B(1), an asset must be valued at its market value.*

- 17.4** The Trustee is to determine, where required by the Superannuation Laws or the Regulator, a Member’s Superannuation Interest Entitlement. The Trustee may also keep records regarding the preservation status, the Tax-Free and the Taxable Components of any Member Superannuation Interest.
- 17.5** The Trustee must appoint an Auditor each income year and ensure that the Fund’s Accounts are audited in accordance with the Audit or Accounting Standards as prescribed by the Superannuation Laws.
- 17.6** The Trustee of the Fund must keep records and accounts of the Fund for for the lesser of ten or more years, or such period required by the Superannuation Laws.

Rule 18 - Fund Earnings

- 18.1** Subject to the Superannuation Laws and the Fund retaining its Complying SMSF status, the Trustee may determine and declare the Earnings for one or more of the following Accounts:
- a) The Fund;
 - b) A Member’s Superannuation Interest;
 - c) A group of Members’ Superannuation Interests;
 - d) A Reserve Account; or
 - e) Any other Account or group of Accounts in the Fund.
- 18.2** In determining the Earnings, the Trustee has the sole discretion, subject to the Superannuation Laws and the Fund retaining its Complying SMSF status, of applying one of the following methods for determining Earnings of the Fund, Member’s Superannuation Interest or group of Members’ Superannuation Interests or Reserve Account or any other Account of the Fund, whichever the case may be:
- a) **Accounts Method:** income according to established accounting principles for

Superannuation Funds which may include a revaluation of any Assets of the Fund to their market value less any Fund expenses which include Fund taxes;

- b) **Trust Method:** net income as the term "net income" is defined under the taxation of trust provisions in the Superannuation Laws;
- c) **Income Method:** any amounts received as income plus any unrealised or realised capital gains and at the Trustee's discretion, any allocations from a Reserve Account less any disbursements the Trustee is of the view should be deducted from income including any general or specific expenses; or
- d) **Flexible Method:** any combination of the above or method that the Trustee is of the opinion properly reflects Earnings including any transfer from a Reserve Account to the Earnings of the Fund in the absence of any determination by the Trustee of its Earnings methodology, the Trustee is to use the Income Method as its default option.

18.3 The Trustee has sole discretion, subject to the Superannuation Laws and the Fund retaining its Complying SMSF status, to allocate any Earnings of an Account to a Member's Superannuation Interest, a Reserve Account, such further Account(s) of the Fund, pay any fine incurred by the Trustee (subject to the Superannuation Laws) and/or apply to the payment of any other expense incurred in respect to the Fund. If the Fund does not hold any Reserve Accounts, any allocation of Earnings must be fair and reasonable amongst Member Superannuation Interests.

Note: *Allocation of Earnings of the Fund should be fair and reasonable between all Member Superannuation Interests of the Fund in accordance with SISR 5.03(2) except where a Member Superannuation Interest or group of Member Superannuation Interests maintain a separate Investment Strategy where Earnings from the Separate Investment Strategy should be allocated to those Superannuation Interests partaking in the Separate Investment Strategy. However, the Superannuation Laws – SISR 5.03(1) and the Rules of the Fund allow the Trustee to allocate Earnings to a Reserve created for a specific or general purpose.*

18.4 Where the Trustee maintains separate Investment Strategies for one or more Member Superannuation Interests ("associated Member Superannuation Interest(s)"), then the Earnings attributable in respect to each of the Investment Strategies shall be allocated to the exclusive benefit of the associated Member Superannuation Interest(s).

Rule 19 – Accounting for a Member Lump Sum Superannuation Interest

19.1 The Trustee of the Fund may establish an Account for a Member Lump Sum Superannuation Interest created on behalf of a Member under Rule 5.2.

19.2 Subject to the Superannuation Laws, the Fund retaining Complying SMSF Status and the Rules of the Fund, The Trustee may determine at any time in relation to a Member Lump Sum Superannuation Interest the amount that is the:

- a) Preserved, unrestricted non-preserved, restricted non-preserved or such other type of Superannuation Benefit as the Superannuation Laws allow or require;
- b) Taxable component, including the element untaxed in any Member Superannuation Interest; and
- c) Tax-free component;

subject to the restraints and requirements of the Superannuation Laws.

19.3 Subject to the Superannuation Laws, the Fund retaining Complying SMSF Status and the Rules of the Fund, the Trustee may add to the Member Lump Sum Superannuation Interest the following amounts:

- a) Authorised Contributions made on behalf of the Member to the Fund, including those made by the Member on behalf of themselves;
- b) An allocation of Earnings in accordance with Rule 18;

- c) An allocation made by the Trustee from any of the Fund Reserve Accounts in accordance with Rule 9.5;
- d) A Transfer Superannuation Interest made to the Fund or within the Fund on behalf of a Member;
- e) Any tax refunds or Tax Adjustment Payments allocated by the Trustee to the Member Lump Sum Superannuation Interest;
- f) Any amounts allocated to the Member Lump Sum Superannuation Interest by the Trustee from insurance policy proceeds in accordance with Rule 12.5;
- g) A Member Income Stream Superannuation Interest Roll Back amount;
- h) A refund of Excess Contributions Tax;
- i) An amount subject to a Contributions Splitting Notice from a Spouse;
- j) A payment pursuant to the *Family Law Act 1975*, including a payment as a result of separation or divorce from a Spouse and a payment under a Family Law Payment Splitting Notice; and
- k) Such other amounts that, at the Trustee's discretion, should be added to the Member Lump Sum Superannuation Interest.

19.4 Subject to the Superannuation Laws, the Fund retaining Complying SMSF Status and the Rules of the Fund, the Trustee may deduct from the Member Lump Sum Superannuation Interest any of the following:

- a) Amounts paid for administration, audit, actuarial, legal, valuation, SMSF Professional, investment advisory or other professional expenses and fees or proportion thereof incurred by the Trustee that in the Trustee's opinion should be specifically deducted from the Member Lump Sum Superannuation Interest and not any Reserve Accounts of the Fund;
- b) A proportion of the General Expenses of the Fund or any Specific Expenses that the Trustee of the Fund determines should be specifically deducted against the Member's Lump Sum Superannuation Interest;
- c) Any Taxes or Tax Adjustment Payments that the Trustee determines should be specifically deducted from the Member Lump Sum Superannuation Interest including any payments, taxes or charges levied in relation to excess contributions made by or on behalf of the Member;
- d) Amounts made in payment for insurance premium requirements for a Member including life, disability, accident, salary continuance, trustee insurance or trauma insurances;

Note: *The Commissioner has noted that if insurance premiums have been deducted from a Member's Account, then any payout must be paid to the Member's Account.*

- e) Amounts allocated or paid for a Superannuation Lump Sum payment made by the Trustee on the Member's death, Permanent Incapacity, Temporary Incapacity, Retirement, termination of employment, turning age 65 or for any other purpose for the benefit of the Member themselves, their Dependants, their Legal Personal Representative or their Legal Estate;
- f) Amounts transferred to a Member Income Stream Superannuation Interest for the purpose of commencing a Member Income Stream Superannuation Interest;
- g) Amounts paid being an Excess Contributions Tax or payment required under a properly issued Release Authority;
- h) Contributions Splitting Amounts paid to or behalf of a Member's Spouse;
- i) Payments made pursuant to the *Family Law Act 1975* including a payment as a result of separation or divorce from a Spouse, and a payment under a

Family Law Payment Splitting Notice;

- j) Any amount allocated from the Member Income Stream Superannuation Interest to a Reserve Account provided the allocation is in accordance with the Superannuation Laws; and/or
- k) Any other amounts the Trustee determines should be deducted from the Member's Lump Sum Superannuation Interest.

Rule 20 – Accounting for a Member Income Stream Superannuation Interest

- 20.1** The Trustee may establish an Account for a Member Income Stream Superannuation Interest created on behalf of a Member under Rule 5.2.
- 20.2** The Trustee may determine at any time in relation to a Member Income Stream Superannuation Interest the amount of the Income Stream that is the taxable component including the untaxed taxable component and the tax free component.
- 20.3** Subject to the Superannuation Laws, the Fund retaining Complying SMSF Status and the Rules of the Fund, the Trustee may add to the Member Income Stream Superannuation Interest:
 - a) Any allocation of Earnings in accordance with Rule 18;
 - b) Allocations made by the Trustee from any of the Fund Reserve Accounts in accordance with Rule 9.5 and in particular the Fund Pension Reserve;
 - c) A Transfer Income Stream Superannuation Interest made to the Fund on behalf of a Member;
 - d) Any tax refunds or Tax Adjustment Payments allocated by the Trustee to the Member Income Stream Superannuation Interest;
 - e) Any amounts allocated to the Member Income Stream Superannuation Interest by the Trustee from insurance policy proceeds pursuant to Rule 12.5;
 - f) An amount from a Member Lump Sum Superannuation Interest to commence a Superannuation Income Stream;
 - g) Any amount transferred from another Member Income Stream Superannuation Interest or Reserve Account for the purpose of commencing a new Superannuation Income Stream;
 - h) Any Excess Contributions Tax refund received by the Trustee; and
 - i) Such other amounts the Trustee's determines should be added to the Member Income Stream Superannuation Interest.
- 20.4** Subject to the Superannuation Laws, the Fund retaining Complying SMSF Status and the Rules of the Fund, the Trustee may deduct from the Member Income Stream Superannuation Interest any of the following amounts:
 - a) Amounts paid for administration, audit, actuarial, legal, valuation, SMSF Professional, investment advisory or other professional expenses and fees or proportion thereof incurred by the Trustee that in the Trustee's opinion should be specifically deducted from the Member Income Stream Superannuation Interest and not any Reserve Accounts of the Fund;
 - b) A proportion of the General Expenses of the Fund or any Specific Expenses that the Trustee of the Fund determines should be specifically deducted against the Member Income Stream Superannuation Interest;
 - c) Any Taxes or Tax Adjustment Payments that the Trustee determines should be specifically deducted from the Member Income Stream Superannuation Interest including any payments, taxes or charges levied in relation to excess contributions made by or on behalf of the Member;
 - d) Amounts made in payment for insurance premium requirements for a Member including life, disability, accident, salary continuance, trustee insurance or

trauma insurances;

Note: *The Commissioner has noted that if insurance premiums have been deducted from a Member's Account, then any payout must be paid to the Member's Account.*

- e) Amounts allocated or paid for a Member Lump Sum Superannuation Interest made by the Trustee on the Member's death, Permanent Incapacity, Temporary Incapacity, Retirement, termination of employment, turning age 65 or for any other purpose for the benefit of the Member themselves, their Dependants, their Legal Personal Representative or their Legal Estate;
- f) Amounts transferred to a Member Lump Sum Superannuation Interest;
- g) Amounts paid being an Excess Contributions Tax or payment required under a properly issued Release Authority;
- h) Contributions Splitting Amounts paid to or behalf of a Member's Spouse;
- i) Payments made pursuant to the *Family Law Act 1975* including a payment as a result of separation or divorce from a Spouse, and a payment under a Family Law Payment Splitting Notice;
- j) Any amount allocated from the Member Income Stream Superannuation Interest to a Reserve Account provided the allocation is in accordance with the Superannuation Laws; and/or
- k) Any other amounts the Trustee determines should be deducted from the Member's Income Stream Superannuation Interest.

Rule 21 - What happens to Taxes and Excess Contributions Tax?

- 21.1** The Trustee must pay all duties, charges, fees and Taxes relating to the Fund's Assets, Earnings, and Contributions or on any other taxable consequence in accordance with the Superannuation Laws.
- 21.2** The Trustee is not personally liable for any taxation liability assessed to the Fund, nor is any Member, unless the Superannuation Laws require.
- 21.3** The Trustee must have regard to the Superannuation Laws as to which Account, Earnings, Reserve Account or Superannuation Interest, tax is deducted, whether in whole or part.
- 21.4** Where the Trustee receives an Excess Contributions Tax Release Authority on behalf of a Member, the Trustee is to give effect to the conditions, requirements and terms of the Excess Contributions Tax Release Authority. This must be in the time specified and simultaneously ensure that any other Trustee compliance or other requirements for a Complying SMSF in respect of Excess Contributions Tax Release Authority are met in accordance with the Superannuation Laws.
- 21.5** Subject to the Superannuation Laws, the Trustee may receive tax refunds and has the sole discretion as to which Superannuation Interest or Reserve Account to add any tax refund irrespective of the source of the tax refund.
- 21.6** Subject to the Superannuation Laws and the Fund retaining its Complying SMSF status, the Trustee may make a Tax Adjustment deduction to a Superannuation Interest where the Trustee is of the opinion that a Superannuation Interest has benefited from the use of a tax benefit sourced from another Superannuation Interest; however, it is not mandatory for the Trustee to do so.

Rule 22 – Contributions Splitting

- 22.1** At any time, provided the Superannuation Laws allow, the Trustee may receive a Contributions Splitting Notice by a Member in relation to an Authorised Contribution made on behalf of the Member to the Fund.
- 22.2** The Contributions Splitting Notice must be in accordance with the Superannuation

Laws or as prescribed by the Regulator. Any notice must only deal with those Authorised Contributions allowed to be split to a Spouse under the Superannuation Laws.

Note: *The contributions splitting laws currently do not allow the Trustee of a superannuation fund to split Member Non-Concessional Contributions.*

- 22.3** The Contributions Splitting Notice may detail the amount to be Allotted, Rolled Over or Transferred as a Transfer Superannuation Interest to a Member's Spouse. Subject to the Superannuation Laws, the Trustee may make the relevant contributions split by allocating, rollover or transferring Assets of the Fund in satisfaction of the contributions split.
- 22.4** The Trustee is to action the Contributions Splitting Notice within a reasonable period of time and no later than the time prescribed by the Superannuation Laws or the Regulator.

Rule 23 – Family Law

- 23.1** The Trustee may receive a Family Law Payment Splitting Notice from the Courts in relation to a Member's Superannuation Interests.
- 23.2** The Trustee is to make accommodation for the Member whose Superannuation Interests are being split under the Family Law Payment Splitting Notice in terms of:
- a) Which of the Member's Superannuation Interests (if more than one) the Family Law Payment Splitting Notice are best applied to meet the requirements of the notice;
 - b) Whether the amount to be split to the Member's Spouse is preserved, unrestricted non-preserved, restricted preserved or such other type of Superannuation Benefit as the Superannuation Laws allow including the extent to which the accommodation and/or payment consists of tax free, taxable and taxable untaxed components; and
 - c) Which Assets of the Fund may be utilised to meet the terms of the Family Law Payment Splitting Notice.
- 23.3** The Trustee is to action the Family Law Payment Splitting Notice within a reasonable period of time and no later than the time prescribed by the Courts, Superannuation Laws or the Regulator.

Rule 24 – Member Meetings and Decision Making

- 24.1** The Members may hold a Member Meeting when the Trustee of the Fund is to be removed or appointed pursuant to Rule 2 of the Fund's Rules or in such other circumstances as a Member Meeting is warranted, authorised or required by the Regulator or under the Superannuation Laws.
- 24.2** There is no requirement for formal notice of a Member Meeting. However every Member must be afforded the opportunity of participating in the Member Meeting when and where possible. The Trustee must call a Member Meeting when 50% or more of the Members request the holding of a Member Meeting.
- 24.3** A quorum for a Member Meeting is at least 50% of all Members of the Fund, including in the case of a single Member Fund, such single Member.
- 24.4** For each decision by a Member at a Member's Meeting, the Member is to hold that number of votes equal to \$1 per vote in respect of the total Member Superannuation Interest Entitlements in the capital of the Fund.
- 24.5** A Member's Meeting shall be valid where attendance by any Member is by telephone, by the internet (including Skype or Zoom), by way of circulating minute, facsimile or any other form in which each Member is provided the opportunity to attend, discuss, determine and cast a vote in favour of the matters

considered in the Member Meeting.

- 24.6** A resolution shall be passed where more than 50% of the votes available to be cast in such Member Meeting are cast in favour of the resolution. The resolution is to be signed by Members or the Chairman of the meeting and may in any manner determined reasonable by the Members, including but not limited to by electronic means (including email return, Docusign or such further means considered reasonable).
- 24.7** The Trustee of the Fund is to record and maintain all decisions of the Members for the lesser of the time determined by the Members, or the time required by the Superannuation Laws.

Part Four – Paying Superannuation Benefits from a Superannuation Interest

Rule 25 – Accessing Member Superannuation Benefits

25.1 The Trustee is authorised to pay out a Superannuation Lump Sum or Superannuation Income Stream from a Member Superannuation Interest when the Member meets a Condition of Release in accordance with the Superannuation Laws. However, only Superannuation Benefits permitted in conjunction with the relevant Cashing Restriction for that Condition of Release are authorised to be paid by the Trustee to the Member or any other person allowed pursuant to the Superannuation Laws.

25.2 QROPS Benefits: Where the Superannuation Benefits are referable to UK Qualifying Retirement Overseas Pension Schemes then the Trustee is to abide by any release of benefits requirements made pursuant to laws and regulations regulating QROPS benefits. This includes the requirements that QROPS benefits cannot be made before the day on which the Member reaches normal minimum pension age under UK pension law unless the ill-health condition is met.

Note: *The normal minimum pension age under UK pension law is currently age 55. For this purpose the Membership of the fund is restricted to Member aged 55 and over under clause 3.2. Clause 25.2 only applies to benefits payable to the Member under the scheme, to the extent that they related to a transfer of sums or assets which would, subject to the Overseas Pension Scheme Regulations (UK) constitute a recognised transfer or a relevant transfer which may be directly to the Fund from overseas or the transfer of a QROPS benefit from another Superannuation Fund.*

25.3 Overseas Pension and Retirement Payments: Where Superannuation Benefits are referable to an Overseas Pension or Retirement Scheme then the Trustee is to abide by any release of benefits requirements made pursuant to laws and regulations regulating those overseas retirement or pension benefits.

25.4 Specific Benefits Payable by the Trustee of the Fund: Subject to the Superannuation Laws and without limiting the powers of the Trustee under Rule 25.1 of the Fund, the following Superannuation Benefits or other benefits may be paid by the Trustee at the Member's Request, the Trustee's discretion and if authorised under Rule 25.1 but subject to the conditions of a QROPS or other overseas retirement or pension payment as described in Rule 25.2 and 25.3:

- a) Where the Member, in the Trustee's opinion, is Temporarily Incapacitated, the Member may commence a Temporary Incapacity Superannuation Income Stream until such time as the Member is no longer Temporarily Incapacitated;
- b) Where the Member, in the Trustee's opinion, is Permanently Incapacitated, the Member may take a Superannuation Lump Sum or commence a Superannuation Income Stream or a combination of both at any time;
- c) Where the Member is Terminally Ill, the Member may take a Superannuation

- Lump Sum or commence a Superannuation Income Stream or a combination of both at any time;
- d) Where the Member is Retired, the Member may take a Superannuation Lump Sum or commence a Superannuation Income Stream or a combination of both at any time;
 - e) Where the Member is aged 65, the Member may take a Superannuation Lump Sum or commence a Superannuation Income Stream or a combination of both at any time;
 - f) Where a person who is a Member of the Fund dies, a Dependant of the Member or the Legal Personal Representative of the deceased Member's Estate may take a Superannuation Lump Sum or commence a Superannuation Income Stream or a combination of both at any time;
 - g) Where the Member leaves the employment of an employer, or any of whose associates have at any time contributed into the Fund on behalf of the Member, the Member may take an Income Stream as prescribed by the Superannuation Laws and only with Restricted Superannuation Benefits;
 - h) Where the Member has reached preservation age, the Member may commence a Superannuation Income Stream, as authorised under the Superannuation Laws for Members over preservation age including a Transition to Retirement Income Stream;
 - i) Where the Member meets the conditions of Severe Financial Hardship, the Trustee may pay a Superannuation Lump Sum to the Member, as authorised under the Superannuation Laws;
 - j) Where, as authorised by the Regulator or any other government entity responsible for deciding the payment of Superannuation Benefits on the basis of Compassionate Ground, the Trustee may pay a Superannuation Lump Sum to a Member on Compassionate Grounds;
 - k) Where the Member has commenced an Income Stream Superannuation Interest, subject to the terms and conditions of the Income Stream Superannuation Interest, any Rule of the Fund or the Superannuation Laws, a Member may receive a Lump Sum Payment from the Income Stream Superannuation Interest, including, but not limited a Lump Sum Payment made upon the death of the Member;
 - l) Notwithstanding any other Rule of the Deed:
 - a) a Trustee may add or remove a Reversionary Beneficiary, without having to rollback and restart a Superannuation Income Stream; and
 - b) a Transition to Retirement Income Stream can be converted to an Accounts Based Pension on satisfying a Condition of Release; and
 - m) Any other Superannuation Lump Sum, Superannuation Income Stream or other payment authorised under the Superannuation Laws or by the Regulator.

25.5 Excess Contributions Tax Release Payments. The Trustee, if required under an Excess Contributions Tax Release Authority issued in respect of a Member, must pay to a Member or the Regulator, within the time prescribed by the Superannuation Laws, the amount prescribed under the Excess Contributions Tax Release Authority. This includes any excess concessional or non-concessional contributions required to be paid to the Regulator or under an Excess Contributions Tax Release Authority.

25.6 Rollovers and Transfers. Subject to the Superannuation Laws, the Trustee may Rollover a Superannuation Lump Sum, a Superannuation Income Stream or make a transfer of a Transfer Superannuation Interest for the benefit of a Member to an Eligible Entity. The payment where required may be processed through any appropriate government required payment system including Super

Stream. The Trustee may also directly transfer any Superannuation Income Stream to another Superannuation Fund where the Trustee of the Fund agrees to take on the Income Stream liabilities in relation to that Income Stream.

25.7 SMSF Death Benefits. Subject to the Superannuation Laws and the Fund retaining its Complying SMSF status, when a Member of the Fund dies the following Death Benefits are payable:

- a) If the Member has made a Binding Death Benefit Nomination, and at the date of the Member's death the Nomination has not expired on its terms or otherwise, then the Trustee shall pay the Member's Death Benefits in accordance with the Nomination excepting that if a Person(s) nominated by the Member is ineligible to receive the Death Benefit (or part thereof appropriated by the Member's Nomination) ("Appropriated Part") as a consequence of the Superannuation Laws ("Ineligible Death Benefits Beneficiary"), then the Trustee shall not be obligated to pay the Appropriated Part to the Ineligible Death Benefits Beneficiary, and may instead pay the Appropriated Part to any other Person(s) eligible to receive the Death Benefits under the Superannuation Laws and/or the Legal Personal Representative of the deceased Member's Estate. The balance of the Member's Nomination shall be binding on the Trustee;
- b) If the Member has made a Non-Lapsing Binding Death Benefit Nomination or SMSF Will, then the Trustee shall pay the Member's Death Benefits in accordance with the Nomination excepting that if a Person(s) nominated by the Member is ineligible to receive the Death Benefit (or part thereof appropriated by the Member's Nomination) ("Appropriated Part") as a consequence of the Superannuation Laws ("Ineligible Death Benefits Beneficiary"), then the Trustee shall not be obligated to pay the Appropriated Part to the Ineligible Death Benefits Beneficiary, and may instead pay the Appropriated Part to the Member's Dependants, the Legal Personal Representative of the deceased Member's Estate and/or any other Person(s) eligible to receive the Death Benefits under the Superannuation Laws, including, but not limited to the determination to pay the Appropriated Part as one or more Superannuation Lump Sums, Superannuation Income Streams or a combination of both. The balance of the Member's Nomination shall be binding on the Trustee;
- c) If the Member has made a Non-Binding Death Benefit Nomination, the Trustee may have regard to the terms thereof, but is not bound to give effect to the payment of the Member's Death Benefits in accordance with such Nomination and shall otherwise have sole discretion, subject to the Superannuation Laws, to pay the Member's Superannuation Benefits as one or more Superannuation Lump Sums, Superannuation Income Streams, or a combination thereof, to the Member's Dependants, the Legal Personal Representative of the deceased Member's Estate and/or any other Person(s) eligible to receive the Death Benefits under the Superannuation Laws;
- d) If a Member dies and has not made a Binding Death Benefit Nomination, Non-Lapsing Binding Death Benefit Nomination or SMSF Will, the Trustee has sole discretion, subject to the Superannuation Laws to pay the Member's Superannuation Benefits as one or more Superannuation Lump Sums or Superannuation Income Streams or combination of both to the Member's Dependants, the Legal Personal Representative of the deceased Member's Estate and/or any other Person(s) eligible to receive the Death Benefits under the Superannuation Laws;
- e) Subject to Rule 25.7(a), where a Member has an Auto-Reversionary Income Stream or Pension with an auto reversion transferrable to a Dependand of the Member, as created pursuant to the provisions of the Pension Income Stream or, alternatively, by the Member's SMSF Will, then subject to the Superannuation Laws and the terms and conditions of the Income Stream, the Trustee shall continue the Income Stream or Pension to the Auto-Reversionary

Beneficiary automatically. Upon this auto-reversionary event, amounts standing to the credit of the deceased Member's Auto-Reversionary Pension are not to be considered as Member Superannuation Benefits but the Superannuation Benefits of the Auto-Reversionary Beneficiary. Subject to the terms and conditions of an Auto-Reversionary Income Stream or Pension and the Superannuation Laws at that time, the Auto-Reversionary Pension may be continued to another Auto-Reversionary Beneficiary upon the death of the first or latter Auto-Reversionary Beneficiary;

- f) A Member may establish a Conditional Reversionary Pension on the signing of a Conditional Pension Deed. The terms and conditions of the Conditional Pension, as set out in a "Conditional Pension Deed" shall be acknowledged and agreed to by the proposed recipient of the Conditional Pension by them executing a separate or the same Conditional Pension Deed with the terms and conditions of the payment of the Conditional Pension. The Member creating the Conditional Pension shall also be a party to the Conditional Pension Deed. The executed Conditional Pension Deed shall then, subject to the Superannuation Laws and at the direction of the Member become a Special Rule of the Fund;
- g) In the event of the settlement of a Conditional Pension Deed, the Trustee must, subject to the Superannuation Laws allowing the arrangement, upon application by the Member, accept the Conditional Pension Deed as a Special Rule of the Fund and shall sign all documents and undertake all requirements for the establishment and provision of the Special Rule accordingly; and
- h) If the Trustee has discretion to determine to whom and in what manner the Member's Death Benefits are payable (for example, the Member has not left a Binding Death Nomination effective at the date of the Member's death, or a Non-Lapsing Binding Death Benefit Nomination or a SMSF Will), then the Trustee may have regard to any matter deemed reasonable by the Trustee in the determination of to whom and what manner the Death Benefits are paid, including but not limited to the bloodline relationship of the proposed beneficiary and the Member and the potential for disputes and/or lawsuits in the Member's Estate. The Trustee shall not be obligated to record its reasons for determining the payment of the Death Benefits, except the Trustee shall be obligated to circulate its resolution as to the payment of the Death Benefits, including details of the Person(s) receiving the Death Benefits and the manner of payment.

25.8 SMSF Living Will Superannuation Benefits. Subject to the Superannuation Laws and the Fund retaining its Complying SMSF status, when a Member suffers a Temporary, Permanent or any other Incapacity or Terminal Illness, the Trustee is required to, subject to available Fund resources, have regard to any Member SMSF Living Will. This includes, subject to the Superannuation Laws and the Fund retaining its Complying SMSF status, the payment of Superannuation Lump Sums and Superannuation Income Streams to the Member, their Dependents or the Member's Legal Personal Representative.

25.9 Income Stream and Pension Roll Backs.

- a) At any time, a Member in receipt of an Income Stream Superannuation Interest may Rollback part or all of their Income Stream Superannuation Interest to a Lump Sum Superannuation Interest in the Fund established for the Member's benefit.
- b) The Roll Back amount may be satisfied by the transfer of assets between the Member's Income Stream Superannuation Interest and the Member's Lump Sum Superannuation Interest.
- c) Subject to the Superannuation Laws, the Trustee may choose the value of any Asset subject to a Roll Back.

25.10 Income Stream and Pension Transfers.

- a) At any time, a Member is in receipt of an Income Stream Superannuation Interest, the Member may direct the Trustee to transfer part or all of their Income Stream Superannuation Interest to a Lump Sum Superannuation Interest, Income Stream Superannuation Interest or to another complying Superannuation Fund.
- b) The Trustee shall have sole discretion to determine which Assets of the Fund are to be applied for such purpose and the value of the Assets of the Fund at such time.

25.11 Compulsory Payments. It is not compulsory for the Trustee, except where the Superannuation Laws require, to pay a Superannuation Benefit to a Member unless the Trustee is requested to do so by the Member and the payment is permitted in accordance with the Conditions of Release in the Superannuation Laws.

25.12 Special Rules for Income Streams. Where the Trustee commences a Superannuation Income Stream for a Member, Dependant of a Member or deceased Member, the Member's Legal Personal Representative or a deceased Member's Legal Estate, the terms and conditions of the Member's Income Stream including whether it is Auto-Reversionary and to whom are to automatically become a Special Rule of the Fund.

Rule 26 – Appointment of Member's Guardian.

26.1 Appointment of Member's Guardian. A Member may appoint an individual as a Member's Fund Guardian for the purposes of the management and payment of such Member's Superannuation Interests. The appointment must be in writing, signed by the nominating Member, the nominated Member's Guardian and the Trustee and the Member's Guardian must consent to the terms of Rule 26, including, but not limited to, Rules 26.3 and 26.4 (in respect to the cessation of the Member's Guardian's Membership (if at all) in the Fund).

26.2 Consent required by the Fund Member's Guardian. Following acceptance by the Trustee of the nominated Member's Guardian on the terms agreed in written instrument (as provided in Rule 26.1), the Trustee shall be restricted in exercising any discretionary powers in respect to the relevant Member's Superannuation Interests, in the absent of the written consent of the Member's Guardian.

26.3 Appointment of Member's Guardian as a Fund Member. A Member's Guardian may be or become a Member of the Fund. In the event of a Member's Guardian applying to become a Member of the Fund, the Trustee must admit such Member's Guardian as a Member, unless the admission would result in a Non-Complying Fund (for example, there being greater than the allowed Members of a Complying Fund) and provided the Member's Guardian appoints a default complying superannuation fund for purposes of Rule 26.4.

26.4 Revocation of Appointment of Member's Guardian. A nominating Member may revoke, by written notice signed by the Member, with such notice delivered to the Trustee and nominated Member's Guardian. If the former Member's Guardian is a Member of the Fund, the former Member Guardian's Membership may be terminated by the Trustee at any time thereafter, by rolling over the former Member's Guardian Superannuation Member Interest to the complying superannuation fund nominated by the former Member's Guardian as a consequence of Rule 26.3.

Part Five – Other Special Events

Rule 27 – Winding up the Fund

27.1 The Trustee shall wind up the Fund in the following circumstances:

- a) On the death of the last remaining Member, and any Replacement Trustee or

- the Corporate Trustee determines that the Fund is to be wound up;
- b) The Regulator or any other person or body authorised to wind up the Fund, orders that the Fund is to be wound up;
 - c) The Superannuation Laws are amended such that the Fund can no longer remain a Complying SMSF and the Members agree to wind up the Fund; and/or
 - d) The Trustee or Members resolve that the Fund is to be wound up, by resolution in favour by not less than 75% of votes cast by the Trustee and Members.
- 27.2** The Trustee in winding up the Fund shall pay any Taxes, General Expenses, Specific Expenses, Superannuation Benefits and any other amounts or disbursements to ensure that the Fund has no outstanding liabilities prior to paying out any distribution under Rule 27.3.
- 27.3** Following the payment of all amounts under Rule 27.2, if the Trustee has any Assets, Cash and Reserves, the Trustee may distribute such Assets, Cash and/or Reserves, subject to the Superannuation Laws to:
- a) Members and former Members of the Fund;
 - b) Relatives of any Member or former Member;
 - c) Any Legal Estate of a Member or former Member; or,
 - d) Any other entity or any trust or entity of a Charitable Trust, public benevolent, sporting, animal or political nature as the Trustee determines.

Rule 28 – Changing the Fund’s Rules or Name

- 28.1** The Trustee may at any time by simple resolution, reduced to a writing, vary, change, delete from, add to or otherwise amend any or all of the Rules of the Fund, except clause 3.2 if the Fund is a QROPS or if the Trustee intends to apply for the QROPS status, provided the following conditions are satisfied:
- a) Any variation, change, deletion, addition or amendment to the Rules shall strictly adhere to the Superannuation Laws and the Fund retaining its Complying SMSF status;
 - b) Where the Trustee has resolved that a Special Rule for the benefit of a Member shall take effect, the Special Rule shall form part of the provisions of any amended Rules of the Fund unless otherwise determined by the Member and/or the Trustee;
 - c) Any variation, change, deletion, addition or amendment to the Rules shall not detrimentally affect a Member’s Superannuation Interests;
 - d) Any variation, change, deletion of amendment to the Rules shall not result in a resettlement of the superannuation fund (if determined to be a trust at law) nor a capital gains tax event unless the Superannuation Laws require;
 - e) Where the Trustee of a Fund is adopting these Rules and has a defined benefit pension in existence pre-2004, a loan arrangement pre-1985 or any other Rule that advantages the Members of the Fund but which would be lost or diminished if the new Rules were applied, then any variation of the Rules is not to vary the Rules that advantage a Member and are thus existing Rules are deemed to be incorporated into the Rules of the Fund.
- 28.2 Processes for Automatic Annual Upgrades of the Fund’s Governing Rules:** Subject to Rule 28.1 the Trustee may, with the consent of not less than 50% of the Members by Members’ resolution, adopt a protocol allowing for the automatic annual upgrades of the Fund’s Governing Rules (with the resolution applicable for a fixed number of years, or indefinitely for the term of the Fund), which upgrades shall address the changes in such term to the Superannuation Laws and any other matters considered appropriate by the relevant SMSF Professionals and Advisors

assisting the Trustee from time to time (if any), in accordance to the following:

- a) **Annual Upgrade with signature:** The Trustee may receive, from a subscription service offered by the relevant SMSF Professionals and Advisors to the Trustee, an instrument having the effect of a variation of the Fund's Governing Rules, which instrument the Trustee executes by analog or digital signatures, and copies to the Members at such reasonable time thereafter, the effect of which is that the Governing Rules are thereafter varied on the date of execution by the Trustee;
- b) **Auto-Upgrade:** The Trustee may apply for a subscription service through a relevant SMSF Professional and/or Advisor, which publishes varied Governing Rules, and the Members have access to such varied Governing Rules. The effect of the upgrade to the Governing Rules shall be the date the Trustee notifies the Members of the issuance of the varied Governing Rules, and the mechanism for obtaining copies of the varied Governing Rules; and/or
- c) **Upgrade by alternative means:** The Trustee may undertake with its SMSF Professionals and Advisors such other reasonable mechanism for complying with its legal obligations to maintain the Governing Rules at a standard required by the Superannuation Laws, provided such mechanism is resolved by the Members (with the resolution applicable for a fixed number of years, or indefinitely for the term of the Fund).
- d) **Special rules and terms dedeed adopted in auto-upgrade and subsequent Governing Rule amendments:** Notwithstanding any auto-upgrade or variation of the Governing Rules adopted:
 - i. Any Special Rules of the Fund adopted between a Trustee and Member(s) shall remain governing on the Fund unless explicitly, in writing, revoked and/or varied by the Trustee and relevant Member(s), and the Special Rules shall be deemed to be incorporated into the new Rules without necessity of formal resolution or written instrument; and
 - ii. Any defined benefit pension in existence pre-2004, a loan arrangement pre-1985 or any other Rule that advantages the Members of the Fund but which would be lost or diminished if the new Rules were applied, then any variation of the Rules is not to vary such defined benefit pension in existence pre-2004, a loan arrangement pre-1985 or any other Rule that advantages the Members and such terms, matters and Rules shall be deemed to be incorporated into the new Rules without necessity of formal resolution or written instrument.

28.3 The Trustee may at any time change the Fund's name provided the Regulator is informed if required under the Superannuation Laws. Any change in Fund name may be made by the Trustee by way of a simple resolution.

Part Six – Rules Definitions

Rule 29 – Definitions

Accounts means those accounts, including trust accounts established by the Trustee for the Fund, a Member's Superannuation Interest or Interests, a group of Members' Superannuation Interests, a Reserve Account and any other account of the Fund.

Accounts Based Pension includes a Pension where capital cannot be added to the Pension except to create a new Pension and that the standards in SISR 1.03(1), 1.06(1), 1.06(9A) and 1.06(9B) apply or such other standards as prescribed for Accounts Based Pensions in the Superannuation Laws.

Accumulation Superannuation Interest means a Member's Superannuation Interest which is in growth stage, and is not supporting a pension income stream.

Active Member is a Member of the Fund who meets the criteria for active Membership under the Superannuation Laws, including the making of continuous contributions on behalf of the Member to the Fund.

Actuary is any professional actuary authorised under the Superannuation Laws to carry out the role of actuary to a Complying SMSF and which may include an actuary who is a practising Member of the Institute of Actuaries of Australia.

Additional Trustee is a person who is a non-Member of the Fund, appointed as a Trustee of the Fund as a consequence of the Fund having only one Member and seeking to remain a complying SMSF.

Anti-Detriment Benefit Payments are payments made by the Trustee, whether from Reserve, Earnings of the Fund or Life Insurance Proceeds for the purpose of ensuring that the Dependants or Legal Estate of the deceased Member are put in the same financial position in terms of Death Benefits that they would have been if no taxes had been levied on the contributions of the Deceased Member. In determining the Anti-Detriment amount the Trustee may have regard to any formula used by the Regulator to calculate the amount, an audit or accounting method based on actual accounts of the Fund.

Anti-Detriment Reserve includes a Reserve established by the Trustee under the Rules of the Fund for the purpose of making Anti-Detriment Benefit Payments in respect of Deceased Members of the Fund. Such amounts may be accrued in the Anti-Detriment Reserve to make Anti-Detriment Benefit Payments to the deceased Member's Dependants or Legal Estate and may be determined by an Actuary.

Appropriated Part means that part of a Member's Binding Death Benefit Nomination, Non-Lapsing Binding Death Benefit Nomination and/or SMSF Will which is directed to be paid to an Ineligible Death Benefits Beneficiary.

Asset includes, but is not limited to real, personal or intellectual property, shares, futures, collectables, businesses or business interests, any assets or property transferred or contributed to the Fund plus income, earnings and profits arising from those Assets or property interests as well as any other Asset that a Superannuation Fund may lawfully hold on behalf of a Member, Fund Superannuation Interest, Member Superannuation Benefit, Insurance purposes, as well as for the Dependants and the Legal Estate of a Member or deceased Member, but excludes Cash. Asset includes part of an Asset or a fractional interest in an Asset and where the Trustee of the Fund holds the Asset as a tenant in common where the holding of such an Asset is authorised or does not breach the Superannuation Laws.

Assets Test Exempt Superannuation Income Stream is a Superannuation Income Stream that is exempt, either wholly or partially from the Assets Test under the *Social Security Act 1991*.

Associate has the same meaning as found in the in-house asset Rules found in Part 8 of the *SISA*.

Auditor is an auditor authorised under the Superannuation Laws or by the Regulator to be an auditor of a SMSF and should be licensed by the Australian Securities Investment Commission.

Australian Superannuation Fund means a Superannuation Fund that meets the conditions of an Australian Superannuation Fund under the Superannuation Laws or is otherwise held to be an Australian Superannuation Fund by the Regulator.

Authorised Contribution made on behalf of a Member or Members of the Fund means a Contribution, whether by way of Cash, Asset or in-kind (including a Fund expense payment or the forgiveness of a debt), made to the Fund by a person, entity, government, Regulator or Employer Sponsor where the Trustee is satisfied that the Contribution has met the requirements for making a superannuation Contribution under the Superannuation Laws and that the acceptance of the Contribution by the Trustee of the

Fund will not result in the Trustee of the Fund breaching the Superannuation Laws. However it does not include an allocation from a Reserve Account of the Fund for the benefit of a Member.

Auto-Reversionary Beneficiary is a Person nominated to receive an Income Stream or Pension upon the death of a Member, in the instrument establishing the Income Stream or Pension from the Member's Superannuation Interest(s).

Auto-Reversionary Income Stream or Pension includes an Income Stream or Pension where a Person (including a Dependant ("the Auto-Reversionary Beneficiary")) is included in the Income Stream or Pension documentation as the recipient ("if alive") of the Member's Income Stream or Pension upon the death of the Income Stream or Pension Member or beneficiary. If the Person does not qualify to receive an Income Stream or Pension (for example, the Person is not a Dependant of the Member), then unless the instrument in which the Income Stream or Pension was established provides otherwise, then the Auto-Reversionary Beneficiary's share of the Income Stream or Pension is to be commuted to a Lump Sum payable to the Auto-Reversionary Beneficiary.

Bare/Holding Trust is a Trust and includes a Holding Trust established by the Trustee or some other party which holds an Asset on bare trust for the Trustee of the Fund pursuant to a limited recourse borrowing arrangement pursuant to the Superannuation Laws. The trustee of the Bare Trust or Holding Trust is to hold any Asset of the Fund for the absolute entitlement of the Trustee of the Fund. A Bare Trust may be used for the purposes of the Trustee entering into any borrowing arrangement under the Superannuation Laws or a traditional instalment warrant arrangement or limited recourse lending arrangement pursuant to the sections 67, 67A and 67B of SISA or such other Superannuation Laws that allow the Trustee of a SMSF to borrow.

Benefits in Kind are Superannuation Benefits allowed to be paid under the Superannuation Laws that are neither Cash nor an Asset of the Fund and includes a set-off. The value of any Superannuation Benefit in Kind is to be determined by the Trustee of the Fund who may engage the services of a valuer in that regard.

Binding Death Benefit Nomination is a nomination made by a Member in relation to the distribution of the Member's Superannuation Interests in the event of the Member's death, which is either a Binding Death Benefit Nomination which is lapsing (meaning it lapses on the happening of a period of years or on an event) or a Non-Lapsing Binding Death Benefit Nomination, and:

- a) nominates the Member's Dependants, the Legal Personal Representative of the deceased Member and/or such other Person(s) eligible to receive the Member's Death Benefits under the Superannuation Laws, and/or any combination thereof;
- b) provides the terms and conditions of the payment of the Member's Death Benefit, which may prescribe separate terms and conditions for each of the nominated beneficiary(ies) and a cascading of nominations (for example, if one beneficiary dies before the Member, then part appropriated for such deceased beneficiary may be passed to alternate beneficiaries) of the Member's Death Benefit;
- c) directs the method, amounts, percentages and/or Assets to be paid to each nominated beneficiary(ies), and the conditions of such payment (for example, if the beneficiary dies before the Member, then the Member may provide an alternate term);
- d) directs whether the Trustee holds a discretion or right to prohibit or void any restriction imposed by the Member in such nomination in respect to the dealing with any Asset of the Fund nominated for payment as a Death Benefit;
- e) is effected by instrument in writing, signed and dated by the Member and witnessed by at least one witness who is not a Trustee or a beneficiary named in the nomination;
- f) is received by the Trustee of the Fund, which receipt shall be deemed on any one or more of the following:

- (i) written acknowledgment by the Trustee:
 - (1) if the Trustee consists of two (2) or more natural persons, then the written acknowledgment of not less than 2 natural persons acting in such capacity shall be sufficient;
 - (2) if the trustee is a Corporate Trustee, and there is two (2) or more directors, then the written acknowledgement of not less than 2 natural persons acting in such capacity shall be sufficient;
 - (3) if the Trustee is a single natural person (such as the case in which the natural person holds a member's enduring power of attorney in accordance with section 17A of the SISA), then the execution of the single natural person acting in such capacity shall be sufficient;
 - (4) if the trustee is a Corporate Trustee, and there is only a single natural person acting as director, then the execution of the single natural person acting in such capacity shall be sufficient;
 - (5) a "written acknowledgment" may be by way of confirmation written on a copy of the Nomination, by email, by letter, by facsimile or such other instrument capable of demonstrating the consent of a natural person for the matter;
- (ii) return receipt of the Australian Postal Service confirming acceptance by the Trustee to the address registered for the Trustee with the ATO;
- (iii) is recorded in the books and records of the SMSF;
- g) nominates the period for which the nomination is effective (in other words, whether the nomination continues for a fixed period of years or expires on the happening of an event (which term is to be known as the Lapsing Event) and/or nominates the nomination to be Non-Lapsing;
- h) has continuing effect until revoked by the Member, subject to any Lapsing Event, by giving notice to the Trustee in writing and signed by the Member and at least one witness who is not a Trustee or a beneficiary named in the nomination; and
- i) may be effected by digital signature of the Member and a Member's witness, provided the Trustee accepts such Nomination by electronic means.

A Binding Death Benefits Nomination shall be deemed to be valid and binding on the satisfaction of each of the above criteria (a)-(i) by the Member, notwithstanding any further requirements imposed by the Trustee from time to time.

Cash includes any currency, cheque, promissory note and any amount held by the Trustee in a bank account, cash management trust, deposit account or similar account where cash may be held on deposit for the Trustee, and includes foreign currency and digital currency (for example, BitCoin).

Cashing Restriction is any restriction in the Superannuation Laws which may apply in which a Member satisfies a Condition of Release in respect of one of more of the Member's Superannuation Interests enabling access by a Member of his/her Superannuation Benefits in such shape or form as the Superannuation Laws allow.

Child in relation to a person, includes an adopted child, a step-child or an ex-nuptial child of the person or any other person as defined under the Superannuation Laws, except as otherwise restricted by direction of a Member by instrument in writing, signed by the Member and delivered to the Trustee.

Cloned SMSF includes, subject to the Superannuation Laws and the Fund retaining its Complying SMSF status, a Complying SMSF which bears an identical set of Rules, Members and Trustee as the Fund.

Company includes any entity incorporated pursuant to *Corporations Act 2001* or the Superannuation Laws (as applicable).

Compassionate Grounds includes those grounds listed under the Superannuation Laws