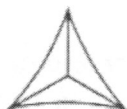


JOHN LESLIE BOUCHER AND KATHLEEN BOUCHER

("the Trustees")

**DEED OF VARIATION
JL & K BOUCHER SUPERANNUATION FUND**

Ref: 1500-1



TRINIX LAWYERS

Suite 4A, Building A, Leader Business Park, 661 Newcastle Street, Leederville WA 6007
T: +61 (08) 9228 1711 F: +61 (08) 9228 1722

THIS DEED OF VARIATION is made

BY:

JOHN LESLIE BOUCHER of 11 Davies Way, Broadwater, Western Australia

AND

KATHLEEN BOUCHER of 11 Davies Way, Broadwater, Western Australia
("the Trustees")

RECITALS:

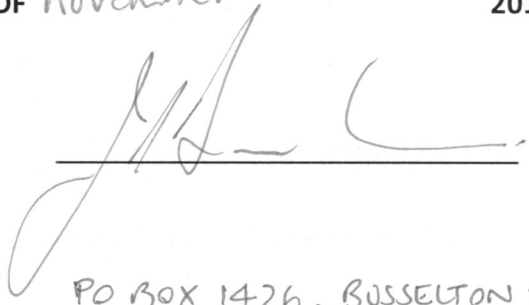
- A. The Trustees are the original and continuing members and individual trustees of a self managed superannuation fund known as the **JL & K BOUCHER SUPERANNUATION FUND** ("the Fund") which was established by deed made on 20 June 1997 and later varied by deed made on 20 November 2005, which now contains the terms of the Fund ("the Deed").
- B. Pursuant to Rule 12 of the Deed, the Trustees may by deed or written resolution, amend, delete or replace the Deed provided that any amendment does not alter a beneficiary's right or claim to an accrued benefit in an adverse manner or reduce the amount of a member's benefits unless permitted by law.
- C. The Trustees wish to vary the terms of the Deed in accordance with the terms of this deed of variation.

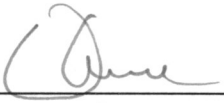
OPERATIVE PROVISIONS

1. The Trustees, pursuant to the power contained in Rule 12 of the Deed, hereby vary the terms of the Deed by deleting them entirely (save for the provisions relating to the establishment of the Fund, the initial commencement and agreement to hold the Fund's property on trust for the benefit of members and other beneficiaries and save for the execution part of the Deed) and hereby replace them with the provisions contained in Annexure "A" to this deed of variation.
2. The Trustees declare that this deed of variation does not adversely affect any member's rights or claims to accrued benefits and is entered into so as to properly maintain and administer the Fund in accordance with changes to the Acts as defined in Annexure "A" to this deed of variation.
3. The Trustees declare that this deed of variation does not create or establish a new superannuation fund but rather is an amendment or variation to the Fund which was established on 20 June 1997 and later varied by deed made on 20 November 2005, and continues to operate and remain in existence.

EXECUTED AS A DEED ON THE 22nd DAY OF November 2013.

SIGNED by)
JOHN LESLIE BOUCHER)
in the presence of:)



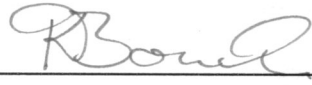

Signature of witness

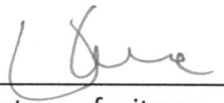
PO BOX 1426, BUSSELTON WA
Address of witness

Wanda Maree Comrie
Full name of witness

Customer Relations Officer
Occupation of witness

SIGNED by)
KATHLEEN BOUCHER)
in the presence of:)




Signature of witness

PO BOX 1426, BUSSELTON WA
Address of witness

Wanda Maree Comrie
Full name of witness

Customer Relations Officer
Occupation of witness

ANNEXURE "A"**INDEX**

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OPERATIVE PART:**1. DEFINITIONS AND INTERPRETATION**

1.1 Definitions

In this Deed, unless the contrary intention appears, the following words shall have the following meanings:

"Account" means a record of amounts held by the Trustee in the Fund;

"Acts" means the SIS Act, the ITAA 1997, the ITAA 1936, the Family Law Act 1975 (Part VIII B), the Social Security Act 1991, any other Act or Regulation that deals with the regulation, taxation and operation of a self managed superannuation fund, any successor acts and all regulations under these Acts;

"Ancillary Purpose" means those purposes as defined in section 62 of the SIS Act including the purpose of providing such benefits as the Regulator approves in writing;

"ATO" means the Australian Taxation Office, the Commissioner or, alternatively, some other official or body empowered with the administration of self managed superannuation fund and any of their authorised officers;

"Auditor" is an Approved Auditor as defined in section 10(1) of the SIS Act or any successor Act or other determined by the Regulator;

"Beneficiary" includes Members and any person entitled at the relevant time to receive a payment from the Fund in respect of a Member and any other person who is a Beneficiary for the purposes of the Acts, and **"Beneficiaries"** has a corresponding meaning;

"Benefit" means any amount paid or payable from the Fund to or in respect of a Member or Beneficiary;

"Binding Death Benefit Nomination" or **"BDBN"** means a written direction given by a Member that complies with clause 12 binding the Trustee as to the payment of all or part of an Interest on or after the death of Member;

"Child" has the meaning given in the SIS Act;

"Complying Superannuation Fund" means a self managed superannuation fund which is compliant with section 42A of the SIS Act;

"Contribution" means any amounts paid or property transferred to the Trustees for the benefit of a Member or Members;

"Contributing Employer" means unless the Trustee determines otherwise, an employer who (or whose associate) employs a Member, but only for so long as the employer (or associate) is eligible to contribute to the Fund in respect of that

employment or for so long as the Member remains a Member of the Fund, and the Trustee may notify the Contributing Employer that it may contribute to the Fund using the *"Notification to Contributing Employer Form"* contained in Schedule 2;

"Core Purposes" means those purposes as defined in section 62 of the SIS Act;

"Death Benefit" means a benefit payable on a Member's death;

"Dependant" has the meaning given in the SIS Act and the SIS Regulations and includes a Spouse (including where a Member is deceased, a Spouse at the date of death), a Child, any person who in the opinion of the Trustee was in an Interdependency Relationship with a deceased Member or who was wholly or partially financially dependent on the Member or who was legally entitled to financial support from a deceased Member;

"Deed" means this Self Managed Superannuation Fund Deed as amended from time to time;

"Earnings" include any income received and accrued, realised and unrealised gains and any other amount the Trustees believe should form part of the earnings;

"Employee" means a person in the Gainfully Employed by an Employer;

"Employer" means a Contributing Employer or such other employer of a Member authorised by the Trustee to make contributions in respect of a Member who is an Employee;

"Excess Contributions Tax" means any tax imposed by reason of the *Superannuation (Excess Concessional Contributions Tax) Act 2007* or the *Superannuation (Excess Non-Concessional Contributions Tax) Act 2006* or successor legislation;

"Fund" means this self managed superannuation fund established under this Deed;

"Gainfully Employed" means being employed or self employed for gain or reward in any profession, business, trade, vocation, calling or occupation or employment and gain or reward includes wages, business income, bonuses, commissions received in relation to personal exertion from these activities but not passive income including rent, interest and dividends, and **"Gainful Employment"** has a corresponding meaning;

"Interdependency Relationship" means a close relationship of mutual dependency between a Member and another person (whether or not a Relative) as defined in section 10A of the SIS Act and after considering the matters prescribed by SIS Regulations 1.04AAAA in determining whether such a relationship exists or existed;

"Interest" means every amount, Benefit or entitlement a Member holds, or in the case of a deceased Member every amount, Benefit or entitlement held in respect of that deceased Member in the Fund within the meaning of that term in the ITAA 1997. Subject to the Acts, if a Member receives one or more Pensions from the Fund, then each Pension is a separate Interest;

"ITAA 1936" and **"ITAA 1997"** means the *Income Tax Assessment Act 1936 (Cth)* and the *Income Tax Assessment Act 1997 (Cth)* respectively and all regulations made under each Act and as amended or substituted from time to time;

"LPR" means the executor of the will or administrator of the estate of a deceased person, the trustee or administrator of the estate of a person under a legal disability or a person who holds an enduring power of attorney granted by a person, but excludes the legal personal representative of a disqualified person, and LPR includes a person who is an executor of the most recent validly made will of a person where the person has not yet died, and **"Legal Personal Representative"** has a corresponding meaning;

"Lump Sum" means a Benefit, other than a Pension, payable to or in respect of a Member in accordance with this Deed;

"Market Value" mean an amount 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;
- (b) the sale occurred after the proper marketing of the asset; and

the buyer and the seller acted knowledgeably and prudently in relation to the sale;

"Member" means a person who has been admitted by the Trustee as a member of the Fund in accordance with this Deed and includes a deceased person who was a Member of the Fund immediately prior to his or her death and in respect of whom an Interest remains in the Fund, and **"Membership"** has a corresponding meaning;

"Member's Account" means an account established and maintained by the Trustees on behalf of the Member in accordance with clause 8;

"Member's Accumulation Account" refers to a Member's Account established by the Trustee, the balance of which is the amount that can be paid to the benefit of a Member, their Dependant or LPR as Lump Sum Benefit and or a Pension;

"Minimum Benefits" means an amount determined by the Trustee of the Fund as a minimum benefit for a Member pursuant to Part 5 of the SIS Regulations;

“Member’s Pension Account” refers to a Member’s Account established by the Trustee for which the payment of a Pension will be debited;

“Non-Complying Superannuation Fund” means a self managed superannuation fund that is not a Complying Superannuation Fund;

“Payment Split” has the same meaning as that term has under the Family Law Act 1975 or as agreed to by the parties in an agreement contemplated by that Act;

“Pension” means an account based income stream or another type of pension permitted to be provided by or arranged by the Trustee under the Acts;

“Pension Age” has the same meaning given to that term in the Social Security Legislation or such other age acceptable to the Trustee provided that it is permitted under the Acts;

“Permanent Incapacity” in relation to a Member means ill health (whether physical or mental) where the Trustees are reasonably satisfied that the Member is unlikely, because of the ill health, to engage in Gainful Employment for which the Member is reasonably qualified by education, training or experience;

“Preservation Age” means the minimum age that the Member must reach (as set out in the SIS Regulations 6.01(2)), before the payment of all or part of a Member’s Interest from the Fund on retirement where the Trustee must be satisfied that the Member has ceased Gainful Employment and intends to never again become Gainfully Employed;

“Preserved Benefits” of a Member, means the accumulated benefits of a Member which are required to be preserved in respect of that Member pursuant to Part 5 of the SIS Regulations;

“Regulated Superannuation Fund” means a fund that is regulated as defined within section 19 of the SIS Act;

“Regulator” means the ATO or any other regulatory body, tribunal or nominee holding at the appropriate time the position or statutory responsibility for overseeing the Fund’s compliance with the Acts;

“Relative” has the same meaning as in section 10 of the SIS Act;

“Release Request” refers to a written notice provided by the Commissioner of Taxation authorising the Member to withdraw monies from the Fund to pay Excess Contributions Tax as referred to at clause 9.2;

“Reserve Account” means the Account referred to in clause 8.4;

“Securities” means securities as defined in section 92 of the *Corporations Act 2001 (Cth)* and securities approved by the Trustee in any foreign country;

"Schedule" means the Schedule to this Deed;

"SIS Act" means the *Superannuation Industry (Supervision) Act 1993 (Cth)* as amended or substituted from time to time;

"SIS Regulations" means the *Superannuation Industry (Supervision) Regulations 1994 (Cth)* as amended or substituted from time to time;

"Social Security Legislation" means the Social Security Act 1991 (Cth), the Veterans' Entitlement Act 1986 (Cth) and applicable regulations, ruling or guidelines made pursuant thereto, as relevant;

"Splittable Contributions" means an amount that has the meaning for the purposes of Part 6 of the SIS Regulations;

"Spouse" has the meaning given in section 10 of the SIS Act;

"Superannuation Entity" means:

- (a) a superannuation fund;
- (b) an approved deposit fund;
- (c) a pooled superannuation trust; and
- (d) life insurance company or similar entity,

whether such an entity is a resident or non-resident of Australia;

"Tax" refers to any tax levied by any taxation law;

"Temporary Incapacity" of a Member, means that the Member has ceased to be Gainfully Employed due to ill-health (physical or mental) and including a Member who has temporarily ceased to receive a gain or reward under an existing and continuing arrangement whereby the Member is usually Gainfully Employed but does not include a Member who is permanently incapacitated and Temporarily Incapacitated has a corresponding meaning;

"Termination Date" means the date on which the Fund terminates;

"Trustee" means the Trustee for the time being of the Fund.

1.2 Interpretation

Except and to the extent that such interpretation shall be excluded by or be repugnant with the context:

- (a) a reference to this Deed or another instrument includes any variation or replacement of it;

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- (b) every covenant and agreement expressed or implied in this Deed which more than 1 person covenants and agrees shall bind such person or persons and every 2 or more of them jointly and each of them severally;
 - (c) reference to any “**party**” shall mean and include a reference to that party, his successors or personal representatives (as the case may be) and transferees, and “**parties**” shall have a corresponding meaning;
 - (d) the word “**person**” shall include a firm, a body corporate and unincorporated association or an authority;
 - (e) the singular includes the plural and vice versa and words importing a gender include any gender;
 - (f) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
 - (g) headings shall not affect the interpretation and construction of this Deed;
 - (h) if an expression is defined in the Act, but is not defined in this Deed, then that expression will have the same meaning give to it in the Act.

2. FUND

2.1 Commencement

[INTENTIONALLY DELETED]

2.2 Fund Purpose

- (a) The Fund is maintained for one or more of the Core Purposes and one or more Ancillary Purposes and for no other purpose.
- (b) While the Trustees of the Fund are natural people, the sole or primary purpose of the Fund is the provision of old-age pensions to Members and, on their death, to their Dependants. While the Trustee is a corporation, the sole or primary purpose of the Fund is the provision of Benefits to Members and, on their death, to their Dependants.

2.3 Trustee must ensure that Fund is a Regulated Superannuation Fund.

The Trustee must cause the Fund at all times to be a Regulated Superannuation Fund.

3. TRUSTEE

3.1 Trustee

The Fund shall be vested in the Trustee and the Trustee shall hold and manage the Fund subject to the terms contained in this Deed.

3.2 General

- (a) The Trustee must act to ensure that the Fund holds and retains its status as a Complying Superannuation Fund within the Acts and must not act in any way that may cause it to lose that status. The limitation in this paragraph applies to every power, discretion or duty in this Deed.
- (b) The Trustee must observe all binding obligations arising under the Acts.

3.3 Appointment

- (a) A Trustee may be a natural person or a company.
- (b) Each individual who is a Trustee or each director of a company which is a Trustee must be a Member, unless the Fund only has one Member, in which case another individual who is either related to the Member or is not an Employer of the Member, may be a Trustee or director of a company which is Trustee, together with the Member.
- (c) Each individual who is a Trustee or each director of a company which is a Trustee must:
 - (i) consent to appointment;
 - (ii) read, understand and agree to be bound by the Deed; and
 - (iii) sign a declaration, in the approved form, that he or she understands his or her duties as trustee, within 21 days of their appointment.
- (d) An individual may not be appointed as a Trustee if he or she:
 - (i) has been convicted of an offence involving dishonesty;
 - (ii) has had a civil penalty order under the SIS Act made against them;
 - (iii) is an undischarged bankrupt; or
 - (iv) is disqualified by the Regulator.
- (e) A company may not be trustee if:
 - (i) any director, secretary or executive officer is a disqualified person;

- (ii) a receiver, official manager or provisional liquidator has been appointed; or
 - (iii) action has commenced to wind up the company.
- (f) A member cannot be appointed as trustee if they have a legal disability but a LPR of that Member can be appointed as a Trustee on their behalf.
- (g) Whenever a person is admitted as a Member, that person must be appointed Trustee or a director of a company, which is Trustee except that a LPR of an adult Member or a parent or legal guardian of a Member under the age of 18 years may be appointed as a Trustee or director of a company, which is Trustee in place of that Member.
- (h) A Regulator may appoint a person or a company as Trustee.
- (i) A Trustee will comply with all requirements under the Acts in relation to their appointment.

3.4 Retirement and Removal

- (a) A Trustee may retire as Trustee of the Fund at any time so long as a new Trustee has first been appointed.
- (b) A Trustee is removed as Trustee:
- (i) on the Trustee retiring in accordance with this Deed; or
 - (ii) if the Trustee is a natural person, on ceasing to be a Member, death or legal disability; or
 - (iii) if the Trustee a company, on the date following the time one or all directors ceased to be members, the company goes into liquidation or has a receiver appointed or enters administration; or
 - (iv) on disqualification or removal by the Regulator or by application of the Acts, or if the continued appointment of the Trustee may result in the fund losing its status as a Complying Superannuation Fund within the SIS Act.
- (c) If the Fund only has one Member, a person who is not a Member and is a Trustee may retire as Trustee provided that another person eligible to be appointed as trustee of the Fund under section 17A of the SIS Act, is appointed as Trustee.
- (d) A company may retire as Trustee provided that either the directors of that company or another company eligible to be Trustee of the Fund under section 17A of the SIS Act, is appointed as Trustee.

3.5 Vesting of Assets

Any Trustee on ceasing to be a Trustee must do all things necessary to transfer title to the property of the Fund in the remaining or new Trustee and must deliver all records and other books to the remaining or new Trustee.

3.6 Remuneration & Indemnification

- (a) No Trustee of the Fund will be paid any salary or remuneration for acting in the capacity of Trustee. No director of any corporation acting in the capacity of Trustee will be paid any salary or remuneration for acting in that office as director.
- (b) The Trustee and, where the Trustee is a corporation, its directors and officers are entitled, to the maximum extent permitted by the Acts and by law, to be indemnified from the Fund for and against all liabilities incurred by each of them in connection with the performance of their duties as Trustee.
- (c) Subject to the Acts, the Trustee and its directors and officers may apply the assets of the Fund in indemnification of itself or a former Trustee, provided all actions performed by the Trustee or a former Trustee in respect of indemnification sought were honest and met the required degree of care and diligence.

4. TRUSTEE MEETINGS

4.1 Meetings

- (a) The Trustees may meet as and when required to make decisions in performance of their obligations as Trustees of the Fund under the provisions of this Deed or the Acts.
- (b) If there is more than one Trustee, the Trustees must meet if Members, whose account balances combined equal or exceed 50% of the Fund's cumulative account balance, serve notice of the meeting on the Trustee requiring the Trustee to make a decision regarding an issue relating to the Fund, its administration or management. 14 days notice of such meetings is required in the manner set out in clause 4.4.
- (c) Reasonable notice of such meetings is required in the manner set out in clause 4.4.
- (d) The Trustees may adjourn meetings as they see fit.
- (e) The Trustees meetings may be conducted in person, communication link established by telephone, audio or audio-visual communication or other approved device. All proceedings will be valid and effective as if that person were physically present.

-
- (f) A person may appoint in writing, another person to act as that person's proxy at any Trustee meeting.

4.2 Decisions

- (a) At any meeting of Trustees a quorum will be formed with the presence of those Trustee who represent Members, whose account balances exceed 50% of the value of the cumulative assets of the Fund.
- (b) Voting shall be conducted on the basis of one vote per whole dollar value of Member's account balances and resolutions shall be by majority.
- (c) All decisions or resolutions must be recorded in writing and signed by each Trustee as soon as reasonably practicable.

4.3 Records

- (a) The Trustee must keep clear records of its resolutions and proceedings and otherwise keep such records as required by the Acts.
- (b) If a written resolution has been signed by all persons entitled to attend a Trustee meeting, the resolution in the terms stated will be deemed as passed at the time and date which the document was last signed by any such person. More than one identical written resolution, each of which has been signed by one or more persons, will constitute one document.

4.4 Notice

Written notice of meetings must be given to each Trustee at their last nominated mail, facsimile or email address stating the:

- (a) place, date and time for the meeting; and
- (b) the general reason for the meeting.

5. TRUSTEE'S DUTIES

5.1 Duties

The Trustee must:

- (a) act honestly in relation to all matters concerning the Fund;
- (b) exercise, in relation to all matters concerning the Fund, the same degree of care, skill and diligence as an ordinary prudent person would exercise in dealing with assets of another for whom the person felt morally bound to provide;
- (c) to ensure that the Trustee's duties and powers are performed and exercised in the best interests of the Beneficiaries;

-
- (d) to keep the money and other assets of the Fund separate from any money and assets, respectively that are either held by the Trustee personally or that are money or assets as the case may be, of a standard employer-sponsor or an associate of the standard employer-sponsor of the Fund;
 - (e) 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;
 - (f) formulate, review regularly and give effect to the investment strategies that has regard to the whole of the circumstances of the Fund and the circumstances of particular Members;
 - (g) if there are reserves of the Fund, to formulate and 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;
 - (h) to provide Members with access to any prescribed information or any prescribed documents of the Fund.

5.2 Qualification

The trustee and corporate trustee director duties contained in clause 5.1 are to be read subject to any qualifications contained in subsections 52(3) to (9) of the SIS Act.

6. TRUSTEE POWERS

6.1 Trustee Discretion

The Trustee has an absolute discretion in carrying out any acts, matters and things it deems expedient for the purposes of the Fund. In the exercise of the powers, authorities and discretions conferred on the Trustee by law and this Deed, the Trustee shall have an absolute and uncontrolled discretion to exercise or refrain from exercising all powers, authorities and discretions.

6.2 Powers

The Trustee has the power, having regard to the Fund's status at the relevant time, to do anything that a Trustee of a superannuation fund is permitted to do under the Acts, including powers to:

- (a) invest money, assets or resources of the Fund in such appropriate investments, in Australia or elsewhere, as the Trustee thinks fit;
- (b) settle, compromise, commence, carry on or defend proceedings or submit to arbitration or mediation any claims, matters or things relating

to this Deed or the rights of any Member including any court, tribunal or other forum or medium the Trustee considers appropriate;

- (c) pay all expenses from the assets, reserves or income of the Fund including management expenses (including all costs, charges and expenses relating to management of the Fund, which may include acquiring the services of specialists or administrations) and general expenses (including all costs, charges and expenses in connection with any real or personal property, which may include insurance premiums, rates, taxes, rent, repairs and any other expenses the Trustees may consider necessary);
- (d) to act upon any release authority (voluntary or mandatory) within the meaning of the Acts, whether received from a Member or the Regulator;
- (e) sell, vary, improve, renovate or repair any investment and may exchange any investment for another investment;
- (f) commence, acquire or carry on any business (including a business of property development, trading in securities, primary production or similar trading enterprise) including being involved or owning a direct or indirect interest in any business and if the Trustee has any interest in any business the Trustee is empowered to manage that interest as it deems appropriate and may, to the extent permitted by the Acts, employ moneys, resources and persons to carry on the business on behalf of the Trustee;
- (g) set aside out of the Fund from time to time such amount of money as is sufficient, in the Trustee's opinion, to meet any debt or obligation due or accruing;
- (h) pay calls on shares or stock or units forming part of the Fund and to accept transfers of shares or Securities;
- (i) assent to or concur in any arrangement, sale, transfer or exchange of any shares, stock, debentures or other Securities modifying any rights, privileges or interest in relation to the Fund and to agree to and concur in any scheme of arrangement for the increase or reduction of the value or amount of the same in the capital of any company, trust, other investment in which any shares, stock, debentures or other Securities forming any part of the Fund for the time being may be invested or agree to concur in any rearrangement of its capital or its reconstruction or any arrangement made or proposed to be made by it for any purpose;
- (j) indemnify or undertake to indemnify anyone or any body in respect of any claims, matters or things relating to the Fund or to the rights of Members in respect of the Fund;

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- (k) insure or re-insure any risks, contingencies, penalties, costs, audits, investigations, investments or liabilities in respect of the Trustee, the Fund the Members, any assets of the Fund or any other matter with any insurance company, mortgage insurance company, re-insurance company, financial institution or any other entity willing to accept or underwrite such risks as the Trustee determines;
 - (l) underwrite or sub-underwrite any risks, contingencies or liabilities including any under a superannuation arrangement conducted by an Employer if there exists the possibility of transfers of Employees to the Fund;
 - (m) procure the registration or recognition of the Trustee or the Fund in any overseas country or jurisdiction including to become registered as a qualifying recognised overseas pension scheme, a qualifying retirement plan or similar arrangement and the Trustee is empowered to attend to any associated action, matter or thing including the provision of any undertaking, disclosure of information or entering into any arrangements or agreements that the Trustee considers appropriate;
 - (n) open any account or accounts with any bank or financial or other institution and to operate such an account or accounts and to draw, make, accept, endorse, discount, issue or otherwise deal with any promissory notes, bill of exchange, bill of lading, cheque, bank bill or other negotiable or transferable instrument;
 - (o) raise any money in any lawful manner including by way of drawing, endorsing, accepting or otherwise dealing in any bill of exchange, promissory note, derivative or other negotiable instrument. The Trustee may secure the repayment of any moneys so raised with interest at such rate as the Trustee thinks fit and upon any term and conditions in all respects as the Trustee thinks fit. Any money raised by the Trustee will form part of the Fund;
 - (p) subject to the Acts, give or authorise the giving of security by way of mortgage, charge, guarantee, indemnity or otherwise in respect of any asset of the Fund;
 - (q) subject to the Acts, pay for or reimburse the reasonable expenses of a Trustee, Member or other person incurred in relation to the Fund's operations (including expenses for supplies, services or travel costs) and for the avoidance of doubt, these events will not constitute a loan, borrowing, financial accommodation or a contribution;
 - (r) generally do any other act or thing as the Trustee considers necessary or expedient in respect of the management and administration of the Fund and to further the interests of the Fund;

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- (s) to enter into any derivatives contract or purchase or sell or deal in any derivatives product, and otherwise to do and perform all things such as to operate, utilise or deal with facilities of any stock or futures exchange either directly or through any broker or agent in any market in any part of the world;
 - (t) obtain and, subject to its discretion, act (or refrain from acting) on any advice or obtain any assistance as it considers appropriate;
 - (u) delegate to any one or more persons, firms or companies on such terms as the Trustees may think fit any of the authorities, powers and discretions conferred upon the Trustees. Without limiting this general power the Trustee may:
 - (i) appoint from time to time any one or more persons, firms or companies as the Trustees may think fit to act as Manager, custodian or investment manager subject to such conditions as the Trustees may from time to time determine;
 - (ii) delegate to and confer upon the manager, custodian or investment manager such authorities, power or discretions, including the Trustee's power of delegation, as the Trustees may think fit;
 - (iii) pay out of the Fund to any manager, custodian, investment manager or other delegate such remuneration for its services as the Trustees consider proper; and
 - (iv) remove from time to time any manager custodian or investment manager;
 - (v) appoint an attorney in the exercise of all or any of the powers herein confirmed upon the Trustee and to execute any power of attorney or such other instrument that the Trustees consider necessary for the exercise of those powers;
 - (w) employ any person to act as Manager, lawyer, accountant, clerk, contractor, workman, or employee or any agent to transact any business and determine the remuneration to be paid and allowed for those services;
 - (x) to give valid receipts and discharges;
 - (y) subject to the Acts:
 - (i) and this Deed, the Trustee may pay an amount of transfer assets to or in favour of a Member and the Trustee may accept an amount or assets directly or indirectly from a Member or any other party (if an amount is paid or assets are transferred to

another party) provided its consent is obtained in respect of any such payment, receipt or transfer;

- (ii) the Trustee may restrict, limit or fetter its powers, discretions or duties. Moreover, the Trustee may delegate any functions, duties, discretions or obligations, including the holding of title to the assets of the Fund, to any person, entity, organisation, custodian, agent, nominee, or bare trustee to exercise or undertake on behalf of the Trustee by power of attorney (whether enduring or otherwise), resolution, deed or otherwise for any purpose and with any powers, conditions, limitations, authorities or discretions as it thinks fit, provided that any custodian or investments manager is appointed in writing. Similarly the Trustee may remove, replace or suspend any person or organisation as it considers appropriate;
- (iii) in the event that any Member of the Fund makes any claim, assertion, complaint, demand, request or otherwise in relation to the Fund or the Trustee that, in the Trustee's opinion, is of little or no substance, even if the matter does not involve any legal action or third party, the Trustee can recover any reasonable expense or cost in relation to the administration, dispute resolution or any dealing relation to that Member from their interest in the Fund and shall not be under any obligation to notify that Member or any other Member of the Fund or person in relation thereto;
- (iv) the Trustee may determine that any of its discretions or powers, or instances of the exercise of its discretions or powers:
 - (A) have effect on a current, retrospective or prospective basis; or
 - (B) are subject to one or more limitations or fetters.
- (z) to effect internal rollovers in the Fund in relation to the Member's account or Benefits;
- (aa) to receive any property by gift or by distribution under a 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 according to this Deed and to administer such additions under these provisions;
- (bb) may withhold any tax from any Benefit, contributions, amounts allocated from a Reserve Account, Earnings, gains, assets, disbursements or other payment receivable or paid or payable by the Fund and obtain and furnish any information and deal in or pay any tax.

6.3 Conflict of Interest

The Trustee may exercise any power or discretion even if this gives rise to a conflict of interest. For the avoidance of doubt, the Trustee may exercise any power or discretion even if:

- (a) the Trustee;
- (b) any person being a director or shareholder of the Trustee;
- (c) any person being a relative of a Trustee;
- (d) any person being a relative of a director or a shareholder of a Trustee (if the Trustee is a corporation);

has or may have a direct or indirect interest, whether:

- (e) in his/her personal capacity;
- (f) as a shareholder or director or as a relative of the Trustee;
- (g) as a relative of a director or shareholder of a Trustee;
- (h) as a member or partner of any company or partnership; or
- (i) as a beneficiary of any trust including any discretionary, unit or hybrid trust;

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 even if the Trustee or director of a corporate Trustee is a sole Trustee or director.

6.4 Borrowing & acquiring assets

- (a) Subject to the Acts, borrow money from any persons, firms, corporations, bodies, associations or governmental or municipal bodies, including a related party:
 - (i) to apply for the acquisition of an asset where:
 - (A) the asset or a replacement for that asset ("Asset") is held on trust for the benefit of the Trustee until the Trustee acquires legal ownership of the Asset and the term "Asset" includes any real or personal property and real estate or an interest relating to real estate purchased under an off-the-plan arrangement;
 - (B) the Asset is one which the Trustee is not prohibited from acquiring under the Acts;

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- (C) the rights of the lender against the Trustee for default on the borrowing and any charges related thereto are limited to the Asset;
 - (D) if the Trustee has a right relating to the Asset, the rights of the lender against the Trustee for the Trustee's exercise of its right are limited to rights relating to the Asset;
 - (E) the borrowing complies with any other requirement under the Acts; and
 - (F) the borrowing takes place on such terms and conditions including with or without security or interest as the Trustee deems fit and to give, or to authorise the giving of security by the mortgage, charge (whether fixed or floating) or otherwise in respect of the Asset. The rights of the mortgagee or charge shall take priority in all respects over the rights of the Members and beneficiaries hereunder and all other persons whomsoever;
- (ii) to acquire an Asset where the borrowing otherwise complies with such terms relating to a borrowing by a trustee of a regulated superannuation fund as may be provided under the Acts including without limitation having regard to the following:
- (A) the purpose of the borrowing, which in addition to acquiring an Asset, may also cover repairs and maintenance;
 - (B) refinancing of a borrowing (including any accrued interest thereon);
 - (C) limiting the rights of the lender or any other person in respect of the borrowing against the Trustee in respect of the Asset;
 - (D) what is a collection of assets;
 - (E) what constitutes a replacement asset;
 - (F) where more than one borrowing arrangement may be involved to acquire the same Asset or where more than one borrowing arrangement may be involved to acquire different Assets; and
 - (G) any other relevant matter; or

- (iii) to pay Benefits or to settle Securities as provided for under the Acts.

7. MEMBERSHIP

7.1 Admission

- (a) The Trustee may admit up to four Members to the Fund. The Trustee has the discretion as to who is admitted as a Member provided:
 - (i) That person or the person's LPR has provided the Trustee with a Member Application Form in the manner set out in Schedule 1 and has read and agreed to be bound by this Deed of the Fund;
 - (ii) The admission of that person will not adversely affect the status of the Fund as complying superannuation fund;
 - (iii) The person or the LPR of the person applying will accept the appointment as Trustee or director of a company that is the Trustee and is not a disqualified person.
- (b) The Trustee must admit any person as a Member where the person will be paid a Pension from the Fund.
- (c) If the Fund is a sole member Fund, the Member may give written notice to the Trustees stating that no other Member will be admitted to the Fund.
- (d) No Member may be an employee of another Member, unless they are related within the meaning of the SIS Act. Subject to that qualification, the Trustee will have the discretion to admit a new Member as per clause 7.1(a).
- (e) As soon as practicable after the admission of a person as a Member of the Fund the Trustees will give to that Member any information required by the Act.

7.2 Termination of Membership

- (a) The Trustee may at its absolute discretion remove any Member of the Fund. If that Member ceases to be a Member of the Fund, he or she must retire as a Trustee of the Fund or a director of the corporate trustee of the Fund. The Trustee must give notice to the Member of his or her removal as a Member of the Fund. The balance of the Member's account must be transferred to another superannuation fund or entity able to receive such transfers in accordance with the Acts, as nominated by the removed Member within 60 days of the date of the notice or removal and if no nomination is made within that period, at the discretion of the Trustee.

- (b) Unless prohibited by the Acts, a Member will be deemed to have ceased to be a Member on the first to occur of the following:
- (i) when the Member is no longer entitled to receive Benefits from the Fund;
 - (ii) when the Trustees determine that the Member should no longer be a Member;
 - (iii) on the death of a Member, or if the Trustees decide otherwise, no later than the time any LPR of the Member ceases to act as Trustee or director the Trustee company;
 - (iv) no later than the earliest of:
 - (A) four months from the date a Member became ineligible to be a Trustee or to be a director of a company which is a Trustee unless a LPR of that Member is appointed a Trustee; or
 - (B) the date just before a member became ineligible to be a Trustee or to be a director of a company which is a Trustee unless a LPR of that Member is appointed as a Trustee.

8. MEMBER'S ACCOUNT

8.1 General

The Trustee:

- (a) must keep a record of all Contributions, Earnings, amounts allocated to or from any Fund reserves, Benefits paid and all other amounts credited or debited to the a Member's Account on behalf of the Members;
- (b) may keep more than one account for a Member, which may include more than one Member's Accumulation Account and more than one Pension account; and
- (c) must keep a record of the tax free and taxable components of a Member's Account.

8.2 Additions to Member's Account

The Trustee will, subject to any restrictions imposed by the Acts, add to a Member's Account the following received on behalf of a Member or attributable to the Member's Account:

- (a) Contributions received;
- (b) Earnings; and

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- (c) Splittable Contributions;
 - (d) the proceeds of any policy of insurance effected by the Trustee (and owned by the Fund) in respect of a Member;
 - (e) Payment Split;
 - (f) allocations from a Reserve Account; and
 - (g) any other amount which the Trustee determines with the consent of the Member.

8.3 Deductions from a Member's Account

The Trustees will be subject to any restrictions imposed by the Acts deduct from a Member's Account the following:

- (a) any costs or fees and any other liabilities attributed to it;
- (b) losses of the Fund;
- (c) any Benefit paid to the Member, or to any other person, from that account;
- (d) Tax payable;
- (e) Excess Contributions Tax released under a release authority;
- (f) Splittable Contributions;
- (g) Payment Split;
- (h) the costs of any policy of insurance effected and owned by the Trustee in respect of the Member;
- (i) any other amount, including a transfer to a Reserve Account, which the Trustee determines with the consent of the Member.

8.4 Reserves

The Trustee:

- (a) may maintain reserves for specific purposes and applications and may add, deduct and allocate amounts to those Reserve Accounts as it considers appropriate.
- (b) must formulate and implement a separate investment strategy for any reserve that is consistent with the Fund's investment strategy. Investment must be in accordance with the Fund's investment strategy and with the Trustee's ability to discharge liabilities, either actual or contingent, as and when they fall due.

No member or any other person will have any entitlement to any amount in a Reserve Account.

9. CONTRIBUTIONS

9.1 General

- (a) The Trustee may accept any Contributions made on behalf of a Member or a Spouse of a Member by any person, entity or government body so long as the acceptance by the Fund of that contribution is permitted by the Acts or will not compromise or affect the Fund's status as a Complying Superannuation Fund.
- (b) The Trustee will have the absolute discretion as to whether the transfer will be in the form of cash or assets, with or without conditions.
- (c) The Trustees are required to comply with the provisions of the Acts concerning any Excess Contributions Tax imposed on a Member.

9.2 Excess Contributions

If a Member has an Excess Contributions Tax liability and has lodged a Release Request with the Trustees, the Trustee shall within 30 days of receipt of that request pay to the Member or, at the Member's request, pay to the ATO that amount which is lesser of:

- (a) any amount requested that the Trustee pay to the member or to the ATO, which the Member has, by notice, attached to the Release Request;
- (b) the amount of Excess Contributions Tax stated on that Release; and
- (c) the total amount of that Member's superannuation interest in the Fund.

9.3 Trustee may accept transfer from another Superannuation Entity

- (a) The Trustees will not transfer or rollover a Member's Account to a Superannuation Entity or another Member's Account if prohibited by the Act, if it will cause a breach of the minimum benefit provisions of Division 5.3 of the SIS Regulations or if it will compromise or affect the Fund's status as a Complying Superannuation Fund.
- (b) The Trustees have absolute discretion and may accept transfers or rollovers from another Superannuation Entity, whether conditionally or not, provided it does not breach the Acts or compromise or affect the Fund's status as a Complying Superannuation Fund.

9.4 Allotments, Transfers and Rollovers of Benefits

The Trustees, at the request of a Member, will allot, transfer or rollover, within the period required by the Acts, of all or part of a Member's Account to another Superannuation Entity or another Member's Account if:

- (a) the Trustees are satisfied that any such action will not compromise or affect the Fund's status as a Complying Superannuation Fund; or
- (b) the Trustees are required by order or agreement under the provisions of the *Family Law Act 1975 (Cth)* to perform such an action.

10. BENEFITS

10.1 Benefit

A Member or any other person permitted to receive a Member's Benefit by the Act, may elect to receive their Benefit in one or more of the following types:

- (a) A Lump Sum;
- (b) a Pension;
- (c) a Temporary Incapacity Benefit;
- (d) a Permanent Incapacity Benefit; and
- (e) such other benefit as the Trustee might determine,

provided that the payment of any such Benefit would not breach the Minimum Benefit provisions or compromise or affect the Fund's status as a Complying Superannuation Fund or be in breach of the Act or this Deed.

10.2 Payment of Benefits

- (a) A Benefit will be payable to a Member, Dependant of a Member, LPR of a Member or to some other person provided it is required to be paid by this Deed or the Act.
- (b) A Member or the LPR may request that a Lump Sum Benefit be paid and the Trustee at their discretion may pay the Benefit provided it is permitted by the Act and will not compromise or affect the Fund's status as a Complying Superannuation Fund.
- (c) A Trustee may pay a Lump Sum Benefit to a Member that will not exceed the balance of that Member's Accumulation Account although, in addition, the Trustee at its discretion may pay the whole or part of any Reserves to the Member.

10.3 Lump Sum Benefit

- (a) Provided the Fund remains a Complying Superannuation Fund and subject to this Deed, a Member or the LPR of the Member can at any time request, and the Trustee may at its discretion pay a Lump Sum Benefit to the Member.
- (b) Subject to clause 10.3(c), the Trustee may only pay a Lump Sum Benefit to a Member that does not exceed the balance of the Member's Accumulation Account.
- (c) The Trustee may determine that the whole or part of the Reserve can be paid to the Member in addition to the payment of that amount pursuant to clause 10.3(b).

10.4 Pension Benefits

- (a) Where a Member or a LPR requests that the Trustees pay a Pension to a member or after the Member's death, to their Pension Dependant, the Trustees may do so provided it is permitted by the Acts and provided the payment will not compromise or affect the Fund's status as a Complying Superannuation Fund.
- (b) Any Pension must be paid in accordance as per this Deed and comply with the standards for the provision of Pensions of the SIS Regulations (which are deemed to be incorporated in this Deed).
- (c) A Trustee must notify a Member in writing of any Pension it will pay to the Member and the notification will outline the terms or conditions of the Pension, which will be deemed to be a term unless payment of the Pension would affect or compromise the Fund's status as a Complying Superannuation Fund.
- (d) Subject to this Deed and the Acts, the Trustees in their sole discretion may utilise any amount standing in the Member's Account, a Member's Pension Account or a reserve to provide a Pension to a Member, or if permitted by the Acts, their Dependents, a LPR, or any other persons.

10.5 Commutation of Pension

- (a) The Trustee may on written request by a Member or the LPR or the Member's Pension Dependents and provided it is permitted by the Act, commute all or part of any Pension payable to the Member in accordance with the clauses below.
- (b) Any amount resulting from the commutation may be applied by the Trustees:

- (i) to pay a Lump Sum benefit to a Member, or in the event of the death of the Member, to any one or more of the Member's Pension Dependants; and
- (ii) to be allocated into the Member's Accumulation Account.
- (c) The Trustees may determine the tax consequences or commutation limits prior to commuting a Pension. The Trustees must also notify the Member, Dependants or LPR of this information.

10.6 Conversion of Lump Sum to Pension

The Trustee on written request from a Member, or a LPR, or a deceased Member's Dependants, in their sole discretion may convert any Lump Sum Benefit in whole or part to a Pension as permitted by the Acts.

10.7 Incapacity

A Member is to advise the Trustee of incapacity:

- (a) if a Member becomes incapacitated that Member or their LPR will advise the Trustee as soon as practicable. The Trustee may request the Member to submit to any reasonable medical examinations, as it sees fit;
- (b) upon receipt of any documentation required by the Trustees regarding a Member's incapacity, the Trustees at their sole discretion will determine whether or not the Member suffers Temporarily Incapacity or Permanent Incapacity.

10.8 Temporary Incapacity

- (a) If the Trustees are reasonably satisfied that a Member suffers Temporary Incapacity, it may choose to pay a Benefit in the manner and for nor more than the amount permitted by the Act to the Member from the time of that Temporary Incapacity to the earlier of:
 - (i) the date the Member is re-instated in similar employment the Member was previously engaged in prior to suffering the Temporary Incapacity;
 - (ii) the date on which the Trustees believe that the Member commenced to suffer Permanent Incapacity;
 - (iii) the date of death of a the Member; or
 - (iv) such other time permitted under the Acts.

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- (b) the Trustees, in their sole discretion, may deduct an amount from a Reserve Account or any of the Member's accounts to pay the Temporary Incapacity Benefit.

10.9 Permanent Incapacity

If the Trustees are reasonably satisfied that a Member suffers Permanent Incapacity and provided the any such payment does not result in the Fund becoming a Non-Complying Superannuation Fund, the Trustee may:

- (a) pay all or part of any of a Member's Account to the Member or if permitted by the Acts, to a Dependant or Pension Dependant or LPR of the Member whether as a lump sum or a Pension or a combination of both, in its absolute discretion.
- (b) allocate any amount from any Reserve Account held in the Fund to pay the Benefit on the Member's Permanent Incapacity.

10.10 Death of a Member

On the death of a Member:

- (a) if the Member was a Trustee or a director of the corporate Trustee, the LPR will be appointed as a replacement Trustee or a director of the corporate Trustee until the date Benefits payable on the death of the Member commence to be payable, provided that the LPR is eligible to act as Trustee and has consented to act as Trustee; and
- (b) the Trustee may transfer or continue to pay any Pension previously payable to a Member or such Pension Dependant of the Member as are permitted by the Act to receive a Pension.

10.11 Payment of Benefits on Death

- (a) The Trustees at their sole discretion, but subject to clause 10.11(d), will pay a Death Benefit to any one or more of the Member's Dependents or the LPR or another person permitted by the Acts.
- (b) If the Trustees hold a Non-Binding Death Benefit Nomination by the deceased Member, the Trustee can choose but is not obligated to pay such Benefits to persons nominated in that Non-Binding Death Benefit Nomination, provided the payment is permitted by the Acts.
- (c) If the Trustee holds a Binding Death Benefit Nomination by the deceased Member, the Trustee must pay such Benefits in the manner and form as requested in that BDBN provided the payment is permitted by the Acts.
- (d) Provided it is permitted by the Acts, the Trustees may pay additional amounts to the deceased Member's Dependents or LPR including from a

Reserve Account but these amounts would not form part of the deceased Member's Benefit.

- (e) The Trustee may pay any Death Benefit by Lump Sum or Pension, in accordance with any BDBN and to the extent permitted by the Acts and provided that the Fund remains a Complying Superannuation Fund.

11. REALLOCATION AND SPLITTING OF BENEFITS

11.1 Spouse Contribution Split

The Trustee may at its discretion and on the application of a Member and if the Acts permit, transfer, rollover or allocate Splittable Contributions held for the Member to the Member's spouse's superannuation fund or Account in the Fund. The Member shall provide to the Trustee a notice of contribution split together with such other information and documentation as the Trustee may require in order to comply with the provisions relating to splitting of Contributions under the Acts.

11.2 Payment Splits

If a Member's interest in the Fund is subject to Part VIII B of the *Family Law Act 1975 (Part VIII B)*:

- (a) the Trustee must take action as lawfully required of it in respect of a Member's interest in the Fund pursuant to Part VIII B, the *Family Law (Superannuation Regulations) 2001* or under the SIS Regulations; and
- (b) A 'non-member spouse' as defined in Part VIII B is deemed not to be a Member of the Fund solely by virtue of his or her entitlement under Part VIII B except:
 - (i) as specified by the SIS Regulations; or
 - (ii) as necessary to give effect to:
 - (A) the non-member spouse's rights under Part VIII B or the *Family Law (Superannuation) Regulations 2001*; and
 - (B) payment or transfer of the non-member spouse's entitlement (including on his or her death, in which case the Trustee has the same discretions and powers to pay his or her entitlement as if the non-member spouse were a Member);
- (c) Except to the extent specified in this clause 11, a non-member spouse has no rights or entitlements under the Fund.

11.3 Separate Interest

The Trustee may (but is not obliged to) create a separate interest or Account for a non-member spouse.

11.4 Charges

The Trustee may in its absolute discretion, but subject to the SIS Act and the SIS Regulations (and provided the Fund does not lose its status as a Complying Superannuation Fund), charge the Member and the non-member spouse for action taken by the Trustee resulting from the application of Part VIII B.

12. BINDING DEATH BENEFIT NOMINATIONS

12.1 Form of BDBN

A BDBN must:

- (a) be in writing;
- (b) be signed and dated by the Member in the presence of two adult witnesses, neither of whom is mentioned as a Dependant in the BDBN or is an LPR of the Member; and
- (c) contain a declaration signed and dated by both of the witnesses stating that the BDBN was signed by the Member in their presence.

12.2 Non-binding Death Benefit Nominations

A Member:

- (a) may provide a written Non-Binding Death Benefit Nomination to the Trustees, by which the Trustees may, in their discretion, provide benefits to the beneficiaries listed in that nomination. Subject to the Act, the Trustees must accept a Non-Binding Death Benefit Nomination, but it is not to be binding on the Trustees;
- (b) or the LPR may confirm, amend or revoke the nomination previously given to the Trustees;
- (c) or the LPR may give direction to the Trustees to act in a particular way upon the Member's death or incapacity, but the Trustees are not obligated to follow such instructions.

The Trustee must not comply with any nomination or direction that would compromise or affect the Fund's status as a Complying Superannuation Fund.

12.3 Binding Death Benefit Nominations

- (a) Subject to the Acts, the Trustees must accept a BDBN, provided it is approved form as per clause 12.1, and will be bound by it.

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- (b) The Trustees:
 - (i) are bound to provide Benefits to the beneficiaries listed in and in accordance with a BDBN, provided the nomination is valid binding at the date of death of the Member; but
 - (ii) must not comply with any nomination or direction that would compromise or affect the Fund's status as a Complying Superannuation Fund.
 - (c) A Member may confirm, amend or revoke the nomination by written notice given to the Trustees.
 - (d) If proceedings for dissolution of a Member's marriage to a Spouse have commenced, then any nomination which states that the Benefit is to be paid to that Spouse of the Member will be deemed to be revoked.
 - (e) A BDBN will have an indefinite term unless the Member has stipulated otherwise or the nomination is revoked by written notice to the Trustees.

12.4 Enduring Power of Attorney

A person appointed as an attorney under an Enduring Power of Attorney may make, vary or revoke a BDBN on behalf of a Member provided the Enduring Power of Attorney does not expressly preclude same.

13. INVESTMENT

13.1 Investment Strategy

- (a) The Trustee must formulate and implement an investment strategy for the Fund, which reflects the purpose and circumstances of the Fund and takes into account the following:
 - (i) the risk and liquidity involved in making, holding and realising and the likely return from, the investments having regard to the Fund's objectives and expected cash flow requirements;
 - (ii) the composition of the Fund's investments as a whole and the Benefits and risks associated with diversification;
 - (iii) the liquidity of the Fund's investments having regard to the Fund's expected cash flow requirements, especially where Fund predominantly holds real property, the Members are in an older age group and the likelihood of death benefits being payable in the near future;
 - (iv) the ability of the Fund to discharge its existing and prospective liabilities;

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- (v) the need of Members in consideration of their age, income level and retirement needs; and
 - (vi) if the Trustee should obtain a contract of insurance that provides insurance coverage for one or more Members of the Fund.
- (b) The Trustee must invest in accordance with the investment strategy.
 - (c) The investment strategy should identify investment objectives and provide detail of the investments methods the Fund may adopt to implement the strategy. The investment strategy may consist of one or more strategies for the Fund or parts of the Fund.
 - (d) The Trustee must formulate and give effect to a strategy for the prudential management of assets of the Reserve or such other requirements as espoused by the Acts.
 - (e) The Trustees may act on the act on the advice of an adviser or a specialist in formulating and documenting the Fund's investment strategy so long as the Trustee believes the adviser is competent and has the necessary credentials to provide such advice.
 - (f) The Trustees will review the investment strategy annually and at any other time where necessary. The Trustee can amend the investment strategy at any time deemed appropriate and must advise all Members affected by written notice if amendment is made.
 - (g) If a Member requests to view the Fund's investment strategy the Trustee must comply with this request.

13.2 Investments Authorised by the Trustee

Subject to the Acts, this Deed and the investment strategy of the Fund, the Trustee may invest in such appropriate investments, in Australia or elsewhere, as the Trustee thinks fit including, but not limited to:

- (a) any investment taken to be prudent under Trustee Law;
- (b) on deposit or on loan, with or without security, at such rate of interest and upon such terms as the Trustee may consider reasonable;
- (c) on deposit with or on loan to any bank, building society, credit cooperative or other financial institution and in any type of account, whether secured or unsecured and the Trustee is empowered to open and operate accounts accordingly;
- (d) borrowings (an maintenance thereof) as permitted by the Acts, in particular sections 67A and 67B of the SIS Act;

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- (e) discounting of loans, mortgages, contracts, hire purchase agreements or leases;
 - (f) in financial instruments and the Trustee may draw, make, accept, endorse, discount, issue or otherwise deal with any promissory note, cheque, bank bill or other negotiable or transferrable instrument;
 - (g) giving or taking leases, licences or options over real or personal property or any interest in respect of them;
 - (h) fully or partly paid shares including redeemable preference shares, stock debentures, debenture stock bonds, units, securities or obligations or any interest, with or without deferred, restricted, qualified or special rights relating thereto and whether or not there is or is not a liability in respect of any such shares, units, securities or interests, of or in any public proprietary or no liability company, association, firm, mutual fund or unit trust wherever incorporated or formed, whether carrying on business in Australia or in any other country, or in giving any guarantee or otherwise becoming a proprietor of a company limited by guarantee;
 - (i) the purchase or acquisition of any tangible or intangible property, whether it be:
 - (i) real property (whether located in Australia or outside of Australia); or
 - (ii) personal property, including, but not limited to, any chattels, machinery, plant, stock-in-trade, patents, trade marks, registered designs and copyrights or any interest in them;
 - (j) any policy of assurance or insurance of any kind whatsoever and wherever made;
 - (k) acquisition of foreign currencies, hedging contracts, commodity contracts and also options or futures contracts of any other kind quoted on a recognised stock exchange;
 - (l) any business (including a business of property development, primary production or similar trading enterprise) including any direct or indirect interest in any business and if a Trustee has invested in a business the Trustee may, to the extent permitted by the Acts, carry on the business or employ persons to carry on the business on behalf of the Trustee;
 - (m) any other investments which are acceptable under the Acts.

The Trustee is only authorised to invest on a commercial or arm's length basis. Where the Trustee is required to deal with a party who is not at arm's length (including a Member or a Part 8 Associate), then the transaction will be conducted as if that party were at arm's length from the Trustee or the terms and conditions of the transaction must be no less favourable than is reasonable

to expect if the Trustee and the other party to the transaction were dealing with each other on an arm's length basis. Any purchase and sale process of investments must reflect true Market Value and income derived by the Trustee must be derived at true market rate of return. This requirement applies to any delegate of the Trustee.

13.3 Limitations on Investments

The Trustee will not:

- (a) lend money or provide direct or indirect financial assistance to a Member or Member's Relative;
- (b) acquire assets from a related party unless under the Acts an exception applies to permit the acquisition and it is acquired at Market Value or recorded in the accounts of the Fund at Market Value, as the case may be;
- (c) in excess of the permitted proportion of in-house assets;
- (d) grant a charge over or in any way recognise an encumbrance over a Member's Benefits or Preserved Benefits;
- (e) grant a charge over any assets of the Fund unless specifically permitted to do so under the Acts.

13.4 Separately Identifiable Assets

- (a) The Trustee may segregate assets in respect of:
 - (i) a Member;
 - (ii) current pension liabilities, whether for all Member or some Members, and by actuarial certificate if required; or
 - (iii) a Reserve Account,on a temporary or permanent basis.
- (b) Notwithstanding any other provision of this Deed, the Trustee may accept property from a person (hereinafter referred to as the Transferor) who is a Member of the Fund if the Trustee complies with the following:
 - (i) if the Transferor is the only member of the Fund or the property is held by the Trustee solely for the benefit of the Transferor; and
 - (ii) the property is used solely for the purpose of providing a retirement benefit to the Transferor.

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- (c) Property is held solely for the benefit of the Transferor if:
- (i) the property is held specifically for the benefit of the Transferor, as a Member of the Fund; and
 - (ii) the property (or the proceeds of sale of the property) cannot be pooled with property held for another Member of the Fund; and
 - (iii) no other Member of the Fund can obtain an interest in the property (or the proceeds of sale of the property).
- (d) Notwithstanding any other provisions in this Deed, a transfer of property from a person (hereinafter referred to as the Transferor) to the custodian of the Trustee of the Fund may be accepted in respect of a Member if:
- (i) the Transferor is the only member of the Fund; or
 - (ii) the property is used solely for the purpose of providing a retirement benefit to the Transferor.
- (e) The Trustee may resolve that any of clauses 13.4(b), 13.4(c) and 13.4(d) apply to the property being acquired and if such a resolution is made such terms irrevocably apply in respect of the property until the Fund is wound up.
- (f) The Trustee may ascertain and fix the value of the assets of the Fund and the liabilities to which the Fund is committed in accordance with the Acts, and every ascertainment or fixing of value made under this clause shall bind all persons who are or may become interested in the Fund, including persons who do not have the legal capacity and person who are not yet Members.

14. EARNINGS

14.1 Earnings

The Trustee will:

- (a) determine the amount of the Fund's Earnings for all or part of a financial year; and
- (b) have the sole discretion as to where to allocate Earnings including allocating Earnings to a Member's Accumulation Account, a Member's Pension Account, or a reserve and using Earnings to pay a Benefit of expense of the Fund or any tax imposed upon the Fund.

15. TAXATION

15.1 Payment

The Trustee must pay all Tax properly assessed to the Trustee.

15.2 Deductions & Refunds

- (a) The Trustee may, in the Trustee's discretion, deduct from a Member's Account Tax paid or payable by the Trustee:
 - (i) as a consequence of the receipt of the Trustee of a Contribution for the Benefit of a Member;
 - (ii) payable on any income added to a Member's Account; and
 - (iii) any Tax which the Trustee reasonably believes may be payable as a consequence of a payment to a Member.
- (b) The Trustee may, in the Trustee's discretion, deduct from any account, including a Reserve, Tax paid or payable by the Trustee provided any such deduction will not cause the Fund to become a Non-Complying Superannuation Fund.
- (c) If the Trustee receives a refund of Tax, the Trustee may add that refund to such a Member's Accounts or such Reserves as it determines, provided that addition will not cause the Fund to become Non-Complying Superannuation Fund.

16. INSURANCES

16.1 The Trustee may establish an insurance plan

The Trustees may establish and implement an insurance plan for the Benefit of the Fund to enable the Fund to make payments (including the payments of Benefits on a Member's death or disability) to a Member, a Member's Dependant or the LPR of a Member in the event of a Member's death, disablement, illness or otherwise as permitted by the Acts.

16.2 Self Insurance

The Trustees can elect to self insure and may establish a Reserve:

- (a) to which such amounts as the Trustees might require will be added for the purpose of self insurance;
- (b) from which the Trustees may pay amounts required to paid as a consequence of the Trustees self insuring against an event; and

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- (c) from which amounts no longer required for the purpose of self insurance may be transferred to such other Reserve or to such Member's Account as the Trustees may determine.

16.3 The Trustee has discretion as to the application of any insurance proceeds

- (a) The Trustees have absolute discretion as to the application of any insurance proceeds received by the Fund and may allocate the insurance proceeds to any Member's Account or to reserves held in the Fund.
- (b) No Member nor their LPR nor any other person has any interest in any insurance proceeds that might be received by the Fund.
- (c) If a Benefit would ordinarily include an insured component under a Policy (for example a benefit payable on the Member's death or disablement) but:
 - (i) no amount paid is under that Policy; or
 - (ii) the amount paid under the Policy is less than the amount that would ordinarily be payable;
the amount payable to the Member may be adjusted accordingly.
- (d) This clause is:
 - (i) for the protection of the Trustees and the Fund; and
 - (ii) not to be taken as conferring any rights on Beneficiaries in respect of the benefits additional to those conferred under other provisions of this Deed.

17. ADMINISTRATION

17.1 Fund Auditor

On establishing the Fund, and for each financial year, the Trustees must appoint an Auditor to audit the Fund who must give the Trustee a report in the form required by the Acts.

17.2 Compliance

If a Trustee is aware or notified by an Auditor, an adviser to the Fund or Regulator of the Fund that it may lose its status as a Complying Superannuation Fund the Trustee must:

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- (a) liaise with the Auditor, adviser or Regulator to implement a compliance plan to ensure the Fund's status as a Complying Superannuation Fund will be maintained;
 - (b) notify all Members of any action required under the compliance plan;
 - (c) take any such action as required under the compliance plan within a reasonable time frame and before the lodgement of the Fund's next regulatory return.

17.3 Solvency

If the Trustees are notified by the Auditor or the Fund's actuary becomes aware the Fund is or may become insolvent, the Trustee must:

- (a) liaise with the actuary or Auditor to determine the solvency plan to ensure the Fund's solvency, including but not limited to reducing any Members' Accounts or Members' Benefits;
- (b) notify the Members of any action required under the solvency plan; and
- (c) take such action as is required under the solvency plan prior to the lodgement of the Fund's next regulatory return.

17.4 Records

The Trustee must keep and retain accounting records of Members accounts, assets and liabilities, income and expenditure, and all other matters as required by the Acts including the following:

- (a) for a minimum of five years:
 - (i) accurate and accessible accounting records that explain the transactions and financial position of the Fund; and
 - (ii) an annual operating statement and an annual statement of the Fund's financial position, and copies of all income tax returns for the Fund.
- (b) for a minimum of 10 years:
 - (i) minutes of Trustee meetings and decisions in English;
 - (ii) records of all changes of Trustees;
 - (iii) Trustee declarations (whether as an individual trustee or director of a corporate trustee);
 - (iv) Members' written consents to be appointed as trustees, and
 - (v) copies of all reports given to Members;

- (vi) Member contribution statements;
- (vii) copies of all annual returns lodged (for corporate trustees); and
- (viii) audit reports.

17.5 Annual Accounts

The Trustee must, for each financial year, prepare an annual operating statement recording any profit or loss, an annual statement of the Fund's financial position recording all assets and liabilities and other accounts as otherwise required by the Acts. Accounts and records must be kept in a form that allows proper audit and the value of assets must be recorded showing their Market Value. The Trustee must arrange for all tax returns and other statements to be lodged as required by the Acts. The Trustee must prepare all Member statements and other statements required by the Acts for each financial year.

18. TRANSFER TO AND FROM OTHER FUNDS

18.1 Transfers to Other Funds

A Member or a LPR of a Member may request the Trustee to transfer or rollover all or part of the Member's Account to another Complying Superannuation Fund or another Account in the Member's name within the Fund (by way of internal rollover). If the Trustee is satisfied that any such transfer or rollover will not cause the Fund to lose its status as a Complying Superannuation Fund as is permitted by the Acts, the Trustee may transfer or rollover from the Member's Account in the manner and form the Trustee thinks fit. Except where the *Family Law Act 1975 (Cth)* applies, no transfer or rollover shall occur without the Member's consent.

18.2 Transfers from Other Funds

The Trustees may accept transfers from the trustee of another Complying Superannuation Fund, except where acceptance of the transfer may result in the Fund losing its status as a Complying Superannuation Fund.

19. VARIATION

19.1 Variation of Deed

The Trustee may amend this Deed in whole or in part, by executing a deed of variation, provided that no amendment:

- (a) reduces a Member's accrued benefits or imposes any increase in liability on a Member without the written consent of that Member or the Member's LPR;
- (b) causes the Fund to lose its status as a Complying Superannuation Fund or to be in breach of the Acts;

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- (c) varies the terms of a pension which is incorporated in the Deed, without the written consent of the Member or the Member's LPR.

20. TERMINATION OF FUND

20.1 Termination

The Fund shall be wound up and terminated on the first to occur of the date:

- (a) on which the Trustee resolves that the Fund should be wound up and terminated;
- (b) the Fund must be wound up for the purposes of the Act;
- (c) the Fund ceased to have Members; or
- (d) the Regulator requires that the Fund be wound up.

20.2 Procedure

The Trustee shall on the Termination Date:

- (a) Dispose of the assets of the Fund in order to have sufficient funds to meet any debts or liabilities of the Fund. The Trustee has discretion to determine which of the Fund's assets are to be disposed of;
- (b) Pay out any debts and liabilities of the Fund;
- (c) Determine to whom any Benefits are to be paid, including former Members, trusts that former Members were beneficiaries of, the LPR of former Members or any other person. The Trustee retains the sole discretion as to where Benefits are paid and how they are to be made including in-specie or cash Benefits and is to ensure that the payment of any Benefits does not breach the sole purpose test; and
- (d) Pay out any Benefits due by the Fund to the Members. The Trustee retains the sole discretion as to how these amounts are to be paid, including making an in-specie transfer of assets or cash amounts;

20.3 Distribution

After the Trustee has made all such payments as the Trustee is required, or has resolved to pay pursuant to clause 20.2, the Trustee may distribute the remaining assets of the Fund to such charities or public benevolent institutions as it might determine, provided any such payment does not breach the sole purpose test or otherwise render the Fund a Non-Complying Superannuation Fund.

21. GENERAL

21.1 Applicable Law

The law applicable to the Fund is the law of the State or Territory of the Commonwealth of Australia where the Trustee resides.

21.2 Status of the Act

- (a) In every respect, this Deed is subject to the provisions of the Acts. Any terms, to the extent that it affects or compromises the Fund's status as a Complying Superannuation Fund, will not apply and will have no force or effect.
- (b) If there is any inconsistency between the provisions of the Act and this Deed, the provisions of the Acts will prevail. Provided there is no inconsistency between the provisions of this Deed and Acts, any authority or discretion given to the Trustee by the Acts will be incorporated into this Deed as if it were a term.

21.3 Counterparts

This Deed may be executed in any number of counterparts each of which is an original and all of which constitute one and the same instrument.

SCHEDULE 1 – PRO FORMA MEMBERSHIP APPLICATION
JL & K BOUCHER SUPERANNUATION FUND
CONFIDENTIAL

I, *[insert name]* apply for admission to membership of the Fund. I state that I am eligible to be admitted as a Member of the Fund and to be appointed as a Trustee or a director of the corporate Trustee.

I agree:

- (1) To be bound by the Trust Deed governing and the Fund as it is or may be varied from time to time and state that I understand the terms and conditions of the Trust Deed, including the benefits payable, my rights and the rights of my Dependants;
- (2) To the Trustee acting as Trustee of the Fund;
- (3) To give the Trustee my details (including Tax File Number), or for the Trustee to obtain them from my Employer;
- (4) To advise the Trustee of any preserved benefits or other relevant information regarding my superannuation contributions and benefits;
- (5) To give any other information the Trustee may require for the purpose of the Fund.

| | |
|-------------------------|--|
| Dated: | |
| Signature: | |
| Occupation: | |
| Date of Birth: | |
| Tax File Number: | |

NON-BINDING NOMINATION OF DEPENDANT(S)

I nominate the persons in the table below, who are either Dependants or my Legal Personal Representative as my Nominated Dependants to receive any Benefits payable on my death. I acknowledge that this is **non-binding** nomination, meaning the Trustee may exercise its direction as to who the final benefits are paid:

| Name of Dependant | Relationship to Member | Percentage of Benefit |
|--------------------------|-------------------------------|------------------------------|
| | | |
| | | |
| | | |
| | | |

SCHEDULE 2- PRO FORMA NOTIFICATION TO CONTRIBUTING EMPLOYER

| | |
|--------------|---|
| From: | <i>[insert Fund Trustee]</i> ATF <i>[insert Fund Name]</i> of <i>[insert address]</i> ("the Fund") |
|--------------|---|

| | |
|------------|---|
| To: | <i>[insert legal entity name and ACN if applicable]</i> ("the Employer") |
|------------|---|

The Trustee wishes to notify the Employer that:

- (a) the Fund is a resident regulated superannuation fund within the meaning of the Superannuation Industry (Supervision) Act 1993 (Cth);
- (b) the Fund is not subject to a direction under Section 63 of the Superannuation Industry (Supervision) Act 1993 (Cth);
- (c) The Trustee has not been subject to such a direction before or since the date of this application; and
- (d) The Trustee will accept contributions from the Employer;

and the Employer is noted as Contributing Employer to the Fund.

Signature- [Trustee]

Date

TRUSTEE RESOLUTION**JL & K BOUCHER SUPERANNUATION FUND**

("the Fund")

We, being all the Trustees of the Fund resolve as follows:

- It was noted that the original deed establishing the Fund was executed on 20 June 1997 and later varied by deed made on 20 November 2005, which now contains the terms of the Fund ("the Deed") and that some provisions contained in the Deed do not now properly reflect the law that applies to self managed superannuation funds under the Commonwealth *Income Tax Assessment Acts (1936 and 1997)* and the *Superannuation Industry (Supervision) Act 1993 (Cth)* and the *Superannuation Industry (Supervision) Regulations 1994 (Cth)*.
- A proposed deed of variation to update the trust deed applying to the Fund was considered. It was noted that the deed does not create a new fund, complies with the variation power contained in Rule 12 of the Deed and otherwise includes Annexure "A" which would become the operative provisions applying to the Fund and which reflect the current law which applies to self managed superannuation funds.
- It was resolved to execute the deed of variation and to ensure that the deed of variation is retained with the Fund's records.



Signature- **JOHN LESLIE BOUCHER**

Signature- **KATHLEEN BOUCHER**

Date: 22 / 11 /2013

