

Blank Retirement Fund - Deed of Variation

Freehills

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Reference AAS JHH:9859092

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This deed

is made on 24th JANUARY 2000 by:

1. **Alibud Pty Ltd**
ACN 062 344 736
care of Skaines Reeves and Jones, 446 Gympie Road, Strathpine,
Queensland
(Trustee)

Recitals

- A. By deed dated 15 October 1997 (**Trust Deed**), the Blank Retirement Fund (**Trust**) was created.
- B. The Trustee is the trustee of the Trust.
- C. Pursuant to clause 12.8 of the Trust Deed, the Trustee is empowered to add to or vary the provisions of the Trust Deed.
- D. The Trustee wishes to vary the Trust Deed in the manner set out in this Deed.

By this deed

QLD STAMP DUTY - BNE

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1 Document supplemental to trust deed

This Deed is supplemental to the Trust Deed.

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2 Variation

The Trustee varies the Trust Deed by replacing all operative provisions of the Trust Deed including the Rules and Schedules or Annexures, if any attached to the Trust Deed with the clauses set out in the Schedule to this Deed.

3 Effective Date

The amendments will take effect from the date of execution of this Deed.

4 Trust Deed

References to the Trust Deed include any amendments to the Trust Deed.

Schedule

1 Definitions and interpretations

1.1 Definitions

Account means any account established and maintained under this Deed;

Allocated Pension means a pension which complies with the standards set out in the SIS Regulation 1.06(4) and is referred to in clause 11.1;

Asset-Test Exempt Income Stream has the meaning given to that term under section 9(1) of the Social Security Act;

Auditor means the person appointed under clause 9.2(a);

Authorised Person means a person who is or has been:

- (a) a director or officer or employee of the Trustee;
- (b) an agent or Qualified Adviser appointed by the Trustee to give assistance in the administration and operation of the Fund; or
- (c) any other person authorised by the Trustee in writing to carry out an act relating to the administration and operation of the Fund;

Benefit means a benefit payable under the Fund as defined in clause 10(a), including a Pension Benefit;

Benefit Arrangement means a fund or benefit arrangement which can pay money to the Fund, or which the Fund can pay money to without breaching the Superannuation Law;

Business Day means a day other than a Saturday, Sunday or public holiday in Queensland;

Child includes a step-child, ex-nuptial child and an adopted child;

Commencement Date means the date of this Deed;

Complying Fixed Term Pension means a pension which complies with the standards set out in section 9B of the Social Security Act and is referred to in clause 14.1 or 14.3; and

Complying Lifetime Pension means a pension which complies with the standards set out in section 9A of the Social Security Act and is referred to in clause 13.1 or 13.3;

CPI means a number calculated by the formula:

$$100 \times \frac{\text{Recent index number} - \text{Base index number}}{\text{Base index number}}$$

where:

“Recent index number” means the index number for the second last quarter before the day on which the first pension payment in a year other than the first year after the Pension Commencement Day is to be made; and

“Base index number” means the index number for the same quarter in the immediately preceding year;

CPI Percentage means a number calculated by the formula:

$$\frac{\text{CPI in the second last quarter before the day on which pension payment in a year is to be made}}{\text{CPI in the same quarter in the immediately preceding year}}$$

Death Benefits Nomination means a notice in the form prescribed by the Trustee, requiring the Trustee to distribute the Member’s Death Benefit;

Deed means this trust deed, anything deemed to be included under the Superannuation Law, and any arrangement, agreement, approval, rules or procedures effected pursuant to, or as specifically provided for by, any provision of this trust deed;

Deficiency means the deficiency determined by the Trustee in accordance with clause 9.4(a)(2);

Dependant means:

- (a) a Spouse;
- (b) a Child; and
- (c) any other person who in the opinion of the Trustee is or was at the relevant time a dependant of a Member within the meaning of the Superannuation Law;

Fund means the indefinitely continuing superannuation fund, known by the name specified in clause (a) of this Deed , and established by this Deed;

Fund Expenses means the costs and expenses of and incidental to the establishment, operation, management, administration, investment and termination of the Fund, including a Tax, insurance costs and any fees or charges imposed on or by, or paid by, the Trustee in connection with the Fund;

index number has the meaning given to that term under section 20(1) of the Social Security Act;

Insurer means a life insurance company selected by the Trustee;

life expectancy has the meaning given to it under the Superannuation Law;

Member means the member who is a party to this Deed and any other person who is admitted by the Trustee to participate in the Fund;

Member’s Death Benefit means a Benefit equal to the amount standing to the credit of a Member’s account at the date of the Member’s death, and includes:

- (a) any amounts that accrue to the Member’s account; and
- (b) the proceeds of any Policy paid into the Member’s account

prior to payment of the Benefit;

Net Earnings means the return (whether positive or negative) determined by the Trustee in respect of any particular Member or for any purpose in accordance with clause 9.5(a);

Non Complying Fixed Term Pension means a pension which complies with the standards set out in SIS Regulation 1.06(6) and is referred to in clause 12.1;

Old Age Pension means an old age pension for the purposes of paragraph 51(xxiii) of the Commonwealth Constitution;

pension age has the meaning given to the term "pension age" under section 23(5A), 23(5B) 23(5C) or 23(5D) the Social Security Act;

Pension Benefit means a Benefit under clause 10, 11, 12, 13 or 14 payable as a pension;

Pension Commencement Day, in relation to a pension to which a Member becomes entitled, means the first day of the period to which the first payment of the Pension Benefit relates;

person includes a reference to any company, partnership, joint venture, association, corporation or other body corporate and any government authority but the words **natural person** have their normal meaning;

Policy means an insurance policy (whether in respect of an individual Member or group of Members) effected by the Trustee with an insurer, as provided in the Deed in order to provide benefits under the Fund;

Pension RBL means, in relation to a pensioner, the higher pension reasonable benefit limit which applies to that pensioner prescribed by the Tax Act from time to time;

Power means a power, right, discretion, remedy or authority of any nature;

Qualified Adviser means a person considered by the Trustee to be capable of giving advice in relation to any matter or question, whether by virtue of formal qualifications or experience in business or otherwise, including an accountant, barrister, solicitor, actuary, medical practitioner, Insurer, investment manager or other qualified person.

Regulator means, in relation to a matter, the applicable person (as the context requires) who exercises a statutory function in relation to the matter under the Superannuation Law or the Social Security Act;

Reserve Account means the account of that name maintained in respect of the Fund in accordance with clause 9.3;

SIS means the Superannuation Industry (Supervision) Act 1993;

Social Security Act means:

- (a) the Social Security Act 1991; and
- (b) all other requirements, whether legislative or otherwise, in relation to that Act with which a payment made from the Fund must comply (or with which, in the opinion of the Trustee, the payment ought to comply) in order to be treated as an Asset-Test Exempt Income Stream for the purposes of that Act;

Superannuation Law means:

- (a) requirements in any of SIS, the Superannuation Entities (Taxation) Act 1987, the Tax Act, the Fringe Benefits Tax Assessment Act 1986, the

Superannuation Guarantee Charge Act 1992, the Superannuation Guarantee (Administration) Act 1992, the Superannuation Contributions Tax (Assessment and Collections) Act 1997, the Superannuation Contributions Tax Imposition Act 1997 and any other Act which imposes a charge, levy, surcharge, duty or tax on any superannuation benefit; and

- (b) all other requirements, whether legislative or otherwise, including:
 - (1) any administrative guidelines issued by a Regulator; or
 - (2) statements by the Government of the Commonwealth of Australia or of any State or Territory of Australia advising changes and proposed changes to the Superannuation Law in each case with which the Fund must comply (or with which, in the opinion of the Trustee, the Fund ought to comply) in order to be a complying superannuation fund within the meaning of the Tax Act;

Surplus means the surplus determined by the Trustee in accordance with clause 9.4(a)(2);

Tax includes any Commonwealth or State government impost (including a tax, levy, charge, surcharge or duty) which is or might become payable in any respect in connection with the Fund, this Deed or anything done or which may be done under this Deed;

Tax Act means the Income Tax Assessment Act 1936 and/or the Income Tax Assessment Act 1997, as the context requires;

Trustee means the trustee named in this Deed or any other trustee of the Fund for the time being.

1.2 SIS Defined Terms

Unless the context otherwise specifies or requires, an expression used in this Deed which is defined in SIS has the same meaning in this Deed.

1.3 Interpretation

- (a) **Amended provisions:** Subject to any contrary provision in this Deed, a reference to this Deed, any other deed, agreement, instrument or contract includes a reference to this Deed, that other deed, agreement, instrument or contract, respectively, as amended, supplemented or varied from time to time.
- (b) **Paramount provisions:** The provisions of clause 2 override any other provisions of this Deed.
- (c) **Rules of interpretation:**

In this Deed, unless the context otherwise requires:

 - (1) A reference to a statute includes a regulation, by-law, requisition and order made under that statute and any amendment to or re-enactment of that statute, regulation, by-law, requisition or order for the time being in force.

- (2) A reference to a section of or a regulation under a statute includes any amendment to, replacement of or re-enactment of that section or regulation and any other section of or regulation under the statute required to give meaning, force or effect to the section or regulation.
 - (3) If a party comprises two or more persons, the covenants and agreements on their part bind and must be observed and performed by them jointly and each of them severally and may be enforced against any one or any two or more of them.
 - (4) When the day or last day for doing an act is not a Business Day in the place where that act is to be done, the day or last day for doing the act will be the next following Business Day in the place where that act is to be done.
 - (5) Headings in this Deed are for convenience and identification of clauses only and do not otherwise affect its interpretation.
 - (6) Where applicable:
 - (A) words denoting the singular include the plural;
 - (B) words denoting the plural include the singular; and
 - (C) words denoting a gender include each gender.
 - (7) Unless contrary to the sense or context, a covenant by a party not to do or omit to do any act or thing includes:
 - (A) a covenant not to suffer that act or thing to be done or omitted by any agent or employee of the party; and
 - (B) a covenant to do everything necessary to ensure that the act or thing is not done or omitted to be done.
 - (8) All matters which are stated as being included in the ambit of an expression are without limitation to the breadth and generality of that expression.
- (d) **Severance:** In order to avoid any provision of this Deed being made invalid by a law, the provision must be read down or changed or severed to avoid the invalidity.
- (e) **State Trustee Acts:** To the extent legally possible, and unless the Trustee otherwise determines, this Deed is not subject to the Trustee Act of the State or Territory in which this Deed is executed or any of its equivalents in any of the States or Territories of Australia.

2 Paramount Provisions: Compliance with Superannuation Law

2.1 Compliance

The Trustee must comply with the requirements of the Superannuation Law and is fully empowered (without being obliged) to comply with any provision or standard of the Superannuation Law which is not a requirement.

2.2 Deemed Compliance

The Trustee is deemed to comply with the Superannuation Law if the Regulator is satisfied that compliance has occurred or determines that the Fund will be treated as if compliance has occurred.

2.3 Specific Requirements

If a provision of this Deed would otherwise be void because it:

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

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

3 Purpose

The sole and primary purpose of the Fund is to provide Old Age Pensions to or in respect of Members in the event of their retirement or for a Member's Dependents in the event of the death of a Member.

4 Participation in Fund

4.1 Participation

- (a) A person who is eligible under the Superannuation Law to receive benefits from the Fund may by completing a form prescribed by the Trustee apply to become a Member.
- (b) The Trustee may in its absolute discretion and without having to give a reason for, or explanation of, its decision:
 - (1) accept the application unconditionally;
 - (2) accept the application subject to conditions with Power to later vary or remove any such conditions;
 - (3) delay consideration of the application; or
 - (4) reject the application,

and where the application is accepted under clause 4.1(b)(1) or clause 4.1(b)(2), the applicant becomes a Member from the date of such acceptance or such other date as determined by the Trustee.

- (c) The Trustee must refuse an application for membership if the admission of the applicant as a Member would cause the Fund not to be a self-managed superannuation fund.
- (d) Before the Trustee makes a decision under clause 4.1(b), the Trustee may to the extent permitted by the Superannuation Law request the person

applying for membership with the Fund to provide all relevant information and evidence and sign all documents as may be required by the Trustee.

- (e) The Trustee must deal with a person's application money:
 - (1) pending the processing and acceptance of that application; and
 - (2) where the application is refused,in a manner consistent with the Superannuation Law.
- (f) Notwithstanding clause 4.3(b)(2), a Member has no right to claim any interest or exercise any right in any particular asset of the Fund.
- (g) Where a Policy is effected in respect of a Member, the Benefits of the Member must be determined in accordance with the terms and conditions of that Policy.
- (h) Each Member irrevocably appoints the Trustee his or her attorney to do anything permitted by this Deed.
- (i) Any condition properly imposed under this Deed in respect of a Member, and any consent, approval or agreement given or made by a Member, is binding on:
 - (1) the Member concerned;
 - (2) an heir or executor of the Member; and
 - (3) a person who or is or would otherwise have been entitled to claim a benefit in respect of the Member or upon the occurrence of an event or circumstances affecting the Member,and this Deed takes effect accordingly.
- (j) Each Member is bound by this Deed and all approvals and acts under this Deed in relation to the Member. This Deed forms the sole agreement between the Trustee and the Member in relation to the matters dealt with by this Deed.

4.2 Cessation of membership

- (a) A Member ceases to be a member of the Fund when all the Benefits of the Member are paid or otherwise satisfied or dealt with under this Deed.
- (b) If no contributions are made in relation to a Member, that Member ceases to be a member of the Fund at the discretion of the Trustee or as otherwise set out in this Deed.

4.3 Special arrangements

- (a) A person may agree with the Trustee that the membership of the person is subject to, or is varied in accordance with, the conditions contained in the agreement, including the amount of contributions to be made or benefits to be paid in respect of the person. Such agreement is binding on all interested persons without the need to amend this Deed.

- (b) The Trustee may (but is not obliged to) provide to Members the ability to direct that a separate investment may be made in respect of the Member being:
 - (1) a range of investment options or investment strategies;
 - (2) where permitted by the Superannuation Law, an investment in a specific asset.
- (c) A separate investment for a Member is made for the sole benefit of and at the sole risk of the Member such that any income or gains or losses or expenses incurred in respect of that separate investment must be attributed to the Member.
- (d) The Trustee is not liable for the acquisition, delay in acquiring, retention, failure to dispose of, the performance of or for any loss attributable to the separate investment.

5 Contributions

- (a) Any person as permitted by the Superannuation Law may contribute in respect of a Member in a manner as permitted by the Superannuation Law.
- (b) Details of contributions and other amounts which may or must be paid to or accepted into the Fund are as determined by the Trustee in its absolute discretion.

6 Trustee

6.1 Appointment and removal of Trustee

- (a) Subject to clause 6.1(b), the Trustee may be a Constitutional corporation or one or more natural persons who hold office until:
 - (1) the Trustee becomes a disqualified person under the Superannuation Law or is otherwise disqualified from that office by operation of law;
 - (2) the Trustee is removed from office by the Regulator or by notice in writing from the Members;
 - (3) the Trustee retires from office by giving 30 days' written notice to the Members (or such lesser period as the Members may agree);
 - (4) if the Trustee is a natural person, that person dies or becomes of unsound mind.
- (b) Where the office of Trustee becomes vacant, and immediately before the office became vacant:
 - (1) the Trustee was a Constitutional corporation, the Members may by notice in writing fill the vacancy with another Constitutional corporation; or

- (2) the Trustee was a natural person, either the Members or if the Members are unable or unwilling to act for whatever reason the legal personal representative of the Trustee, may by notice in writing appoint another natural person to act as the Trustee to fill the vacancy, and the person so appointed as Trustee will have the same Powers and may in every respect act as if he or she had originally been appointed the Trustee.
- (c) Notwithstanding anything to the contrary in this Deed, the composition, appointment and removal of a trustee must comply with the Superannuation Law, and that any trustee who holds office must not act in any manner which may prejudice any existing or potential taxation concessions of the Fund under the Tax Act.

6.2 Covenants by the Trustee

The Trustee must perform and exercise the Trustee's duties and Powers in the best interests of the Members and in all respects in compliance with the Superannuation Law.

6.3 Absolute discretion

- (a) Except as otherwise expressly provided in this Deed, the Trustee has absolute and uncontrolled discretion in the exercise of any Power and is not required to justify the exercise of any Power.
- (b) The Powers conferred on the Trustee by this Deed are additional to the Powers exercisable by a trustee at law.
- (c) Subject to the Superannuation Law, any determination made by the Trustee under this Deed to pay or apply any amount to or for the benefit of a Member or a Member's Dependant may at any time in the absolute discretion of the Trustee be varied, altered, revoked or replaced.

6.4 General Powers

Except as otherwise expressly provided in this Deed, the Trustee has complete management and control of the Fund and may, without limitation, exercise all the Powers of a natural person in order to:

- (a) properly administer and maintain the Fund;
- (b) exercise any Power;
- (c) perform its duties; and
- (d) pay Fund Expenses.

6.5 No reasons

The Trustee is not bound to give any person a reason for or explanation of the exercise, non-exercise or partial exercise of any of its Powers or any action it takes under clause 6.

6.6 Authorised Persons

To the extent permitted by the Superannuation Law, the Trustee may appoint or remove any Authorised Person and pay their fees from the Fund.

6.7 Confidentiality

Except to the extent reasonably necessary in the operation, management and administration of the Fund and in properly giving effect to this Deed, the Trustee and any Authorised Person must keep as confidential all information which becomes known to that person in connection with the operation, management and administration of the Fund.

6.8 Tax

Without affecting the generality of clauses 6.3 and 6.4, the Trustee may take any action which it may consider appropriate in paying or taking account of any Tax including:

- (a) reducing or otherwise adjusting the amount of any benefit payable from the Fund;
- (b) transferring a Tax liability to another person in a manner contemplated under the Superannuation Law;
- (c) deducting amounts from accounts or from amounts before they are credited to accounts; and
- (d) establishing reserves and making provisions in the accounts of the Fund for payments from the Fund to relevant governmental authorities.

6.9 Payments to Trustee

- (a) The Trustee must not receive any remuneration from the Fund for work done or services performed in connection with the Fund.
- (b) The Trustee is entitled to be reimbursed for any reasonable expenses incurred by it in the administration and operation of the Fund.
- (c) If the Trustee or an Authorised Person performs work for the Fund in a personal capacity, he or she is entitled to be paid from the Fund all usual fees for work done by that person or any firm in which that person is a partner or an employee, including anything which could be done by an unqualified person.

6.10 Liability of Trustee

- (a) To the extent permitted by law and subject to clause 6.10(b), the Trustee and each Authorised Person is exempted and may be indemnified from the Fund in respect of all liability (including for negligence) incurred while acting as Trustee or Authorised Person.
- (b) Clause 6.10(a) does not apply where the Trustee or the Authorised Person has been dishonest or where such person has intentionally or recklessly failed to exercise, in relation to a matter affecting the Fund, the degree of care and diligence such person is or was required to exercise.

- (c) Without limiting clause 6.10(a), the Trustee may:
 - (1) effect or acquire an insurance policy in respect of any potential liability of the Trustee or an Authorised Person; and
 - (2) pay from the Fund premiums and other outgoings in respect of such insurance policy.

6.11 Reliance on opinions, advice or information

The Trustee and each Authorised Person may rely on, and are not liable for acting on, any opinion, advice or information obtained from a Regulator or a Qualified Adviser in connection with the Fund.

6.12 Action notwithstanding interest

- (a) Notwithstanding that a person is a Member or in any way associated with the Fund, such person may act as delegate, director, agent or advisor of the Trustee.
- (b) Neither this Deed nor a fiduciary relationship created under the Superannuation Law restricts any person from:
 - (1) acting as the Trustee, a director of the Trustee or as an Authorised Person; or
 - (2) participating in the Fund;
 - (3) doing business with the Fund or the Trustee; or
 - (4) being involved with or interested in any person who participates in, or does business with, the Fund or the Trustee.

7 Investments of Fund

- (a) Subject to the Superannuation Law, the Trustee may invest, deal with or deploy the assets of the Fund in any manner or form which the Trustee may consider to be a suitable investment for the Fund as if it were the sole and absolute legal and beneficial owner of those assets.
- (b) The Trustee must at all times:
 - (1) maintain separate records to enable identification of the property of the Fund; and
 - (2) use the property of the Fund only for the purposes of the Fund.

8 Changes to Deed

This Deed may be changed, amended, resettled, replaced or merged with any other trust either prospectively or retrospectively by the Trustee executing a deed to that effect.

9 Accounts and Records

9.1 Accounts and Records

- (a) The Trustee must keep records and financial accounts of the Fund as required by the Superannuation Law.
- (b) The accounts and records prepared under clause 9.1(a) must be audited by the Auditor annually and at any other intervals determined by the Trustee and the Auditor must certify to the Trustee the result of each audit in writing.
- (c) The Trustee must obtain any certificate from an actuary that is required by the Superannuation Law.

9.2 Auditor

- (a) The Trustee must appoint an auditor to audit the records and financial accounts of the Fund and to provide reports as required by the Superannuation Law.
- (b) The Auditor may be removed by the Trustee and, if so, the Trustee must appoint another person to act as Auditor.
- (c) Each appointment of an Auditor will be on terms determined by the Trustee.

9.3 Accounts

- (a) The Trustee may establish and maintain any Accounts it considers suitable including Accounts to record the benefits of the Members. It must credit and debit those accounts with any portion of any Fund assets or any Fund Expense it determines is attributable to those accounts and may otherwise credit and debit those accounts with any other amount and in any other manner it considers appropriate.
- (b) Without limiting clause 9.3(a), the Trustee may establish and maintain a Reserve Account into which must be recorded:
 - (1) any amount not required to meet current benefit liabilities;
 - (2) any amount which is forfeited or deducted from a benefit or from a Member's interest in the Fund in accordance with this Deed and which is not otherwise applied as provided in this Deed;
 - (3) Fund Expenses to the extent determined by the Trustee that have not been deducted from a Member's Account Balance;
 - (4) any difference between the net income of the Fund and the Net Earnings attributed to Members; and
 - (5) any other amounts the Trustee determines should be credited or debited to the Account, including in augmenting any benefit actually or prospectively payable to or in respect of a Member or a former Member or any Dependant of a Member pursuant to this Deed.

- (c) The Trustee may maintain within the Reserve Account any sub-account it considers suitable and may credit or debit the relevant sub-account with any amounts which may be debited or credited to the Reserve Account in accordance with this Deed.

9.4 Surplus and Deficiency

- (a) At least once a year and at any other times determined by the Trustee, the Trustee must:
 - (1) cause the Fund (other than a Policy to the extent it provides insurance solely against risk) to be valued; and
 - (2) determine the amount of the Surplus or Deficiency in the Fund which, in the opinion of the Trustee, it is appropriate to allocate to a Member's Account and the Reserve Account.
- (b) The amount of any Surplus or Deficiency determined under clause 9.4(a) must be apportioned between and allocated to a Member's Account and the Reserve Account in the manner and on the basis determined by the Trustee, either generally or in any particular case.
- (c) In determining the Surplus or Deficiency from time to time:
 - (1) the Trustee must have regard to the income of the Fund, appreciation or depreciation in the value of the assets of the Fund, the liabilities of the Fund, the Fund Expenses and any other matters the Trustee may consider appropriate; and
 - (2) the Trustee may generally adopt whatever assumptions, methodology and procedures the Trustee may consider appropriate or expedient either generally or in any particular case, including methodology and procedures concerning the method and basis of valuing particular assets and the intervals at which valuations must be carried out.

9.5 Net Earnings

- (a) At least once a year, and at any other time determined by the Trustee, the Trustee must cause the Fund to be valued to determine the amount of Net Earnings which, in the opinion of the Trustee, is appropriate to be allocated to each Member.
- (b) In calculating the amount of Net Earnings, the Trustee must take into account the assets (including unrealised assets) and liabilities (including unrealised liabilities) of the Fund and it may adopt whatever assumptions, methodology and procedures it considers appropriate, including:
 - (1) methodology and procedures concerning the method and basis of valuing particular property;
 - (2) the intervals at which valuations must be carried out; and
 - (3) the reserving or averaging of income.
- (c) Subject to clause 4.3(b)(2):
 - (1) the amount of Net Earnings must be:

- (A) attributed to Members;
 - (B) allocated to any account; or
 - (C) otherwise dealt with in accordance with this Deed, in the manner determined by the Trustee;
- (2) without limiting clause 9.5(c)(1), Net Earnings may be allocated by way of:
- (A) an interest or earning rate (positive or negative); or
 - (B) in the case of an interim allocation made under clause 9.5(a), an interim interest or earning rate (positive or negative) as determined by the Trustee, whether or not such a determination is made in advance.

10 Benefits

- (a) A Benefit payable from the Fund to a Member is:
 - (1) the value of the accounts maintained in respect of the Member together with the proceeds of any Policy received in respect of the Member; and
 - (2) otherwise as set out in this Deed or as determined by the Trustee in its absolute discretion.
- (b) A Benefit may be paid to a Member when the Member becomes entitled or is obliged under the Superannuation Law to receive a benefit from the Fund. Payment of Benefits arising from Policies is subject to the Policy proceeds being paid to the Trustee.
- (c) Subject to the Superannuation Law:
 - (A) a Benefit must be paid as a Pension Benefit or annuity unless an election has been made by the Member and agreed to by the Trustee, to commute the Benefit in whole or in part, or by instalments, or by a transfer in specie; and
 - (B) the Member's Death Benefits must be paid as a lump sum unless the Member is receiving a pension and has nominated one or more reversionary beneficiaries in accordance with clause 10 (j);
 - (C) unrestricted non-preserved benefits may be paid at any time but the Trustee is not required to so pay such Benefits.
- (d) The Trustee is not required to pay a Benefit unless the person claiming the Benefit:
 - (1) makes proper application to the Trustee in the form required by the Trustee;
 - (2) provides information to the Trustee as requested by it to substantiate such Benefit; and

- (3) gives instructions in relation to the method of payment of the Benefit which are acceptable to the Trustee.
- (e) A Benefit is calculated as at the date the event which gave rise to the entitlement of the Member occurred and may include Net Earnings on the Benefit up to the date of payment if the Trustee so determines.
- (f) The Trustee may pay all or part of a Benefit by the transfer of an asset or assets.
- (g) The Trustee may pay a Benefit of a Member, who in the Trustee's opinion is not capable of receiving that Benefit or managing his or her affairs, to any person for the benefit of the Member.
- (h) Any amount held in the Fund which is not allocated to any Member or to any account or which may not or cannot be paid or which is not payable by the Trustee to any Member may be dealt with as the Trustee determines for any purpose determined by the Trustee which is permissible under the Superannuation Law including reduction of contributions of a Member or to meet Fund Expenses.
- (i) Where a Member receives his or her Benefit in the form of a Pension Benefit, such Pension Benefit may be in the form of an Allocated Pension, a Non Complying Fixed Term Pension, a Complying Lifetime Pension or a Complying Fixed Term Pension.
- (j) A Member who receives a Pension Benefit under clause 10(i) may nominate one or more reversionary beneficiaries to receive pension payments after the Member's death. The nomination must be in the form prescribed by the Trustee.
- (k) An election made by a Member under this clause 10 must be in writing and where applicable in the form as prescribed by the Trustee from time to time.

11 Allocated Pension

11.1 Restrictions on payment of an Allocated Pension

Subject to clause 11.2, where a Member is to receive an Allocated Pension, the following provisions apply:

- (a) notwithstanding that the size of payments of a benefit in each financial year is not fixed, pension payments must be made at least once in each financial year until the whole of the Member's share of the net assets of the Fund in respect of that Member's Allocated Pension have been exhausted;
- (b) annual pension payments, other than by way of commutation, must not be less than the minimum level nor greater than any maximum level applicable under the Superannuation Law;
- (c) subject to the Superannuation Law and clause 11.1(d), on the death of the Member where no reversionary beneficiary has been nominated under clause 10(j), or on the death of a reversionary beneficiary where no further

reversionary beneficiary has been nominated, the pension may be transferred to any person determined by the Trustee;

- (d) the pension must be transferred to a reversionary beneficiary on the death of the Member or of another reversionary beneficiary;
- (e) the capital value of the pension and the income from it must not be used as security for a borrowing;
- (f) subject to the Superannuation Law, the Member (or a reversionary beneficiary under clause 11.1(c) or 11.1(d) may request the Trustee to commute the Member's Allocated Pension at any time.

11.2 Variations to enable compliance with Superannuation Law

The Trustee may vary any of these provisions or impose additional conditions in order to ensure that the Fund does not breach or fail to comply with the Superannuation Law or the Social Security Act.

12 Non Complying Fixed Term Pension

12.1 Restrictions on payment of a Non Complying Fixed Term Pension

Subject to clause 12.2, where a Member is to receive a Non Complying Fixed Term Pension, the following provisions apply:

- (a) pension payments must be made at least once in each financial year until the whole of the Member's share of the net assets of the Fund in respect of that Member's Non Complying Fixed Term Pension (as determined by an actuary) have been exhausted;
- (b) notwithstanding that the size of the payments of a benefit in a financial year is fixed, variation of the amount may occur provided that the Superannuation Law is complied with;
- (c) where the pension is reverted or commuted, the reversionary component or the commuted amount (whichever is applicable) must not be greater than 100% of the benefit that was payable before the reversion or the commutation;
- (d) the pension must not be transferred to a person other than a reversionary beneficiary on the death of a Member or of another reversionary beneficiary;
- (e) the capital value of the pension and the income from it must not be used as security for a borrowing; and
- (f) any commutation to a lump sum is limited in accordance with the Superannuation Law.

12.2 Variations to enable compliance with Superannuation Law

The Trustee may vary any of these provisions or impose additional conditions in order to ensure that the Fund does not breach or fail to comply with the Superannuation Law or the Social Security Act.

13 Complying Lifetime Pension

13.1 Asset-Test Exempt Income Stream

Subject to clause 13.2, where a Member is to receive a Complying Lifetime Pension and for the purpose of ensuring that Pension Benefit is an Asset-Test Exempt Income Stream the following provisions apply:

- (a) if the pension is not a defined benefit income stream the amount paid as the purchase price for the pension is wholly converted into income;
- (b) subject to clause 13.1(c), the pension is payable at least annually throughout the life of the Member and, where applicable, the life of the reversionary beneficiary;
- (c) if the reversionary beneficiary is a child of the Member, the pension is payable at least annually until the reversionary beneficiary turns 16, or if the reversionary beneficiary is a full-time student who has turned 16, until the end of the reversionary beneficiary's full-time studies, or when the reversionary beneficiary turns 25 whichever occurs sooner;
- (d) the first payment relates to the period commencing on the date when the pension is purchased or otherwise acquired;
- (e) subject to clause 13.1(g), the total amount of the payments that may be made in the first year after the Pension Commencement Day will be determined in accordance with the schedule calculated by an actuary, prior to the commencement of the pension;
- (f) subject to clause 13.1(g), the total amount of the payments that may be made in a year other than the first year after the Pension Commencement Day:
 - (1) (not taking commuted amounts into account) does not fall below the total amount of the payments made in the immediately preceding year (in this clause referred to as **the previous total**); and
 - (2) may not exceed the previous total:
 - (A) if CPI is less than or equal to 4%, by more than 5%; or
 - (B) if CPI is more than 4%, by more than CPI plus 1%;
- (g) the total amount of payments that may be made in any year referred to in clause 13.1(e) or 13.1(f) may be varied only to allow commutation as permitted under clause 13.1(h);
- (h) without limiting clause 13.1(g), the pension cannot be commuted except:
 - (1) if the commutation is made within 6 calendar months after the Pension Commencement Day;
 - (2) (in the case of a commutation made for the benefit of a reversionary beneficiary, or the estate of the Member) on the death of the Member and within 10 years after the Pension Commencement Day;

- (3) if the payment resulting from the commutation is transferred directly to the purchase of another pension arising under provisions which meet the requirements of section 9A or 9B of the Social Security Act; or
- (4) to the extent necessary to pay any superannuation contributions surcharge that the recipient is liable to pay as purchaser of the pension;
- (i) if the pension is commuted, the commuted amount must not be greater than the benefit that was payable immediately before the commutation;
- (j) if the pension reverts, it does not have a reversionary component greater than the benefit that was payable immediately before the reversion;
- (k) the pension can only be transferred on the death of the Member, and only to a reversionary beneficiary;
- (l) the pension does not have a residual capital value;
- (m) neither the capital value of the pension nor the income from it, can be used as security for a borrowing.

13.2 Variations to enable compliance with Superannuation Law

The Trustee may vary any of these provisions or impose additional conditions in order to ensure that the Fund does not breach or fail to comply with any relevant requirement of the Superannuation Law or the Social Security Act.

13.3 Pension RBL

Subject to clause 13.4, but without limiting or affecting clause 13.1 in terms of its purpose or application, where a Member is to receive a Complying Lifetime Pension and such Member has indicated to the Trustee that he or she wishes to qualify for a Pension RBL, the following provisions will apply in conjunction with the provisions in clause 13.1 but where there is any inconsistency, the provisions in this clause 13.3 take precedence to those in clause 13.1 for the purpose of qualifying for the Pension RBL:

- (a) notwithstanding that the size of payments of benefit in a financial year is fixed, variation of the amount may occur to allow commutation to pay a superannuation contributions surcharge or for any other purposes provided that the Superannuation Law is satisfied;
- (b) unless a Regulator otherwise approves, the total amount of payments that may be made to a Member or to a Member's reversionary beneficiary nominated under clause 10(j) (as the case may be) in a year other than the first year after the Pension Commencement Day is:
 - (1) if the quarterly CPI for the same quarter in the immediately preceding year is not less than the quarterly CPI for the second last quarter before the day on which payment is to be made, an amount not less than the sum payable in the immediately preceding year; or
 - (2) if the quarterly CPI for the second last quarter before the day on which payment is to be made is less than the CPI for the same

quarter in the immediately preceding year, an amount not less than the product of the sum payable in the preceding year and the CPI Percentage;

- (c) without limiting clause 13.1(g), the pension cannot be commuted except:
 - (1) on the death of the Member and within 10 years after the Pension Commencement Day in the case of a commutation made to the benefit of a reversionary beneficiary nominated by the Member under clause 10(j); or
 - (2) if the eligible termination payment resulting from the commutation is transferred directly to the purchase of another benefit provided under provisions which meet the requirements of the SIS Regulation 1.05(2), 1.05(3), 1.05(9), 1.06(2), 1.06(3) or 1.06(7);
- (d) the pension must not be transferred to a person other than a reversionary beneficiary on the death of a Member or of another reversionary beneficiary.

13.4 Variations to enable compliance with Superannuation Law

The Trustee may vary any of these provisions or impose additional conditions in order to ensure that the Fund does not breach or fail to comply with any relevant requirement of the Superannuation Law or the Social Security Act.

14 Complying Fixed Term Pension

14.1 Asset-Test Exempt Income Stream

Subject to clause 14.2, where a Member is to receive a Complying Fixed Term Pension and for the purpose of ensuring that that Pension Benefit is an Asset-Test Exempt Income Stream, the following provisions apply:

- (a) if the pension is not a defined benefit income stream the amount paid as the purchase price for the pension is wholly converted into income;
- (b) the term of the pension must be:
 - (1) (in the case of a Member having a life expectancy of less than 15 years on the Pension Commencement Day) for a period equal to the Member's life expectancy; or
 - (2) (in the case of a Member having a life expectancy equal to or more than 15 years on the Pension Commencement Day) for a period being not less than 15 years but not more than the Member's life expectancy,rounded up (in each case) to the next whole year at the option of the Member, as permitted under the Superannuation Law;
- (c) a Member becomes entitled to be paid a fixed term pension on or after the day when the Member becomes of pension age;
- (d) the pension is payable at least annually;

- (e) the first payment relates to the period commencing on the day when the Member purchases or acquires the pension;
- (f) subject to clause 14.1(h), the total amount of the payments that may be made in the first year after the Pension Commencement Day will be determined in accordance with the schedule calculated by an actuary, prior to the commencement of the pension;
- (g) subject to clause 14.1(h), the total amount of the payments that may be made in a year other than the first year after the Pension Commencement Day:
 - (1) (not taking commuted amounts into account) does not fall below the total amount of the payments made in the immediately preceding year (in this clause referred to as **the previous total**); and
 - (2) may not exceed the previous total:
 - (A) if CPI is less than or equal to 4%, by more than 5%; or
 - (B) if CPI is more than 4%, by more than CPI plus 1%;
- (h) the total amount of the payments that may be made in any year referred to in clause 14.1(f) or 14.1(g) may be varied only to allow commutation as permitted under clause 14.1(i);
- (i) without limiting clause 14.1(h), the pension cannot be commuted except:
 - (1) if the commutation is made within 6 calendar months after the Pension Commencement Day of the income stream;
 - (2) if the payment resulting from the commutation is transferred directly to the purchase of another pension provided under provisions that meet the requirements of section 9A or 9B of the Social Security Act;
 - (3) if the legal or equitable interest in the payment resulting from the commutation is transferred, on the death of the Member, to a reversionary beneficiary or (if there is no reversionary beneficiary) to the Member's estate; or
 - (4) to the extent necessary to cover any superannuation surcharge that the Member is liable to pay in the Member's capacity as purchaser of the pension;
- (j) if the pension is commuted, the commuted amount cannot exceed the benefit that was payable immediately before the commutation;
- (k) if the pension reverts, it does not have a reversionary component greater than 100% of the benefit that was payable before the reversion;
- (l) the pension can only be transferred on the death of the Member, and only to a reversionary beneficiary, or to the Member's estate;
- (m) the pension does not have a residual value; and
- (n) the capital value of the pension and the income from it must not be used as security for a borrowing.

14.2 Variations to enable compliance with Superannuation Law

The Trustee may vary any of these provisions or impose additional conditions in order to ensure that the Fund does not breach or fail to comply with any relevant requirement of the Superannuation Law or the Social Security Act.

14.3 Pension RBL

Subject to clause 14.4, but without limiting or affecting clause 14.1 in terms of its purpose or application, where a Member is to receive a Complying Fixed Term Pension and he or she has indicated to the Trustee that he or she wishes to qualify for a Pension RBL, the following provisions will apply in conjunction with the provisions in clause 14.1 but where there is any inconsistency, the provisions in this clause 14.3 take precedence to those in clause 14.1 for the purpose of qualifying for the Pension RBL:

- (a) the pension which is payable at least annually may be made to the Member or to a reversionary beneficiary nominated by that Member under clause 10(j);
- (b) the total amount of payments that may be made in a financial year can be varied to allow commutation to pay a superannuation contributions surcharge;
- (c) without limiting clause 14.1(g), the pension cannot be commuted except:
 - (1) by payment, on the death of a reversionary beneficiary, to the benefit of another reversionary beneficiary or, if there is no other reversionary beneficiary, to the estate of the reversionary beneficiary; or
 - (2) if the eligible termination payment resulting from the commutation is transferred directly to the purchase of another benefit provided under provisions which meet the SIS Regulation 1.05(2), 1.05(3), 1.05(9), 1.06(2), 1.06(3) or 1.06(7);
- (d) without limiting clause 14.1(l), the pension can be transferred:
 - (1) on the death of the Member to a reversionary beneficiary or, if there is no reversionary beneficiary, to the estate of the Member; or
 - (2) on the death of a reversionary beneficiary to another reversionary beneficiary or, if there is no other reversionary beneficiary, to the estate of the reversionary beneficiary.

14.4 Variations to enable compliance with Superannuation Law

The Trustee may vary any of these provisions or impose additional conditions in order to ensure that the Fund does not breach or fail to comply with any relevant requirement of the Superannuation Law or the Social Security Act.

15 Forfeiture

15.1 Forfeiture of benefits

Subject to clause 15.2, a Member or any other beneficiary:

- (a) who assigns or charges, or attempts to assign or charge, any interest in the Fund to which he or she may become entitled;
- (b) whose interest in the Fund, whether by their own act, operation of law or otherwise would, but for this clause, become payable to or vested in any other person or organisation;
- (c) who for any reason may be unable personally to receive or enjoy the whole or part of any interest in the Fund to which he or she may become entitled or, in the opinion of the Trustee, is incapable of managing his or her affairs; or

must, subject to the Superannuation Law, forfeit entitlement to all of his or her interest to which he or she may become entitled in the Fund or in any other situation permitted by the Superannuation Law, may forfeit entitlement to all of his or her interest to which he or she may become entitled in the Fund.

15.2 Exception to forfeiture

Clause 15.1 does not apply to cancel, forfeit, reduce, qualify or confer a discretion relating to the beneficial interest of a Member or other beneficiary in the Fund in the event that the Member or other beneficiary becomes bankrupt, commits an act of bankruptcy or executes a deed of assignment or deed of arrangement under the Bankruptcy Act 1966 or in any other event where the law prohibits such an application.

15.3 Application of forfeited benefits

- (a) Subject to the Superannuation Law, any interest forfeited pursuant to clause 15.1 must be credited to the Reserve Account.
- (b) If a forfeiture occurs in respect of a Member pursuant to clause 15.1 and, in the opinion of the Trustee, the event or circumstance giving rise to that forfeiture has ceased to affect that Member or that Member's property, the Trustee may secure such benefit in respect of that Member as the Trustee considers appropriate, having regard to any payment or application which may have already taken place under clause 15.3(a).

16 Adjustment of Benefits

- (a) The Trustee may adjust Benefits and rights of a Member to take account of:
 - (1) any contributions which have not been paid;
 - (2) any Fund Expense;

- (3) any incorrect, inaccurate or misleading information supplied, or lack of information supplied, in respect of a Member; or
 - (4) the extent to which an Insurer fails to provide insurance under a Policy, fails to pay or reduces the payment of any insurance proceeds, defers the payment of any proceeds, or imposes terms and conditions on which the insurance proceeds are payable.
- (b) The Trustee may deduct from a Member's interest in the Fund or from any moneys which would be payable to or for the benefit of the Member, and may retain in the Fund any amount determined by the Trustee to be owing to the Trustee or the Fund by that Member either solely or in conjunction with any other person on any account whatever.

17 Discharge and release

The Trustee is completely discharged in respect of any payment or transfer in accordance with this Deed including a payment to a person the Trustee believes in good faith is entitled to the Benefit.

18 Payment of death benefits

- (a) A Member may, from time to time, give the Trustee a Death Benefit Nomination.
- (b) Subject to clauses 13 and 14, if:
 - (1) a Member dies; and
 - (2) the Member has provided a Death Benefit Nomination; and
 - (3) the Member's Death Benefit Nomination has not been revoked by the Member and is effective under the Superannuation Law; and
 - (4) the Trustee is satisfied that, prior to completing the Death Benefit Nomination, the Member received all information required by the Superannuation Law to be provided to the Member in relation to the payment of the member's Death Benefits,the Trustee must pay the Member's Death Benefit in accordance with the Member's direction set out in the Member's Death Benefit Nomination, unless:
 - (5) the Death Benefit Nomination does not comply with the Superannuation Law;
 - (6) payment in accordance with the Death Benefit Nomination would be in breach of any Superannuation Law; or
 - (7) the Member was receiving a pension and has nominated one or more reversionary beneficiaries in accordance with clause 10 (j).
- (c) If:
 - (1) a Member has no Dependant or legal personal representative;

- (2) the Trustee is prohibited from paying the Member's Death Benefit pursuant to clause 18(b); or
- (3) the Member has not given the Trustee a Death Benefit Nomination, the Trustee must pay the Member's Death Benefits to the person and in the proportions as determined by the Trustee in a manner as permitted by the Superannuation Law.

19 Payments under Superannuation Law or the Social Security Act

The Trustee may (but is not obliged to) pay any Benefit where permitted by the Superannuation Law or the Social Security Act and must pay any Benefit where required by the Superannuation Law or the Social Security Act.

20 Tax recoupment

Each recipient of a Benefit under this Deed agrees with the Trustee, as a condition of receiving the Benefit, that if the Trustee determines, after paying the Benefit, that an insufficient deduction was made from the Benefit to pay Tax, the recipient:

- (a) must repay to the Trustee on demand such amount as the Trustee determines should not have been paid to the recipient;
- (b) releases the Trustee from any loss or damage that the recipient may suffer as a result of the Trustee making the insufficient deduction; and
- (c) indemnifies the Trustee in respect of any loss or damage that the Trustee may suffer as a result of the Trustee making the insufficient deduction.

21 Pension and Annuity Payments

- (a) The Trustee must apply that part of the capital value of a Benefit, which is required or permitted to be paid as a Pension Benefit or annuity, selected by the Member and approved by the Trustee, to pay or purchase such Pension Benefit or annuity.
- (b) If the Member and the Trustee do not agree on the Member's selection of the Pension Benefit or annuity, the Trustee, in its sole discretion, must select the Pension Benefit and/or annuity, and purchase or provide the same on the Member's behalf.
- (c) Subject to clauses 11, 12, 13 and 14, the Trustee may, on being advised of an election by the Member under clause 10(c), change the composition of the Member's Benefit as between lump sum and Pension Benefits (as the case may be) to reflect that election, subject to this Deed, any relevant conditions determined from time to time by a Regulator and the Superannuation Law or the Social Security Act.

22 Transfers

22.1 Transfers

- (a) The Trustee may arrange for the transfer into the Fund of cash or property with:
 - (1) the person responsible for a Benefit Arrangement; or
 - (2) the person who is or was a participant in a Benefit Arrangement on conditions agreed between the Trustee and the person.
- (b) The Trustee may pay a benefit of a Member to a Benefit Arrangement with or without the consent of the Member if the Superannuation Law permits.

22.2 Transfers under the Superannuation Law

The Trustee may, and if required by the Superannuation Law must, transfer benefits of a Member to a Benefit Arrangement or to the Regulator in the circumstances contemplated by the Superannuation Law.

23 Termination of Fund

23.1 Termination of Fund

- (a) The Trustee may terminate the Fund in its absolute discretion.
- (b) The Fund must be terminated if there is no Trustee or the Superannuation Law requires.

23.2 Application of Fund

- (a) The net proceeds of the Fund, after meeting Fund Expenses, must be applied to or towards the payment of Members' Benefits.
- (b) The Trustee may deal with any remaining money or property in the Fund as it determines in its absolute discretion.

24 General

24.1 Proper Law

This Deed is governed by, and takes effect and must be construed in accordance with, the proper law of this Deed, which is the law of Queensland.

24.2 Notices

All communications in connection with the Fund:

- (a) must be either in writing or if given orally must conform to instructions given by the Trustee;
- (b) may be given to a Member:

- (1) at his or her place of residence as set out in the Member's Fund membership application form; or
 - (2) at such other address last notified to the Trustee by the Member;
- and is deemed to be received by the Member on the earlier of:
- (1) 3 Business Days after the notice is sent by mail; and
 - (2) the day the notice is received at the above address;
- (c) must be given to the Trustee at its address set out at the beginning of this Deed, or at such other address as last notified to a Member by the Trustee, and is effective only when received by the Trustee at that office.

Executed as a deed:

**Signed by
Alibud Pty Ltd**

by:



Secretary/Director

Philip John Blank

Name (please print)



Director

Owen Blank

Name (please print)