

Goldman Sachs & JBWere Superannuation Fund

Trust Deed

GOLDMAN SACHS AUSTRALIA SERVICES PTY LTD
("Principal Employer")

BEST SUPERANNUATION PTY LTD
("Trustee")

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Ref: NSC:DMT:2053337

Date:

20th July

2017

PARTIES:

GOLDMAN SACHS AUSTRALIA SERVICES PTY LTD ABN 27 004 595 448 of Level 17,
101 Collins Street, Melbourne, Victoria (**Principal Employer**)

and

BEST SUPERANNUATION PTY LTD ABN 57 070 732 008 of Level 17, 101 Collins
Street, Melbourne, Victoria (**Trustee**)

RECITALS

A. The J B Were & Son Staff Assurance and Retirement Fund, now known as the Goldman Sachs & JBWere Superannuation Fund (**Fund**) was established by a trust deed dated 1 July 1958. That trust deed, as subsequently amended, is referred to in this amending deed as the **Trust Deed**.

B. Clause 1.25 of the Trust Deed presently reads as follows:

"(a) Amendments to comply with the Relevant Law

The Principal Employer and the Trustee by deed or by oral or written resolution may together amend, add to, delete or replace all or any of the provisions of the Deed (including this Clause 1.25) in such manner and to such extent as the Principal Employer and the Trustee consider necessary or desirable in order to ensure that the Fund or the Deed complies with the Relevant Law, and any amendment, addition, deletion or replacement shall take effect on the date the deed or resolution is executed or made or such earlier or later date as may be specified in the deed or resolution for that purpose.

(b) Other amendments

(i) Without limiting Clause 1.25(a) but subject to Clause 1.25(b)(2), the Principal Employer and the Trustee by deed, verbal agreement or by written resolution may together amend, add to, delete or replace all or any of the provisions of the Deed (including this Clause 1.25) as the Principal Employer and the Trustee see fit and any such amendment, addition, deletion or replacement (**amendment**) shall take effect on the date the deed or resolution is executed or made or such earlier or later date as may be specified in the deed or resolution for that purpose.

(ii) No amendment shall be made pursuant to Clause 1.25(b)(1) or, if made, shall take effect in respect of a Member or Beneficiary if such amendment would have the effect of:

(A) reducing the amount of a benefit, calculated on the basis of Employer Contributions or Member Contributions and earnings on those contributions, that has accrued or become payable to the Member or Beneficiary before the date the amendment takes or is to take effect;

- (B) reducing the amount of a benefit, other than a benefit referred to in Clause 1.25(b)(2)(A), that is, or may become, payable to a Member or Beneficiary in relation to a period before the date the amendment takes or is to take effect; or
 - (C) otherwise adversely altering a Member's right or claim to accrued benefits or the amount of those accrued benefits,
- unless:
- (D) the reduction or other adverse alteration is required because of, and does not exceed the value of, any tax payable on income of the Fund;
 - (E) the reduction or other adverse alteration is required for compliance with the Relevant Law;
 - (F) the Member or Beneficiary approves in writing of the reduction or other adverse alteration;
 - (G) the reduction or other adverse alteration is approved by the Regulator in writing; or
 - (H) the reduction or other adverse alteration is expressly permitted by the Relevant Law."
- C. The Principal Employer and the Trustee wish to amend the Trust Deed in the manner provided in this amending deed in order to allow a Member to have two Retained Benefits Division Accounts (one for a retirement phase pension and one for a lump sum account) as a result of legislative amendments introducing the \$1.6 million transfer balance cap..
- D. The Principal Employer and the Trustee are satisfied that the amendments made by this amending deed are permitted under the Relevant Law and will not breach the conditions contained in Clause 1.25 of the Trust Deed.

This deed witnesses that:

1. Interpretation

Except to the extent it is given a special meaning in this amending deed, any word or expression which has a particular meaning in the Trust Deed must, when used in this amending deed, be given the same meaning as it has in the Trust Deed.

2. Amendment of Trust Deed

With effect on and from 1 May 2017, the Principal Employer and the Trustee amend the Trust Deed by revoking the existing provisions of the Trust Deed and replacing them with the provisions contained in the Appendix to this amending deed.

APPENDIX

This is the Appendix referred to in the amending deed to which this Appendix is annexed and contains the new provisions of the Trust Deed governing the Fund. The table of contents contained in this Appendix is for information purposes only and does not comprise part of the Trust Deed.

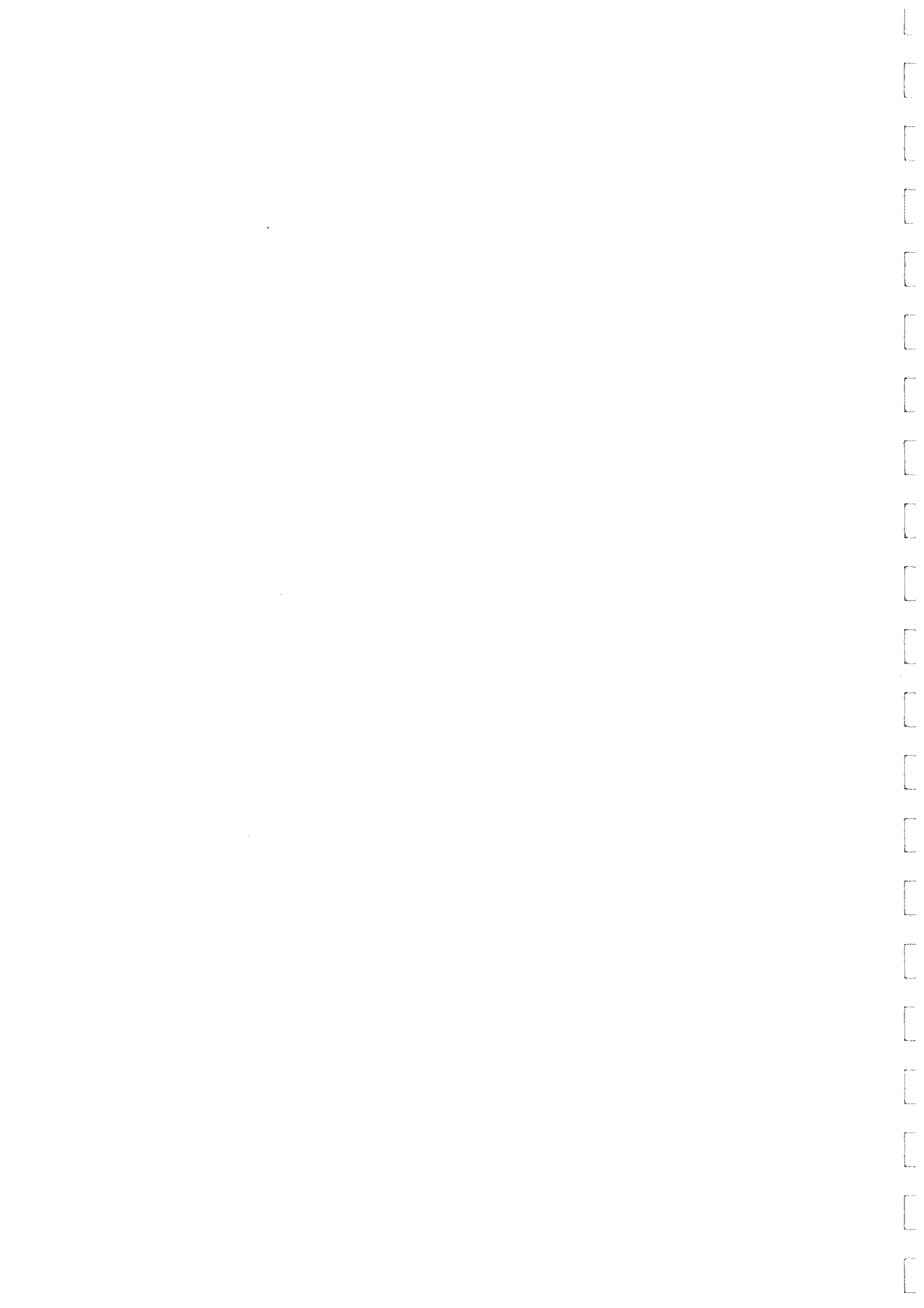


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1 Division 1 – General provisions

1.1 Definitions

In the Deed unless contrary to the sense or the context:

2007 FPD Member means a Member who was a Pension Division Member immediately before the 2007 Transfer Date and who elected, with effect on and from the 2007 Transfer Date, to become an Accumulation Division Member.

2007 Transfer Date means a date on or between 1 June 2007 and 25 June 2007 (inclusive), or any other date, as determined by the Trustee in respect of each FPD Member.

Account Based Pension means, from a date determined by the Trustee, a pension which complies with the standards for an account based pension (including before 1 July 2017 a transition to retirement income stream) set out in the Relevant Law and payable in accordance with the provisions of the Retained Benefits Division.

Accumulation Division means the division of the Fund described in Division 3.

Accumulation Division Member means a member of the Accumulation Division.

Actuary has the meaning given by the SIS Act.

Additional Voluntary Insurance means:

- (1) in relation to a Member who has elected in accordance with any terms and conditions determined by the Trustee from time to time to have insurance coverage to provide additional benefits in the event of death or Total and Permanent Disablement; or
- (2) in relation to a Member who is a casual Employee who has elected in accordance with any terms and conditions determined by the Trustee from time to time to have insurance coverage to provide benefits in the event of death or Total and Permanent Disablement,

those proceeds of insurance.

Aggregate Account Balance in respect of a particular Member at any particular time, means the sum of the credit balances (if any) of all accumulation accounts held by the Trustee in respect of that Member, after all relevant credits and debits have been made to those accounts.

Annual Salary means the annual rate of the Member's Salary as at any particular date.

Approved Benefit Arrangement means a fund or benefit arrangement, other than the Fund, to which a payment may be made from the Fund, or from which a payment may be accepted into the Fund, without causing the Fund to fail to comply with a requirement of the Relevant Law.

Associated Employer means any person who has been admitted to participation in the Fund as an Associated Employer pursuant to this Deed including any person which replaces or succeeds such an Associated Employer as provided in the Deed but does not include any person which has ceased to participate in the Fund as an Associated Employer as provided in the Deed

Auditor has the meaning given by the SIS Act.

Beneficiary means a person (including any Member) who is beneficially entitled to receive a benefit from the Fund in accordance with the Deed or the Relevant Law.

Child has the meaning given by the SIS Act, and **Children** shall have a corresponding meaning.

Clause means a clause of the Deed.

Declared Rate means the rate or rates of return (which may be positive or negative) determined by the Trustee after having regard to the income of the Fund or of any particular investment portfolio or Special Portfolio within the Fund, in respect of any period for the purposes of the whole or any particular provision of the Deed, having regard to any requirement of a Relevant Law and such other matters as the Trustee considers relevant and without limiting the preceding words, but subject to any conditions determined by the Trustee, for the purposes of the whole or any particular provision of this Deed:

- (1) a Declared Rate may be prospectively determined on an interim basis in respect of a particular period; and
- (2) a Declared Rate may be subsequently determined on a final or declared basis in respect of that period.

Deed means the Trust Deed as amended from time to time.

Dependant means in relation to a person any one or more of the following:

- (1) the Spouse of that person;
- (2) any Child of that person;
- (3) any other natural person who in the opinion of the Trustee is or was at the relevant date wholly or partially dependent on the first mentioned person; and
- (4) any other person who is a “dependant” under the Relevant Law,

and, in the case of a benefit payable in the form of a pension following the death of that person, subject to the requirements of the Relevant Law regarding the recipients who are permitted to receive a death benefit in the form of a pension following the death of the person.

Division means a division of the Deed.

Eligible Employee means an Employee who is approved for the time being by the Principal Employer (either generally or in any particular case) for membership of the Fund.

Eligible Spouse Division means the division of the Fund described in Division 5.

Eligible Spouse Division Member means a Spouse who has been admitted to membership of the Fund pursuant to Clause 5.2.

Employed Member means a person who is for the time being both a Member and an Eligible Employee.

Employee has, in relation to an Employer, the same meaning as in the SIS Act.

Employer means the Principal Employer and any Associated Employer and, in respect of an Employee, means the Employer or Employers by whom the Employee is for the time

being employed, or, in respect of a former Employee, means the Employer or Employers by whom the former Employee was last employed.

Employer Contribution means an amount or amounts paid, credited, or required to be paid or credited, by or on behalf of an Employer, in respect of a Member or group of Members in accordance with particular provisions of this Deed.

Equitable Share means in relation to a Member or Beneficiary as at any particular date the amount determined by the Trustee, after obtaining the advice of the Actuary and having regard to any relevant Clauses and to the principles of equity, to be that person's share of the Fund as at that date.

Final Average Salary means in relation to a Member the Member's average Annual Salary during the period of 3 years immediately preceding the date the Member ceased to be an Employee, provided that if the period of the Member's Fund Membership immediately preceding that date is less than 3 years then, unless another basis of calculation is determined by the Principal Employer, the Member's average Annual Salary during the period of the Member's Fund Membership shall be deemed to be the Member's Final Average Salary provided that in any particular case Final Average Salary may be another amount or determined in any other manner as may be determined by the Principal Employer and approved by the Trustee and the Member from time to time for the purposes of the whole or any particular provision of the Deed.

Former Pension Division Member means a Member who was a Pension Fund Member immediately prior to the Transfer Date and who elected with effect from the Transfer Date to become an Accumulation Division Member.

Fund means the Goldman Sachs & JBWere Superannuation Fund, previously known as the J B Were & Son Staff Assurance Retirement Fund, the JB Were & Son Superannuation Fund, the JBWere Superannuation Fund, the Goldman Sachs JBWere Superannuation Fund, and then the Goldman Sachs & Partners Australia Superannuation Fund, established under the Trust Deed and includes the property held on the trusts of the Deed, and any part of the Fund.

Fund Expenses means the costs and expenses of and incidental to the establishment, operation, management, administration and investment of the Fund.

Fund Interest means in relation to a Member or Beneficiary as at any particular date the lesser of:

- (1) the value, as determined by the Actuary, of the benefits presently or prospectively payable from the Fund in respect of that person to the extent that such benefits have accrued in respect of the period up to that date; and
- (2) that person's Equitable Share as at that date.

Fund Membership means in relation to a Member the most recent uninterrupted period during which the Member has been an Employed Member and also any further period which the Principal Employer and the Trustee agree to be Fund Membership for the purposes of the whole or any particular provision of the Deed.

Insured Benefit means, in respect of a relevant Accumulation Division Member:

- (1) in the case of death, the sum of:

$$18\% \times \text{Salary} \times \text{Insured Benefit Period};$$

- (2) in the case of Total and Permanent Disablement in respect of a Member who was a Member of the Fund before 1 January 2011:
 - (A) the sum of $18\% \times \text{Salary} \times \text{Insured Benefit Period}$; or
 - (B) if the Member has elected a particular amount of cover in accordance with any terms and conditions determined by the Trustee from time to time, the proceeds of insurance payable; or
- (3) in the case of Total and Permanent Disablement in respect of a Member who became a Member of the Fund on or after 1 January 2011:
 - (A) the proceeds of insurance payable in accordance with the particular amount of cover applicable to the Member on joining the Fund in accordance with any terms and conditions determined by the Trustee from time to time; or
 - (B) if the Member has so elected in accordance with any terms and conditions determined by the Trustee from time to time, the sum of $18\% \times \text{Salary} \times \text{Insured Benefit Period}$.

Insured Benefit Period means the number of years (including any fractional period representing days in the year) during the period which:

- (1) commences on (as applicable):
 - (A) the date of the Member's death; or
 - (B) the date that the Member ceases to be an Employee because of Total and Permanent Disablement; and
- (2) ends on the Member's Normal Retirement Date.

Insurer means an insurer from whom insurance is sought or with whom insurance is effected by the Trustee pursuant to the Deed.

Leave Without Pay means, in relation to an Employed Member, absence from active employment with the Employer (other than by reasons of illness or injury) with the approval of the Employer but without any entitlement to remuneration from the Employer.

Member means a person who has been admitted to membership of the Fund as provided in the Deed and a person shall cease to be a Member in the event of that person's death or when all benefits to which that person could become entitled under the Deed have been paid from the Fund or have otherwise ceased or been terminated as provided in the Deed, whichever first occurs.

Member Contribution means an amount or amounts (other than Employer Contributions and contributions by or on behalf of an Eligible Spouse Division Member or a Retained Benefits Division Member) paid, credited, or required to be paid or credited, by or on behalf of a Member, in respect of that Member in accordance with particular provisions of this Deed.

MySuper Member means a Member in respect of whom the Trustee must comply with the MySuper Requirements.

MySuper Product means has the same meaning as "MySuper product" under the SIS Act.

MySuper Requirements means any requirement under the Relevant Law in relation to amounts within the Fund that are a MySuper Product.

MySuper Rules means any written rule, guideline, business policy or requirement made or established by the Trustee in respect of a division of the Fund in relation to:

- (a) compliance with the MySuper Requirements; or
- (b) a matter or matters concerning the MySuper Product which is or are permissible under the Relevant Law, to comply with the MySuper Requirements,

including the required legislative characteristics of a MySuper Product under section 29TC of the SIS Act as amended from time to time, including but not limited to -

- (1) the investment strategy or strategies adopted in relation to assets of the Fund which correspond to MySuper Members;
- (2) the provision of options, benefits and facilities to or in respect of MySuper Members;
- (3) the attribution of any amounts (whether positive or negative) to or in respect of MySuper Members;
- (4) the process of attributing amounts (whether positive or negative) to or in respect of MySuper Members;
- (5) the replacement of any beneficial interest of a MySuper Member with another beneficial interest in the Fund; and
- (6) any prohibition on the extent to which assets held in respect of a MySuper Member may be used for a particular purpose.

Nominated Beneficiary means with respect to a Member, one or more Dependents or the legal personal representative nominated on the Member's last effective Valid Nomination Form to receive any death benefit that becomes payable from the Fund.

Normal Retirement Date means the date on which a person reaches:

- (1) in relation to female Pension Division Members who have been Employees since 23 November 1978 - the age of 60 years;
- (2) in relation to all other Members - the age of 65 years,

unless otherwise agreed between the Trustee, the Principal Employer and the Member from time to time.

Pensionable Service in respect of a Member means the aggregate period of membership in this Fund or any Previous Fund (adjusted in the manner determined by the Trustee in respect of a Member who is a part-time Employee), after excluding:

- (1) any periods occurring after 30 June 1979 of Leave Without Pay or other absences from Service in respect of which no contributions to the Fund are made in respect of the Member;
- (2) any periods of membership as a Productivity and Levy Member (except periods during which the Member was concurrently a Pension Fund Member and a Productivity and Levy Member);
- (3) any periods of membership as an Accumulation Division Member; and
- (4) any periods of membership as an Eligible Spouse Division Member,

and after including any periods of deemed Pensionable Service pursuant to Clause 1.26.

Pension Division means the division of the Fund described in Division 2.

Pension Division Member means a member of the Pension Division.

Pension Fund Member means a Member who at any time prior to the Transfer Date was a “Pension Fund Member” as defined under the first schedule of the Deed dated 30 June 2000 (or any equivalent provisions of a prior version of the Deed).

Prescribed Benefit means, in relation to a Former Pension Division Member or a 2007 FPD Member, a lump sum equal to 10.65 times the sum of:

- (1) an amount equal to 2.5% of Final Average Salary multiplied by the number of years (including any fractional period representing days in the year) of the Member’s Prescribed Benefit Membership Period up to and including 31 December 2002; and
- (2) an amount equal to 1.75% of Final Average Salary multiplied by the number of years (including any fractional period representing days in the year) of the Member’s Prescribed Benefit Membership Period after 31 December 2002.

Prescribed Benefit Membership Period means in relation to a Member the period which commences on:

- (1) in respect of a Member who was first admitted to membership of the Fund as a Pension Fund Member and then became an Accumulation Division Member on the Transfer Date, the date that the Member first became a Member;
- (2) in respect of a Member who was first admitted to membership of the Fund not as a Pension Fund Member but later became a Pension Fund Member and then on the Transfer Date became an Accumulation Division Member, the date that the Member became a Pension Fund Member;
- (3) in respect of a Member who was first admitted to membership of the Fund as a Pension Fund Member, then became a Pension Division Member on the Transfer Date and then became an Accumulation Member on the 2007 Transfer Date, the date that the Member first became a Member;
- (4) in respect of a Member who was first admitted to membership of the Fund not as a Pension Fund Member but later became a Pension Fund Member, then became a Pension Division Member on the Transfer Date and then became an Accumulation Division Member on the 2007 Transfer Date, the date that the Member became a Pension Fund Member; or
- (5) in respect of a Member with whom the Trustee has agreed on a particular membership commencement date, that date,

and:

- (6) ends on the date that the Member would have reached his or her Normal Retirement Date had the Member continued as an Employed Member; and
- (7) is adjusted in the manner determined by the Trustee in respect of a Member who is a part-time Employee.

Principal Employer means Goldman Sachs Australia Services Pty Ltd (ACN 004 595 448) or any person which subsequently assumes the office of Principal Employer under the Deed.

Productivity and Levy Member means a Member who at any time prior to the Transfer Date was a “Productivity and Levy Member” as defined under the third schedule of the Deed dated 30 June 2000 (or any equivalent provisions of a prior version of the Deed).

Qualified Adviser means an accountant, barrister, solicitor, actuary, medical practitioner or other professional person, and includes any other person considered by the Trustee in good faith 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.

Regulator means, as the context requires, the Australian Prudential Regulation Authority or the Australian Securities and Investments Commission or any other like body.

Relevant Law means:

- (1) the SIS Act;
- (2) the Tax Act;
- (3) any other present or future law of the Commonwealth of Australia or any State or Territory of Australia which applies to the Fund, this Deed, the Trustee or an Employer with the force of law; and
- (4) any other present or future law of the Commonwealth of Australia or any State or Territory of Australia which does not fall within paragraph (1) or (2) of this definition but which the Trustee and the Principal Employer may agree from time to time to be a Relevant Law for the purposes of the whole or any particular provisions of this Deed,

and “requirement” and “applicable requirement”, when used in relation to a Relevant Law, means a requirement of, or a standard laid down under, the Relevant Law which must be complied with or satisfied in order to secure or better secure a concession in respect of tax, or to avoid a relevant penalty, detriment or disadvantage, in connection with the Fund.

Reserve Account means one or more accounts established in accordance with Clause 1.27.

Retained Benefits Division means the division of the Fund described in Division 4.

Retained Benefits Division Member means a person who is a member of the Retained Benefits Division in accordance with Clause 4.2.

Salary means:

- (1) in relation to a Member, the ordinary remuneration at which the Member is employed as at the relevant date as determined by the Principal Employer or any Associated Employer in respect of its Employees; and
- (2) in relation to a Pension Division Member who is a part-time Employee, the equivalent full-time remuneration for the Member,

provided that, except to the extent determined by the Principal Employer or any Associated Employer in respect of its Employees, a Member’s Salary shall not include any bonus, commission, payment for overtime or other remuneration, allowance, loading or emolument which the Principal Employer or Associated Employer considers to be of an extraordinary nature either generally or in any particular case provided always that in any particular case Salary shall be such other amount or determined in such other manner as may be determined by the Principal Employer or any Associated Employer and approved by the Trustee and the Member from time to time for the purposes of the whole or any particular provision of the Deed.

Secretary means the person appointed from time to time by the Trustee as secretary to the Fund pursuant to Clause 1.10 and includes any acting secretary.

SG Act means the *Superannuation Guarantee (Administration) Act 1992* (Cth).

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

Special Contributions means, in respect of a Member nominated by the Principal Employer and notified to the Trustee, Employer Contributions that an Employer makes in respect of the Member pursuant to Clause 1.18(a)(4), whether by agreement with the Member or otherwise, and will be credited to the Member's Defined Benefit Division Special Account or Accumulation Division Special Account, as applicable.

Special Portfolio means a distinct portfolio of assets or classes of assets established for purposes of Clause 1.12(d).

Spouse has the meaning given by the SIS Act.

Tax Act means the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997* as the context requires.

Total and Permanent Disablement:

- (1) for purposes of an Insured Benefit, a Prescribed Benefit or Additional Voluntary Insurance in relation to a Member, shall have the same meaning in respect of that Insured Benefit, Prescribed Benefit or Additional Voluntary Insurance as is given to those words (or what the Trustee considers to be the corresponding word or words) in the relevant policy of insurance, and (unless otherwise agreed between the Trustee and the Principal Employer in any particular case) any determination by the relevant Insurer as to whether or not a Member is so disabled in terms of the relevant policy shall be final and binding on the Member and all other interested persons for the purposes of the Deed; and
- (2) for any purpose not covered by paragraph (1) of this definition, shall mean in relation to a Member disablement due to an illness or injury as a result of which:
 - (A) the Member has been continuously absent from active employment for at least six months or such lesser period, if any, as may be agreed between the Principal Employer and the Trustee from time to time either generally or in any particular case; and
 - (B) in the opinion of the Trustee after consideration of information and advice satisfactory to it, the Member is unlikely ever to return to any employment, occupation, profession, trade or business for reward in money or money's worth on a regular basis in a capacity for which the Member is for the time being reasonably qualified by education, training or experience,

and **Totally and Permanently Disabled** shall have a corresponding meaning.

Transfer Date means 1 March 2002 or any later date as determined by the Trustee.

Trust Deed means the trust deed dated 1 July 1958 pursuant to which the **J.B. Were & Son Staff Assurance and Retirement Fund** was established, as amended from time to time.

Trustee means the Trustee for the time being of the Fund whether original, additional or substituted.

Valid Nomination Form means a nomination form which has been signed by the Member in accordance with procedures determined by the Trustee and which is valid under the Relevant Law.

1.2 Interpretation

- (1) Except where a provision of the Deed expressly provides otherwise, if there is a conflict between a provision in Division 1 of this Deed and a provision in any of the other Divisions of this Deed, the relevant provision of Division 1 of the Deed shall prevail.
- (2) The headings in this Deed are primarily for convenience. They may be construed as part of the Deed, but not if they conflict with the body of the Deed.
- (3) Words importing the singular number include the plural and vice versa and words importing one gender include the other gender unless the context requires otherwise or the contrary intention appears.
- (4) References to any statutory enactment, regulation, rule, by-law or other law (**law**) shall include that law as amended or re-enacted from time to time and any law which replaces it or has the same effect in whole or in part (whether or not passed or approved by the same legislative body or other authority and whether or not incorporating or adopting any law previously in force) and shall also include any regulations, determinations, rulings or guidelines made by any person under the authority of such a law.
- (5) All references to Clauses, sub-clauses, paragraphs and other provisions of the Deed shall be read as references to Clauses, sub-clauses, paragraphs and provisions as amended or replaced from time to time.
- (6) For the purposes of the Deed, unless the contrary intention appears or the context requires otherwise:

insurance includes assurance and vice versa and any type of annuity;

person and words importing a natural person include a body corporate and any other person recognised at law, a partnership and any other group or association of persons but the words “natural person” shall be given their normal meaning; and

power means a power, right, discretion or authority of whatsoever nature and howsoever arising (including the formation of an opinion) and, wherever a power is conferred on the Trustee, the Principal Employer, an Associated Employer or any other person, the relevant provision of the Deed shall be read as if the words “at any time and from time to time” were added to that provision.
- (7) If any dispute or doubt arises as to the interpretation of any of the provisions of the Deed or as to the rights or obligations of a Member or any other person under the Deed, then (except to the extent otherwise expressly provided in the Deed) the decision of the Trustee shall be final and binding on all interested persons.
- (8) While for convenience a particular word or group of words defined in the Deed may commence with capital or lower case letters, failure to use capital or lower case letters in that word or group of words elsewhere in the Deed does not of itself mean that word or group of words has a meaning different from the meaning assigned to it in the relevant definition.
- (9) Where an Employer, the Trustee or other relevant person is or includes a body corporate, a resolution or directive by the directors (or equivalent) of that body, or by some of them acting as a board or a committee in accordance with its constitution or like governing document, shall (subject to the Relevant Law) be deemed to be an effective resolution or directive by that body for the purposes of

the Deed provided that nothing in this Clause shall limit such body's powers of delegation and the Trustee or a servant or delegate of the Trustee may accept as a binding direction or authorisation of such body any direction or authorisation given or purported to be given on its behalf by a person who the Trustee or such servant or delegate reasonably believes is empowered to act for that body in the relevant circumstance.

- (10) A written resolution made for the purposes of any provision of the Deed may take the form of one or more documents in like form or to like effect, each signed by one or more persons. In the case of an oral resolution made for the purposes of any provision of the Deed, a statutory declaration by a person (not necessarily being a party to such resolution) as to that person's presence at the time of the passage of such resolution and as to the contents of such resolution shall be acceptable as proof of the passage and contents of such resolution.
- (11) No discretion given to any person under this Deed shall be exercised in any manner which discriminates unlawfully against a person on the grounds of sex, marital status, or disability.
- (12) To the extent legally possible and unless the Trustee otherwise determines, this Deed is not subject to the *Trustee Act 1958* (Vic) or any of its equivalents in any of the States or Territories of Australia.

1.3 Compliance with Relevant Law

(a) Overriding effect of this Clause

Notwithstanding anything expressed or implied to the contrary in this Deed (including any other provision of this Deed which purports to prevail over this Clause 1.3):

- (1) if there is a conflict between Clause 1.3 and any other provision of this Deed, Clause 1.3 prevails to the extent of the conflict; and
- (2) all other provisions of this Deed are equally subject to Clause 1.3, notwithstanding that some provisions may expressly refer to this Clause 1.3 while others do not.

(b) Mandatory compliance with Relevant Law

The Trustee has all of the powers necessary to comply with a Relevant Law and the Trustee must:

- (1) do, or cause to be done, any matter or thing necessary in order to satisfy any applicable requirement of a Relevant Law; and
- (2) refrain from doing and take all reasonable steps to prevent an Employer, a Member or a Beneficiary doing any matter or thing which would cause a breach of or non-compliance with any applicable requirement of a Relevant Law,

but the Trustee is not liable for a failure to do so if and to the extent that, under the Relevant Law, the Trustee is relieved from a liability to which the Trustee would otherwise be subject or that might otherwise be imposed on the Trustee under the Relevant Law because of that failure.

(c) Deemed inclusion of certain Relevant Laws

Any provision or requirement of a Relevant Law that is expressly required by a Relevant Law to be included in this Deed in order to comply with or satisfy a Relevant Law is deemed to be included as from the date when it must be included for that purpose (or any earlier date agreed between the Trustee and the Principal Employer) but such a provision ceases to be so included when that express requirement ceases to apply.

(d) Reading down and severance

- (1) If a provision of this Deed is void, voidable, unenforceable or illegal, but would not be void, voidable, unenforceable or illegal if it were read down and it is capable of being read down, it shall be read down accordingly.
- (2) If, notwithstanding Clause 1.3(d)(1) a provision of this Deed is void, voidable, unenforceable or illegal and the provision would not be void, voidable, unenforceable or illegal if a word or words or the whole provision (as the case may be) were omitted, that word or those words or the whole provision (as the case may be) is or are hereby severed and the remainder of this Deed shall have full force and effect.

(e) Certain directions not permitted

No person is permitted to engage in conduct which, but for this Clause 1.3(e), would render the Trustee subject, in the exercise of any of the Trustee's powers under this Deed, to direction by that person in terms of and to an extent not permitted under the Relevant Law (where "engage in conduct" includes refusing or failing to do an act or exercise a power), and any provision of this Deed which contemplates a person engaging in such conduct must be construed as only permitting that person to engage in such conduct with the approval of the Trustee.

(f) Trustee must consent to certain discretions

To the extent that the exercise of, or the ability to exercise, a power under this Deed by a person other than the Trustee without the consent of the Trustee would, but for this Clause 1.3(f), render a provision of this Deed void or invalid under the Relevant Law, then that other person may only exercise that power with the consent of the Trustee.

(g) Resolution of relevant doubts, disputes and conflicts

If a doubt or dispute arises as to the meaning or effect of an applicable requirement of a Relevant Law, or there is a conflict between applicable requirements of Relevant Laws, the Trustee may resolve that doubt, dispute or conflict in the manner the Trustee considers appropriate.

(h) MySuper Requirements

- (1) On and from 1 January 2014, the MySuper Product will commence and the Trustee must take all actions necessary to ensure that the Trustee complies with the MySuper Requirements and may establish MySuper Rules as the Trustee considers appropriate.
- (2) Any MySuper Rule must be evidenced in writing (in one or more documents) and may be varied, replaced or revoked as determined by the Trustee subject to the Relevant Law.

- (3) A MySuper Member's interest in the Fund is subject to and determined in accordance with this Deed and the MySuper Rules. If there is conflict between this Deed and the MySuper Rules in respect of a MySuper Member, the MySuper Rules prevail.
- (4) Subject to the Relevant Law, the Trustee may in its discretion determine to cease offering the MySuper Product at any time.

1.4 Trustee of Fund

(a) Trustee must be a constitutional corporation

The sole Trustee of the Fund for the time being must be a corporation that is a constitutional corporation (in terms of the Relevant Law) and which is appointed, or deemed to be appointed, by the Principal Employer. The appointment, removal and proceedings of directors of a Trustee (including without limitation the appointment of an additional independent director) shall occur in accordance with the constitution of the Trustee.

(b) Period of office

Subject to Clause 1.4(c), a Trustee holds office until the earliest to occur of:

- (1) the Trustee resigning as Trustee by giving prior written notice to the Principal Employer;
- (2) the Trustee no longer being permitted to act as Trustee under the Relevant Law;
- (3) the Trustee being removed from office under the Relevant Law; and
- (4) subject to Clause 1.3, the Trustee being removed from office by the Principal Employer,

and, subject to this Clause 1.4, the Principal Employer shall immediately appoint another Trustee.

(c) Suspension from office

During any period when a Trustee is suspended from office under the Relevant Law, the Trustee for the time being shall be the acting Trustee appointed under the Relevant Law in respect of the suspension period.

(d) Compliance with Relevant Law

The Principal Employer and the Trustee must take all actions necessary to ensure that the Trustee is constituted and governed in compliance with any applicable requirement of a Relevant Law regarding the trusteeship of superannuation funds, including without limitation appropriate action in respect of the constitution or other constituent or governing document of the Trustee and the appointment and composition of the directors or other governing body of the Trustee.

(e) Minutes

The Trustee must keep or cause to be kept proper minutes in relation to matters arising at any meeting of the directors of the Trustee or of any committee of directors concerning the office of Trustee. The minutes, if signed by the chairman of that meeting or by the chairman of the following meeting, are prima facie evidence of the matters stated in the minutes.

1.5 Powers of Trustee

(a) Absolute discretions

Except to the extent otherwise provided in the Deed, the Trustee has an absolute and uncontrolled discretion in relation to the powers exercisable by it and is not bound to give to any person any reason for or explanation of the exercise, non-exercise or partial exercise of any power. The powers conferred on or exercisable by the Trustee under the Deed are additional to and not in substitution for the powers conferred on or exercisable by it at law.

(b) General powers

Subject to the Deed, the Trustee shall have the complete management and control of the Fund and may do all acts and things which it considers necessary, desirable or expedient for the proper administration, maintenance and preservation of the Fund.

(c) Specific powers

Subject to the Deed, the Trustee shall have the following specific powers:

- (1) to engage, remove or suspend nominees, custodians and managers (including nominees, custodians and investment managers in respect of moneys and assets of the Fund), administrators, agents, representatives and staff on such terms and conditions as the Trustee may think fit;
- (2) to institute, conduct, defend, compound, settle or abandon any legal proceedings or demand or claim by or against or concerning the Fund;
- (3) to make and give receipts, releases and other discharges for money payable to the Fund and for claims and demands on the Fund;
- (4) to determine who shall be entitled to give and sign receipts, acceptances, endorsements, releases, contracts and other documents;
- (5) to open bank accounts and to make provisions for the operation of such bank accounts including the signing and endorsing of cheques;
- (6) to act on the advice or opinion of any Qualified Adviser (whether or not such advice or opinion was obtained by the Trustee) in relation to any relevant matter or question without being liable to any person in respect of anything done or omitted to be done by the Trustee in good faith based on such advice or opinion;
- (7) to give such undertakings and indemnities, enter into such contracts and incur all such obligations relating to the Fund as it thinks fit, including giving a guarantee or indemnity in respect of any obligation assumed or undertaken by the Trustee or a delegate of the Trustee in connection with the Fund;
- (8) to make rules and adopt procedures in relation to the calculation and rounding-off of contributions, benefits and interest and such other matters as shall be appropriate for the convenient administration of the Fund;
- (9) to make such deductions, adjustments and provisions as the Trustee considers appropriate in taking account of any tax or other governmental impost which is or may, in the opinion of the Trustee, become payable in relation to the Fund or any amount payable to or from the Fund, and to pay any such tax or other impost to the relevant authority or set the same aside

into a separate account of the Fund, including, without limiting the generality of the foregoing:

- (A) to deduct from or allocate to Member and other accounts of the Fund amounts in respect of actual or anticipated liabilities for any tax or impost (including those in respect of unrealised capital gains) and in respect of credits, rebates and amounts over provided;
- (B) to create one or more accounts within the Fund for the provision of future tax liabilities and to debit or credit such accounts with payments, provisions, credits and rebates as and when they arise notwithstanding that the amounts may be referable to different years of income;
- (C) to deduct from any benefit payable the amount of any actual or estimated tax payable in respect of that benefit,

in a manner which the Trustee considers to be fair and equitable;

- (10) with the agreement of the transferee to transfer the whole or any part of a tax liability of the Fund to another Approved Benefit Arrangement with or in which the Trustee hold investments of the Fund;
- (11) to provide to such persons as may be required by the Relevant Law and to persons responsible for the administration of any other Approved Benefit Arrangement of which the Member may be, have been, or become a member, such information in respect of the Member and the Member's contributions to, receipts from and interest in the Fund as may be reasonably required in order that the Fund or that other Approved Benefit Arrangement may comply with any requirement of a Relevant Law; and
- (12) to charge:
 - (A) a Member;
 - (B) a Beneficiary; or
 - (C) any other person as permitted by the Relevant Law,

a fee, of an amount determined by the Trustee either generally or in any particular case, in relation to matters undertaken by the Trustee concerning a valid family law arrangement, and the Trustee may recover the fee from the relevant person in any manner as determined by the Trustee.

1.6 Confidentiality

Except to the extent reasonably necessary in the operation and administration of the Fund, and subject to a requirement of the Relevant Law and to the powers given to the Trustee by this Deed, the Trustee, the Secretary and each delegate of the Trustee shall treat as confidential all information regarding Members and Beneficiaries which becomes known to them in connection with the operation and administration of the Fund.

1.7 Delegation by Trustee

The Trustee may delegate any power exercisable by the Trustee (including a power which it has a duty to exercise or perform and the power of delegation) to any person in such manner and upon such terms and conditions as it thinks fit. The Trustee may vary or revoke

any such delegation as it thinks fit and may exercise any power in conjunction with or to the temporary or permanent exclusion of a delegate.

1.8 Protection and indemnity of Trustee

(a) Indemnity

- (1) The Trustee, or a director of the Trustee, will not be personally liable for or in respect of any claim, liability, cost, loss, damage or expense whatsoever incurred or arising in connection with any act, omission or mistake in connection with the Fund or the exercise or performance of that person's powers and duties generally except to the extent that such claim, liability, cost, loss, damage or expense is a result of an act, omission or mistake involving that person's own personal fraud or wilful misconduct, wilful neglect or wilful default, or indemnity for such act, omission or mistake is otherwise prohibited by the Relevant Law. To give effect to this the Trustee may either be excused from liability under this Deed (where applicable), or be indemnified out of the Fund against the amount of the claim, liability, cost, loss, damage or expense, and where there is a choice between these two alternatives the Trustee may decide in its discretion which alternative, or combination of these alternatives, shall apply.
- (2) The Trustee may use any moneys of the Fund for an indemnity under Clause 1.8(a)(1) and generally for the payment of all proper legal and other costs, charges and expenses of administering the Fund or otherwise performing its duties under this Deed.
- (3) Subject to paragraph Clause 1.8(a)(1), the Trustee shall not be liable or responsible for and shall be indemnified out of the Fund in respect of any claim, liability, cost, loss, damage or expense arising in connection with:
 - (A) the insufficiency of the Fund to provide the benefits specified in this Deed or the insufficiency of or deficiency in any manner or form of investment in which moneys of the Fund may be invested under this Deed;
 - (B) the bankruptcy or insolvency of or any fraudulent or negligent act by any employee or delegate of the Trustee or any person with whom any investment may be deposited;
 - (C) the payment of an amount or benefit to a person reasonably believed to be entitled to the amount or benefit but who is in fact not so entitled; or
 - (D) any action taken or thing suffered in reliance upon any document, record, authority, representation, statement or evidence reasonably believed by the Trustee or its employees or delegates in good faith to be genuine, accurate and effective.

(b) Action notwithstanding interest

A person may be a Trustee or the Secretary or an officer, employee or delegate of the Trustee, and may exercise any power exercisable by virtue of such office or position, notwithstanding that that person is an Employee, a Member or a Beneficiary.

(c) Trustee indemnity insurance

The Trustee may obtain any indemnity insurance which it thinks is prudent in relation to carrying out its functions as Trustee of the Fund. The Trustee may pay the premiums for this insurance out of the Fund.

1.9 Accounting and actuarial requirements**(a) Accounts and audit**

- (1) The Trustee shall appoint an Auditor on such terms as the Trustee thinks fit and the Trustee may remove such a person at any time and appoint another qualified person as Auditor.
- (2) The Trustee shall maintain or cause to be maintained records and accounts in a form that is necessary to satisfy the Deed and any Relevant Law, and shall maintain or cause to be maintained such other records and accounts as it considers to be necessary or expedient.
- (3) The records and accounts of the Fund must be audited by the Auditor annually and at any other intervals determined by the Trustee.
- (4) The Auditor must certify to the Trustee the result of each audit under Clause 1.9(a)(3) in writing.

(b) Actuarial reports

- (1) The Actuary shall investigate the Fund, and provide written report on that investigation to the Trustee, in accordance with the Relevant Law.
- (2) The Trustee shall provide a copy of each written actuarial report to the Principal Employer and each other Employer as soon as practicable after receiving the report from the Actuary.

1.10 Appointment of Secretary

The Trustee may appoint a Secretary to the Fund (or acting or deputy Secretary). Any such appointment will be on terms as the Trustee determines and the Trustee may remove a Secretary from office and may appoint another Secretary. The Secretary shall perform such duties and have such powers as are provided by the Deed together with such other duties and powers as the Trustee may from time to time determine.

1.11 Fund Expenses

All of the Fund Expenses which are not paid by an Employer shall, subject to the Deed, be paid out of the Fund.

1.12 Investment of Fund**(a) Authorised investments**

Subject to the following provisions of this Clause 1.12 the Trustee may invest the whole or any part of the moneys or assets of the Fund which are not immediately required for any purpose under the Deed in any manner or form which the Trustee may consider to be an investment and suitable for the Fund, including without limitation any manner or form in which the Trustee could invest if acting personally and not in a fiduciary capacity but as the sole and absolute legal and beneficial owner of the Fund, including:

- (1) in any shares, notes, debentures or other securities of any building society or company;
- (2) in policies of life insurance including annuity policies;
- (3) in units of any common fund, property trust or any unit trust;
- (4) in public securities as defined in the Tax Act;
- (5) by placing the same on deposit at interest with any bank, building society, trust or company;
- (6) in the purchase of bank endorsed bills of exchange;
- (7) in the acquisition of options to purchase any of the foregoing investments;
- (8) in any of the modes of investment authorised by law for the investment of trust funds; and
- (9) in any other investment which the Trustee thinks is appropriate.

(b) Particular powers

The Trustee shall have the following particular powers, namely:

- (1) to investigate, negotiate for, promote, create, acquire, underwrite, sub-underwrite, dispose of, transfer, exchange, collect, realise, alter, convert, improve, exploit, insure, extend, reconstruct, develop, manage, acquire and grant options over and otherwise deal with and turn to account any investment (wherever situated) and any interest therein and any right in respect thereof (whether or not producing income) in such manner, at such times, with or without security, and subject to such conditions generally as it may think fit;
- (2) to exercise and perform all powers appertaining or incidental to any investment and to discharge from the Fund all costs of and incidental to the powers vested in it under this Clause, including without limitation the costs of the investigation of and negotiation for a prospective investment which does not become part of the Fund;
- (3) to borrow or raise money;
- (4) to enter into or acquire any investment either alone or in conjunction with any other person and to mix money or property forming part of the Fund with any other money or property but only if separate and distinct records are always maintained which will enable ready identification of the moneys and property attributable to the Fund; and
- (5) to cause or allow any investment to be entered into, made and held in the name of the Trustee or of any other person acceptable to the Trustee, whether or not such other person acts for the Trustee alone or for the Trustee and any other person.

(c) Investment managers

The Trustee may:

- (1) appoint an investment manager or investment managers and set from time to time the terms of any such appointment, including without limitation the powers, duties and remuneration of an investment manager;

- (2) allocate and re-allocate moneys and assets of the Fund to and between investment managers; and
- (3) revoke the appointment of an investment manager,

and an investment manager so appointed may be empowered by the Trustee to invest the moneys and assets of the Fund which are under its control in any manner or form in which the Trustee is empowered to invest the moneys and assets of the Fund, with power to cause or allow an investment to be entered into, made and held in the name of that manager or of a nominee or custodian which exclusively or normally acts in that capacity for that manager or any other nominee or custodian approved either generally or in any particular case by the Trustee.

(d) Member investment choice – Special Portfolios

Subject to this Clause 1.12 and to any conditions imposed by the Trustee either generally or in any particular case, the Trustee may:

- (1) establish Special Portfolios within the Fund on such basis and within such parameters as the Trustee considers appropriate;
- (2) invite a Member to elect to invest all or part of the Member's Aggregate Account Balance in one or more Special Portfolios; and
- (3) at any date or dates determined by the Trustee, allow a Member to revoke or vary any previous Special Portfolio election made by the Member and to make further elections.

(e) Overriding conditions

- (1) The aggregate amount which may be invested or applied in respect of a Member in Special Portfolios must not exceed the Member's Aggregate Account Balance.
- (2) The Trustee is not bound to establish or maintain any Special Portfolios or, having established such a Special Portfolio, to make it available to any particular Member, and the Trustee may vary any such arrangement or facility, as it considers the circumstances require. Further, the Trustee may discontinue or dispose of any such arrangement or facility as it considers the circumstances require to the extent that the arrangement or facility was not in effect on the Transfer Date.

1.13 Insurance arrangements

(a) Effecting insurance

The Trustee may (and shall to the extent, if any, specified in the Deed) enter into or otherwise acquire any type of insurance policy or like arrangement (including any re-insurance arrangement with any person or fund) in respect of any property of the Fund, a benefit or other amount which might become payable from the Fund and any other risk of liability of the Fund and with or subject to any option, right, benefit, term, condition or provision. The Trustee may pay out of the Fund all premiums and other outgoings in respect of such policy or arrangement and vary, surrender, terminate, assign or otherwise deal with the costs of the policy or arrangement as it determines.

(b) Restrictions and adjustments

- (1) If the Trustee effects or seeks to effect insurance with an Insurer in respect of any benefit which might become payable from the Fund in respect of a person or group of persons and:
 - (A) that Insurer refuses to provide or increase insurance in respect of a person on terms acceptable to the Trustee; or
 - (B) that Insurer for any reason whatever fails to provide, increase or maintain or reduces, terminates or withholds insurance or does not admit or defers the whole or part of a claim,

then, unless otherwise agreed between the Trustee and the Principal Employer, the benefits in respect of which insurance has been or would have otherwise been effected shall be reduced to the extent to which insurance has not been effected on standard terms or has otherwise not been obtained, increased or maintained or has been reduced, terminated or withheld or such a claim is deferred or not admitted, and the Trustee may adjust any affected benefit in such manner as the Trustee, after obtaining the advice of the Actuary, considers appropriate in effecting such a reduction.
- (2) If any event provided for in Clause 1.13(b)(1) occurs in relation to insurance sought or effected, the Trustee is not bound to seek alternative insurance with the same or another Insurer or, if it does decide to seek alternative insurance, it may limit that search to such Insurer or Insurers as it sees fit.
- (3) In any case, the Trustee may adjust the amount, time for and basis of payment of all or part of a benefit in respect of which insurance has been effected in such manner as it considers appropriate to take account of the terms and conditions upon which the proceeds of such insurance are payable by the relevant Insurer and the amount of that insurance.
- (4) Any adjusted benefits provided pursuant to this Clause 1.13(b) shall be in lieu of and in full satisfaction of the benefits which would or might have been or become payable but for the operation of this Clause 1.13(b).

1.14 Employers**(a) Admission and cessation of Associated Employers**

- (1) The Trustee and the Principal Employer may enter into an agreement in such manner and form and subject to such conditions as may be acceptable to the Trustee and the Principal Employer with any person which the Principal Employer deems it is desirable and convenient to include in the Fund as an Associated Employer. Subject to any conditions imposed under such agreement or the Deed, such Employees of an Associated Employer as become eligible as provided in such agreement or the Deed shall be eligible to participate in the Fund.
- (2) Any such agreement may be amended or replaced by way of a subsequent agreement between the parties, or in the manner provided in the Deed as if it was a part of the Deed. If there is any conflict between an agreement and this Deed, this Deed shall prevail. Where an agreement expressly provides, it may prevail over the Divisions of this Deed (except for Division 1).
- (3) The participation in the Fund of an Associated Employer may be terminated:

- (A) by the Associated Employer by notice in writing to the Trustee;
 - (B) by the Trustee by notice in writing to the Associated Employer; or
 - (C) by the Principal Employer, in consultation with the Trustee, by notice in writing to the Associated Employer.
- (4) On termination of participation in accordance with Clause 1.14(a)(3):
- (A) the Trustee in agreement with the Associated Employer shall specify a date (**Retiring Date**) upon which the Associated Employer (**Retiring Employer**) shall retire and, unless otherwise agreed, that date shall be the day sixty days from the giving of such notice;
 - (B) the Retiring Employer and its employees shall pay all arrears, if any, of contributions up to the Retiring Date;
 - (C) pensions or benefits which have become payable on or before the Retiring Date shall continue to be payable from the Fund;
 - (D) the Actuary shall certify what proportion of the Fund, including arrears of contributions still to be made pursuant to Clause 1.14(a)(4)(B) is properly attributable to persons who were in the employ of the Retiring Employer at the Retiring Date (or whose benefits were in any part sponsored by the Retiring Employer at that date); and
 - (E) the Trustee in its discretion may make such arrangements as it thinks proper for the provision of benefits, in lieu of the benefits which would otherwise be payable from the Fund to persons who were employed or sponsored by the Retiring Employer at the Retiring Date, for such persons and their dependants.
- (5) Provisions of benefits in conformity with Clause 1.14(a)(4)(E) shall be made by application of the proportion of the Fund (certified under Clause 1.14(a)(4)(D)) in accordance with Clause 1.14(d) as if the proportion of the Fund so certified had constituted a separate fund of which the Retiring Employer was the only Employer and in which its Employees at the Retiring Date and their dependants were the only persons interested and as if a separate fund had been terminated under Clause 1.14(d) having effect from the Retiring Date.

(b) Winding up, dissolution or cessation of business

If:

- (1) where an Employer is or includes a body corporate, a resolution is passed or an order is made for the winding up of that body or a scheme of arrangement providing for the dissolution of that body is approved by a court;
- (2) where an Employer is or includes a partnership, that partnership is dissolved;
- (3) where an Employer is or includes a natural person or natural persons, that person or any of those persons becomes bankrupt; or
- (4) an Employer ceases to carry on business for any reason,

then the Trustee may enter into an agreement with any person which it considers succeeds the Employer in business for that successor to take the place of the Employer (as Principal Employer under Clause 1.14(e) or an Associated Employer, as the case may require) under the Deed provided that, if the Employer concerned is the Principal Employer, the Trustee may agree with an Associated Employer for it to assume the office of Principal Employer and agree with the relevant successor for that successor to become an Associated Employer. Such an agreement shall be in a form acceptable to the Trustee and shall be binding on the Trustee and all Employers, Members and other interested persons.

(c) Associated Employer not replaced

If an event provided for in Clause 1.14(b) occurs in relation to an Associated Employer but no agreement is entered into as provided in that Clause within 90 days (or such other period as the Trustee thinks fit) after the date the relevant event occurred, the Trustee will be deemed to have received on the last day of that period a notice from the Associated Employer pursuant to Clause 1.19 terminating all of its payments to and in respect of the Fund with effect on that last day.

(d) Principal Employer not replaced: closure of Fund

(1) If:

- (A) an event provided for in Clause 1.14(b) occurs in relation to the Principal Employer but no agreement is entered into as provided in that Clause within 90 days (or such other period as the Trustee thinks fit) after the date the relevant event occurred; or
- (B) the Principal Employer gives to the Trustee 90 days notice in writing of its desire that the Fund be wound up; or
- (C) on account of any circumstances the Principal Employer decides and so certifies in writing that this Deed has become impracticable or that it is inexpedient to carry it on or that it has failed to accomplish its intention and purpose,

the Fund shall be dissolved and all moneys and other assets of the Fund after payment of any expenses incurred by the Fund shall, subject to Clause 1.20(a), be applied for the benefit of Members and Beneficiaries and distributed by the Trustee, after obtaining the advice of the Actuary, in such manner as the Trustee shall consider equitable taking into account each Member's period of Fund Membership, the amount (if any) contributed by each Member and any other circumstances that the Trustee and the Principal Employer consider relevant.

- (2) The benefits provided pursuant to Clause 1.14(d)(1) shall be in a form and provided by such arrangements as the Trustee determines and every Member will accept the benefits allotted to the Member by the Trustee in full discharge of all claims in respect of the Fund and will have no further claims whatsoever in respect of any rights or benefits under the Deed or otherwise in connection with or arising out of the Fund, and all decisions of the Trustee in respect of any benefit shall be final and conclusive.

(e) New Principal Employer

Without limiting Clause 1.14(b) to Clause 1.14(d), by the execution of an appropriate instrument or instruments (in terms acceptable to both the existing

Principal Employer and the proposed Principal Employer) the person for the time being holding the office of Principal Employer may be replaced in that office by another person.

1.15 Residual assets

If at any time there are no Members or Beneficiaries and in the opinion of the Trustee all benefits which could become payable from the Fund have been paid, then the Trustee may with the consent of the Principal Employer (and will if so directed by the Principal Employer) terminate the Fund and in this event the Fund will be dissolved and any moneys and other assets then remaining in the Fund after payment of any expenses incurred by the Fund will be realised and the proceeds distributed to the Employers in the shares that the Principal Employer determines.

1.16 Membership

(a) General provisions

- (1) Subject to Clause 1.16(a)(2), application to become a Member shall be made to the Trustee by an Eligible Employee in a form acceptable to the Trustee and an applicant whose application is accepted by the Trustee shall become a Member on the date of acceptance or such earlier or later date as the Trustee may determine with the approval of the Principal Employer either generally or in any particular case.
- (2) Without prejudice to Clause 1.16(b)(1), the Principal Employer may determine either generally or in any particular case that an Eligible Employee shall be deemed to become a Member on such date as is determined by the Principal Employer and notified to the Trustee.
- (3) If the Principal Employer requests, and the Trustee agrees, an Eligible Employee may be admitted as a Member without completing an application form.
- (4) Every Member shall be deemed to have approved of and shall be bound by the Deed, except for any Member who joined without completing an application form under Clause 1.16(a)(3) and who has not since completed an application form or otherwise accepted that he or she is bound by the Deed.
- (5) The Trustee may admit a Spouse (**Eligible Spouse**) as an Eligible Spouse Division Member subject to such terms and conditions as the Trustee may determine, including with or without a written application.

(b) Provision of information

- (1) Each Eligible Employee, Eligible Spouse and Member shall provide such information and evidence, sign such documents, undergo such medical examinations and tests, and generally satisfy such standards and requirements as and when the Trustee or the Principal Employer may consider necessary or desirable.
- (2) If:
 - (A) an Eligible Employee, Eligible Spouse or a Member fails to comply with Clause 1.16(b)(1) or to satisfy any test, standard or requirement

laid down under that Clause to the satisfaction of the Trustee or the Principal Employer (as the case may be); or

- (B) any statement made or evidence provided by or in respect of an Eligible Employee, Eligible Spouse or a Member (whether in connection with an application to become a Member or otherwise) is found to contain any mis-statement, error, mistake, inaccuracy or suppression,

the Trustee may:

- (C) in the case of an Eligible Employee or an Eligible Spouse, admit that person as a Member subject to such special terms conditions and restrictions as to benefits or otherwise as it considers appropriate; or
 - (D) in the case of a Member, impose such special terms, conditions and restrictions in respect of membership of and benefits under the Fund as it considers appropriate.
- (3) The Trustee shall ensure that each Member and Beneficiary (and, if required by the Relevant Law, any other person) is advised of such matters, in such form and at such times as shall be necessary in order to comply with the Relevant Law regarding the provision of information and advice.
 - (4) Without limiting the right of a Member to be sent a copy of the Deed on request, a copy of the Deed shall be kept at the principal office of each Employer and at such other places as the Trustee may determine. A Member and any person making or proposing to make an application to become a Member may inspect a copy of the Deed during normal business hours upon reasonable notice.

(c) Categorisation

- (1) Subject to Clause 1.16(c)(2), the Members shall be categorised by the Principal Employer, and the designation of categories and the conditions for entry to and exit from a particular category and the contributions and benefits of such categories shall be determined by reference to the other Divisions of this Deed.
- (2) Notwithstanding any other Clause of this Deed:
 - (A) if a Former Pension Division Member, a 2007 FPD Member or a Pension Division Member is categorised as, or otherwise becomes (in accordance with this Deed), an Accumulation Division Member with effect from a particular date, that Member cannot be re-categorised as a Pension Division Member after that date; and
 - (B) the Principal Employer may determine in its discretion that an Employed Member cannot be re-categorised as a Retained Benefits Division Member.

(d) Transfers between Employers

If a Member ceases to be an Employee of one Employer to become an Employee of another Employer then (unless the Principal Employer and the Trustee expressly agree otherwise) that transfer shall not be deemed to constitute a cessation of employment for the purposes of an entitlement to any benefit under the Deed.

1.17 Special membership arrangements

(a) Individual agreements

- (1) Subject to Clause 1.16(c)(2) and provided the Trustee is notified, the Principal Employer may agree with an Employee that he or she will be admitted to membership of the Fund subject to special terms and conditions as to benefits, contributions or otherwise, and the Principal Employer may likewise agree with a Member to vary the terms and conditions of a Member's membership of the Fund.
- (2) Such an agreement shall be evidenced in writing (in one or more documents) by the Principal Employer and the Employee or Member concerned in a form acceptable to the Principal Employer, and may be varied, replaced or revoked by a subsequent written agreement between the Principal Employer and the person concerned or in the manner provided for in the Deed as if it was actually part of the Deed. If there is a conflict between such an agreement (as varied or replaced from time to time) and Division 1 of the Deed, Division 1 of the Deed will prevail. Where the agreement expressly provides, it may prevail over any provision in a Division to this Deed (except for Division 1).
- (3) Notwithstanding anything expressed or implied to the contrary in this Clause 1.17(a):
 - (A) before giving effect to such an agreement or in the course of doing so, the Trustee may require an undertaking from an Employer that additional Employer Contributions will be made in respect of the relevant Member as the Trustee shall determine after obtaining the advice of the Actuary and, if any such undertaking is not given or is not fulfilled to the Trustee's satisfaction, the Trustee may refuse to give effect to or to continue to give effect to that agreement in whole or in part;
 - (B) the Trustee's consent shall be required where failure to obtain that consent would be a breach of a requirement of a Relevant Law; and
 - (C) in any case, the Trustee may refuse to give effect to such agreement if and to the extent that it considers to give effect to the agreement would cause the Fund to fail to comply with any requirement of a Relevant Law.
- (4) If a Member makes an election under the SG Act that Employer Contributions will cease in respect of that Member having regard to the Member's reasonable benefit limits under the Relevant Law, the Member, Employer and Trustee will enter into an agreement under this Clause 1.17(a) concerning the terms and conditions of the Member's membership of the Fund following the effective date of the election (including, without limitation, terms and conditions as to the Member's membership category, benefits and contributions).

(b) Temporary cessation of employment

If a Member ceases to be an Employed Member in circumstances in which it is reasonable to expect that cessation will only be of a temporary nature and that the Member will soon again become an Employed Member, the Member's Fund

Membership may continue subject to such conditions as may be agreed upon by the Trustee, the Member and the Employer.

(c) Part-time employment, absence, non-eligibility and other schemes

Subject to the Deed and, in particular, to Clause 1.17(d), the Principal Employer may by notice in writing to the Trustee and the Member concerned determine special terms, conditions and restrictions in relation to contributions and benefits in respect of the Member during and in respect of any period when, in the opinion of the Employer, the Member is employed by the Employer in other than a full-time capacity, the Member is absent from active employment with the Employer (whether with or without pay or the approval of the Employer), or the Member is an Employee but is not a person who is classified as an Eligible Employee for the purposes of the Deed. Any such determination shall be binding on the Member concerned and all other interested persons.

(d) Leave Without Pay

Without limiting Clause 1.17(c), if a Member is on Leave Without Pay:

- (1) no Member Contributions or Employer Contributions are required to be made under this Deed during that period of Leave Without Pay;
- (2) subject to Clause 1.17(d)(3), the period of Leave Without Pay will not be included in the calculation of Pensionable Service for purposes of an affected Pension Division Member;
- (3) a Pension Division Member may elect to make Member Contributions during the period of Leave Without Pay and, if so, the Employer will make Employer Contributions as advised by the Actuary (and the calculation of Pensionable Service for an affected Pension Division Member will be adjusted in a manner and to an extent as the Trustee determines on the advice of the Actuary);
- (4) if the Member pays the necessary premiums, or if the Employer otherwise agrees that this Clause 1.17(d)(4) will apply, the Member will continue to be covered for (if applicable):
 - (A) Additional Voluntary Insurance;
 - (B) the Insured Benefit; and
 - (C) the Prescribed Benefit (where the Member's Prescribed Benefit Membership Period may be adjusted to take account of the Period of Leave Without Pay, having regard to Clause 1.17(d)(3)),

and where the Member's Salary for purposes of calculating that benefit (if relevant) will be deemed to be the Member's Salary as at the date that the Member last attended active employment; and

- (5) if any benefit becomes payable to a Pension Division Member during the period of Leave Without Pay, the Member's Salary for purposes of calculating that benefit (if relevant) will be deemed to be the Member's Salary as at the date that the Member last attended active employment.

1.18 Contributions

(a) Employer Contributions

- (1) Subject to this Clause 1.18 and Clause 1.19, Employer Contributions will be made of an amount or at a rate as determined by the Principal Employer from time to time in accordance with the relevant Division after obtaining the advice of the Actuary and consulting the Trustee. As soon as practicable, the Principal Employer must notify the Trustee of each determination in respect of an Employer under this Clause 1.18(a)(1).
- (2) Employer Contributions required pursuant to Clause 1.18(a)(1) must be made in the manner and at the times reasonably determined by the Trustee after consulting that Employer.
- (3) Unless otherwise specified in the Deed or agreed between the Employer and the Trustee, no Employer Contributions will be required in respect of a Member after the date the Member ceases to be an Employee.
- (4) In addition to any Employer Contributions expressly provided for elsewhere in the Deed, an Employer may cause further Employer Contributions to be made in respect of a particular Member or group of Members, and (subject to Clause 1.18(d)) any such additional Employer Contributions must be applied by the Trustee in respect of the Member or Members concerned on such basis as the Principal Employer directs.

(b) Member Contributions

- (1) The amount of a Member's Member Contribution required to be made at any particular time must be determined in accordance with the relevant Division.
- (2) Subject to the approval of the Employer, in addition to any Member Contributions expressly provided for elsewhere in the Deed, a Member may make further Member Contributions on the terms and conditions as the Employer may determine either generally or in any particular case from time to time.
- (3) Unless the Principal Employer otherwise determines or the Relevant Law does not allow, a Member's Member Contributions, if any, must be deducted by the Member's Employer from each payment of or on account of the Member's remuneration from that Employer, and must be made in the manner and at the times as agreed by the Trustee and the Employer.
- (4) If the Principal Employer does not wish to make deductions in respect of Member Contributions, or if the Relevant Law does not allow deductions to be made in respect of Member Contributions, Member Contributions, if any, payable by a Member must be made in the manner determined by the Trustee with the approval of the Principal Employer.
- (5) Unless otherwise specified in the Deed or agreed between the Trustee, the Principal Employer and the Member concerned, Member Contributions are not required after the earlier of the date the Member ceases to be an Employee and the Normal Retirement Date.
- (6) Subject to the consent of the Trustee, Member Contributions will be permitted for so long as the Trustee is permitted or required to accept contributions from or in respect of a Member under the Relevant Law.

- (7) If Member Contributions are not made as and when required, the Trustee may impose such special terms, conditions and restrictions in respect of that Member which the Trustee, after obtaining the advice of the Actuary, may consider appropriate.
- (8) Subject to any conditions determined by the Principal Employer and approved by the Trustee, the Principal Employer may for any period determined by the Principal Employer reduce, suspend or waive the Member's Member Contributions.
- (9) The Principal Employer may determine that Member Contributions which would have been made but for the exercise of a discretion will be deemed to have been made by or on behalf of the Member for the purpose of calculating the amount of or determining the eligibility for payment of any benefit payable pursuant to this Deed the amount of or eligibility for which depends on the amount of Member Contributions or the period during which Member Contributions have been made.
- (10) The Principal Employer must notify the Trustee of any determination under Clause 1.18(b)(8) or Clause 1.18(b)(9) as soon as practicable.

(c) Overriding restrictions on contributions

Notwithstanding anything expressed or implied to the contrary in the Deed, the Trustee may refuse to accept all or part of any Member Contributions or Employer Contributions or other payments from any particular person or persons if it considers that to do so is necessary in order to ensure compliance with any requirement of a Relevant Law. Subject to the Deed, after such refusal the Trustee may adjust all or any of the benefits payable or to be provided from the Fund for or in respect of any person whom the Trustee considers to be affected by such refusal in such manner and to such extent as the Trustee considers appropriate and equitable and the adjusted benefits shall be substituted for the benefits otherwise provided for under the Deed.

(d) Splitting of contributions

Subject to such rules and procedures as the Trustee may determine, the Trustee may debit or credit a Member's relevant accumulation account as a result of a contributions splitting application made by or in respect of the Member in accordance with the SIS Act.

(e) Return of contributions

If the Trustee receives contributions made by or in respect of a Member in a manner which is inconsistent with the Relevant Law, and the Trustee returns those contributions, the Trustee may:

- (1) return an amount lesser than the contributions received by the Trustee; or
 - (2) return an amount greater than the contributions received by the Trustee,
- in accordance with the Relevant Law.

1.19 Termination, non-payment or inadequacy of Employer Contributions

(a) Notice by Employer

- (1) Without limiting any power vested in the Principal Employer or any other Employer under any other provision of the Deed to terminate, determine or vary the amount or rate of Employer Contributions, an Employer may at any time by written notice to the Trustee and either generally or in respect of any person or persons named or described in such notice (or then or thereafter falling within a group or class of persons described in such notice):

- (A) terminate all or any of its payments to and in respect of the Fund; or
- (B) reduce or suspend all or any of its payments to and in respect of the Fund to the extent, and either indefinitely or for the period, specified in that notice,

and any such notice shall take effect on the date which is the later of the date that notice is received by the Trustee and the date (if any) specified in that notice, but a notice does not affect the Employer's liability in respect of payments due before the effective date of that notice.

- (2) The Principal Employer may give notice to the Trustee in terms of Clause 1.19(a)(1) on behalf of an Associated Employer. Such a notice is deemed to have been given by the Associated Employer in terms of Clause 1.19(a)(1) (whether or not endorsed or confirmed by the Associated Employer) and may not be revoked or varied without the express approval of the Principal Employer.

(b) Effect of notice

If an Employer has given or is deemed to have given a notice pursuant to Clause 1.19(a) then:

- (1) unless otherwise agreed between the Trustee and the Principal Employer, no Member Contributions will be made, and no person shall be admitted as a Member, during or in respect of any period when an Employer's payments are or would be terminated in respect of that person pursuant to that notice;
- (2) the Trustee may refuse to credit Member Contributions, and refuse to admit a person as a Member, during or in respect of any period when this Clause 1.19(b) applies in respect of the Employer of that person;
- (3) the Trustee, after obtaining the advice of the Actuary, may adjust any benefit which is or may become payable to or in respect of any person whom the Trustee considers is affected by that termination, reduction or suspension to the extent and in the manner as the Trustee considers appropriate and equitable and the adjusted benefits shall be substituted for the benefits otherwise payable or to be provided and the provisions of the Deed shall apply mutatis mutandis to such adjusted benefits; and
- (4) unless otherwise determined by the Trustee and approved by the Actuary, no benefit shall be paid from the Fund (including a benefit which became payable in respect of an event that occurred prior to the receipt by the Trustee of the notice) until the Trustee has determined whether or not any such adjustment is necessary and, if so, has effected that adjustment to its satisfaction.

(c) Adjustment procedures

Any adjusted benefit determined in respect of a person under this Clause 1.19 may be provided in such manner and form, by way of such arrangements and subject to such conditions as the Trustee thinks fit either generally or in any particular case, and shall be in lieu of and in full satisfaction of any benefit which would or might have been or become payable from the Fund but for the operation of this Clause 1.19. The Trustee shall as soon as practicable notify the persons affected of any adjustments to their benefits pursuant to the provisions of this Clause 1.19.

(d) Revocation of notice

Subject to the Deed, with the approval of the Trustee and subject to such conditions as the Trustee may impose, an Employer may by a further written notice given to the Trustee revoke or vary any notice given by that Employer pursuant to Clause 1.19(a) and, in such event and subject to such conditions, the Trustee (after obtaining the advice of the Actuary) may adjust the rights, obligations and benefits of the persons whom the Trustee considers to be affected by such revocation or variation to such extent and in such manner as the Trustee considers appropriate and equitable.

(e) Failure to contribute

If Employer Contributions are not made as and when required under the Deed, the Trustee may determine that while that amount remains outstanding no benefit shall be paid from the Fund to or in respect of any person whom the Trustee considers to be affected by such failure and, if any Employer Contribution remains outstanding for a period of more than 60 days after it was required to be made (or such lesser period as the Trustee thinks fit either generally or in any particular case), then the Trustee may determine that the provisions of Clause 1.19(b) shall apply as if:

- (1) the Employer had decided to suspend all of its Employer Contributions with effect on the last day of such period; and
- (2) the Trustee had on that day received written notice from the Employer of that decision.

(f) Trustee decisions binding

All decisions of the Trustee in relation to the application and operation of this Clause 1.19 shall be final and binding on all interested persons.

1.20 Benefits – general provisions**(a) Overriding requirements for benefits**

- (1) Notwithstanding anything expressed or implied to the contrary in the Deed:
 - (A) no benefit or other amount shall be paid or provided from the Fund to or in respect of any person in any circumstances, of any amount, at any time or in any manner or form which, in the opinion of the Trustee, would cause the Fund to fail to comply with any requirement of a Relevant Law; and
 - (B) no deduction, forfeiture or other adjustment shall be made from or in respect of any person's interest in the Fund or any benefit payable to any person from the Fund if, in the opinion of the Trustee, to do so

would cause the Fund to fail to comply with any requirement of a Relevant Law; and

- (C) a benefit shall be paid or commence to be paid within or at the time which complies with any requirement of a Relevant Law,

provided that nothing in this Clause 1.20(a) shall limit any power vested in any person under any other provision of the Deed to terminate or vary the amount or rate of Employer Contributions or to amend the Deed in any respect.

- (2) The Trustee may take such actions as it sees fit in ensuring compliance with this Clause 1.20(a), including without limitation adjusting the amount or terms of payment of benefits or contributions in such manner, to such extent and by way of such arrangements as it considers appropriate, and any decision by the Trustee for the purposes of this Clause 1.20(a) shall be final and binding on all interested persons.

- (3) Any condition or requirement imposed by the Trustee in connection with:

- (A) the deferral or preservation of all or part of a benefit;
 (B) the amount, form and conditions of payment of a deferred or preserved benefit; or
 (C) the termination, reduction or other adjustment of the rights or interests of any person arising out of the need to defer or preserve any benefit,

shall be final and binding on all interested persons.

(b) Payment of benefits

Subject to the Deed, a benefit payable from the Fund is payable at the place and in the manner (including payment in specie or in kind, payment by electronic means or by way of instalments) as determined or approved by the Trustee and every person to whom a benefit is payable (whether in that person's own right or for and on behalf of another person) must upon request by the Trustee provide such information and do such acts and things as the Trustee considers necessary, desirable or expedient.

(c) Compliance

Notwithstanding any other provisions in this Deed, the Trustee may pay a Member's benefit where that payment is permitted by and in accordance with the Relevant Law.

(d) Proofs

Whenever it shall be necessary for the Trustee to decide questions of fact, it may act upon any proofs or presumptions as it deems satisfactory, whether or not they are strictly legal proofs or legal presumptions.

(e) No personal claim

No person is entitled to require any payment from the Fund except in accordance with this Deed.

(f) Proof of qualification for benefits

- (1) A person's entitlement to receive a benefit from the Fund is contingent upon:
 - (A) the Trustee or an Employer being notified of that person's claim or intention to make a claim in respect of that benefit in writing or such other manner or form as is reasonably satisfactory to the Trustee; and
 - (B) the availability to the Trustee or a delegate or nominee of the Trustee of all information, evidence and proofs as the Trustee, delegate or nominee may require in order to be fully satisfied as to that person's existence, identity and whereabouts, and that person's entitlement or continued entitlement to receive that benefit, within any period as the Trustee may determine or allow, either generally or in any particular case, after the date on which the Trustee, delegate or nominee first requires that information, evidence or proof.
- (2) The Trustee may suspend consideration of a person's claim to or payment of a benefit until all required information, evidence and proofs become available to the satisfaction of the Trustee.
- (3) Upon subsequent production of information, evidence or proofs satisfactory to the Trustee, the Trustee may pay all or part of a relevant benefit to a person whom the Trustee considers would have been entitled to that benefit but for the preceding provisions of this Clause 1.20, but the Trustee is not under any duty to apply this Clause 1.20(f)(3) or to consider whether the Trustee should apply this Clause, even if the Trustee has actual notice of a relevant matter or circumstance.

1.21 Benefits – special provisions**(a) Alternative forms of benefits**

- (1) Subject to the Deed, to the agreement of the Trustee and the Principal Employer, and to such terms and conditions as the Trustee or the Principal Employer may impose, a Member or Beneficiary may elect that (in lieu of the normal or specified terms and conditions of payment) all or part of a benefit to which that person is or may otherwise become entitled may be deferred or shall be replaced by a benefit payable in other circumstances or in another manner and form or shall be paid upon other terms and conditions (including without limiting the generality of the foregoing, payment in instalments or the provision of a pension or an annuity in lieu of a lump sum and vice versa).
- (2) Subject to Clause 1.21(a)(1), any election made under Clause 1.21(a) is final and binding on all interested persons (including without limitation all persons who may be or become contingently entitled to receive a benefit in respect of the Member or Beneficiary making the election) and, in giving effect to and taking account of an election, the Trustee may adjust the benefits which are or might otherwise become payable to or in respect of that Member or Beneficiary or any other person claiming under or in respect of the Member or Beneficiary in such manner and to such extent as the Trustee thinks fit.

- (3) Without limiting the generality of Clause 1.21(a)(1) and notwithstanding any other Clauses of this Deed:
- (A) a Member (except a Member who first became a Member after 30 March 2011) who is entitled to receive a lump sum benefit under any provision of any Division of this Deed (except the Eligible Spouse Division) may, subject to Relevant Law, require the Trustee to provide in lieu of the lump sum benefit a pension, of an amount determined by the Trustee on the advice of the Actuary, payable for 10 years certain and life thereafter (in which case Clause 2.9(3), Clause 2.14(2) and Clause 2.15 will apply to that Member); or
 - (B) a Member or Beneficiary who is entitled to receive a lump sum benefit under any provision of any Division of this Deed may, subject to Relevant Law, request the Trustee to provide in lieu of the lump sum benefit an Account Based Pension.

(b) Form of pensions

A benefit in the form of a pension must be on terms that comply with:

- (1) the Relevant Law; and
- (2) in relation to a pension that is not an Account Based Pension, the rules governing the payment of a non-account based pension under the standards prescribed by the SIS Act and the Tax Act,

and may be satisfied by the Trustee purchasing an annuity in the name of the Member.

(c) Commutation

The Trustee, after obtaining the advice of the Actuary and with the approval of the Principal Employer, may unilaterally commute to a lump sum any pension or instalment benefit which is or would otherwise become payable from the Fund if the Trustee considers the amount of that benefit is or would be trivial.

(d) Member's option regarding form of benefit

Where pursuant to this Deed a Member or any person in respect of a Member is entitled to receive a benefit and is given the option of receiving a lump sum or a pension or of commuting a pension, the Trustee may give to such Member or person notice requiring the option to be exercised by notice in writing to the Trustee within a specified period (not being less than fourteen days after such notice has been given) and in the absence of such notification in writing to the Trustee within the time prescribed the Trustee may make an election on behalf of the Member or such person as the case may be and such election shall be binding on all relevant parties.

(e) Augmentation of benefits

- (1) Subject to the Deed and to such terms and conditions as the Principal Employer determines, the Principal Employer may direct the Trustee to pay or provide a benefit or other amount greater than would be provided but for such a direction and the Principal Employer may rescind or vary such a direction.
- (2) The Trustee must act on such a direction provided that before doing so or in the course of doing so the Trustee may require an undertaking from an

Employer that additional Employer Contributions will be made of an amount and at such times as the Trustee determines after obtaining the advice of the Actuary.

- (3) If any undertaking required by the Trustee under Clause 1.21(e)(2) is not given or, having been given, is not fulfilled to the Trustee's satisfaction, the Trustee may refuse to pay or provide (or to continue to pay or provide) the greater benefit or amount to which the undertaking relates.

(f) Release of benefits in accordance with the Relevant Law

- (1) If, in the opinion of the Trustee, a benefit must be paid or commence to be paid from the Fund to or in respect of a Member upon the occurrence of a particular event or circumstance (notwithstanding that there is no actual termination or interruption of employment) in order to satisfy the Relevant Law the Trustee must pay or commence payment of that benefit subject to such conditions as are necessary to satisfy the Relevant Law.
- (2) If, in the opinion of the Trustee, a benefit may be paid or commence to be paid from the Fund in respect of a Member upon the Member attaining a particular age or upon the occurrence of a particular event or circumstance (notwithstanding that there is no actual termination or interruption of employment) without causing a breach of the Relevant Law, the Trustee may pay or commence payment of that benefit, in any form and manner and subject to any conditions determined by the Trustee.
- (3) If any part of a Member's Aggregate Account Balance is not subject to preservation under the Relevant Law, the Member may request at any time that any or all of the unrestricted non-preserved part of the Aggregate Account Balance be paid to the Member, subject to the Relevant Law and on terms and conditions determined by the Trustee.

(g) Benefit adjustments

The Trustee must adjust any benefit payable from the Fund to take account of any amount which has already been included in the calculation, application or payment of another benefit from the Fund. For the purposes of this Clause 1.21(g), an amount is deemed to have been included in the calculation of a benefit if any factor involved in the calculation of the benefit (whether it be the whole or part of a period of time such as a Member's Pensionable Service, the whole or part of a monetary amount, such as a Member's Final Average Salary, Employer Contributions or Member Contributions, or any other factor the Trustee considers relevant) has already been taken into account. A Member affected by this Clause 1.21(g) must accept any adjusted benefit as the Member's full entitlement.

(h) Adjustment of benefits to take account of tax

- (1) The Trustee shall reduce any benefit or other amount payable or which may become payable from the Fund to take account of:
 - (A) any superannuation contributions tax or any other tax (including advance instalments) that it is or may be required to pay in respect of a Member; and
 - (B) any interest at the Declared Rate.

- (2) The reduction must be on a basis determined by the Trustee and must be consistent with the Relevant Law. No reduction may be made to the extent that:

- (A) the Trustee agrees with the Principal Employer; or
- (B) an additional contribution is made to the Fund, on terms and conditions determined by the Trustee, by or in respect of the Member which is used to meet this cost.

(i) Adjustment of benefits to take account of valid family law arrangements

- (1) Notwithstanding anything to the contrary in this Deed (including, for the avoidance of doubt, any Clause of a Division), the Trustee may:

- (A) adjust a benefit payable to or in respect of a Member under any Division; or
- (B) make an adjustment in respect of a benefit which will become payable to or in respect of a Member under any Division,

to the extent, and in any manner, as permitted by the Relevant Law to take account of a valid family law arrangement.

- (2) In respect of an Accumulation Division Member who is a Former Pension Division Member or a 2007 FPD Member:

- (A) a reduction in the Member's interest pursuant to Clause 1.21(i)(1) will be effected by a debit to the Member's relevant Division 3 accounts and, if a reduction is required to both the Member's Member Account and the Member's Former Pension Member Account, unless the Trustee (at the written request of the Member) determines otherwise, the adjustment to each of the Member's Member Account and Former Pension Member Account will be in proportion to the balance in each of those accounts; and
- (B) the Member's Prescribed Benefit will be reduced by the amount, if any, debited to the Member's Former Pension Member Account pursuant to Clause 1.21(i)(2)(A).

(j) Discharge of Trustee

Payment of an amount to a Member or Beneficiary under this Deed is a complete discharge to the Trustee in respect of that amount. No person has a right of action against the Trustee for that amount on any grounds and the Trustee is not bound to see to the application of that amount.

1.22 Payment of death benefits

(a) General

Subject to Clause 1.22(b), any benefit payable from the Fund on or after the death of a Member and which under the Deed is not expressed to be payable to or for the benefit of some other specified person or persons must be paid or applied by the Trustee to or for the benefit of one or more of:

- (1) the Member's Dependents;
- (2) the Member's legal personal representatives; and

- (3) any other person who the Trustee thinks is appropriate, and payment to whom would not result in a breach of the Relevant Law,

to the exclusion of the other or others of them and in such form, manner, proportions and subject to such conditions as the Trustee determines.

(b) Binding death benefit nominations

Any benefit payable from the Fund on or after the death of a Member is payable:

- (1) to the Member's Nominated Beneficiary; or
- (2) in accordance with Clause 1.22(a) if at the time of the Member's death there is no Valid Nomination Form in respect of the Member or if payment in accordance with Clause 1.22(b)(1) cannot otherwise be made.

1.23 Legal or other incapacity

- (1) If, in the opinion of the Trustee, a Beneficiary is under a legal disability or is unable for any reason to satisfactorily deal with any amount or amounts payable to the Beneficiary from the Fund, the Trustee may pay in any form and manner and subject to any conditions determined by the Trustee, the whole or part of any amount payable to the Beneficiary to another person to be used for the benefit of the Beneficiary.
- (2) The Trustee is not under a duty to have recourse to this Clause 1.23, or to consider whether the Trustee should have recourse to this Clause 1.23, even if the Trustee has actual notice of a relevant matter.
- (3) This Clause 1.23 has no effect to the extent that it is contrary to the *Bankruptcy Act 1966* (Cth).

1.24 Miscellaneous

(a) Employer's powers not affected

Nothing in the Deed shall be deemed to affect, prejudice or alter in any way the powers of an Employer with regard to the dismissal or remuneration of, or any dealings whatsoever with, any of its officers or employees. Any benefits to which a person may be or may claim to be entitled under the Deed shall not be used or alleged or claimed as damages or as grounds for increasing damages in any action or claim by that person or by anyone claiming through or under that person against an Employer in respect of any such dismissal or dealing or otherwise.

(b) Employer's discretions

Except to the extent expressly provided otherwise in the Deed, when acting in its capacity as an Employer under the Deed an Employer is not subject to any fiduciary or like duty, obligation or standard and has in relation to the exercise, non-exercise or partial exercise of any power vested in it under this Deed an absolute and uncontrolled discretion and is not required to give to any person any reason for or explanation of its exercise, non-exercise or partial exercise of such a power.

(c) Employer's decision final

If any doubt or dispute arises as to:

- (1) the date on which a person became or ceased to be an Employee;

- (2) whether an Employee is actively employed;
 - (3) an Employee's remuneration; or
 - (4) the terms and conditions of an Employee's employment generally,
- the decision of the Employer on the matter shall be final and binding on all interested persons.

(d) Appointment of receiver

If at any time:

- (1) a receiver, receiver and manager, liquidator or trustee in bankruptcy is appointed in respect of an Employer or the whole of the property of an Employer, or
- (2) an Employer is placed under the official management of a person or a committee of management,

(such receiver, receiver and manager, liquidator, trustee or person or committee appointed as official manager being called the **Receiver**) then, notwithstanding anything expressed or implied to the contrary in the Deed, all the powers vested in or exercisable by that Employer shall be deemed to be vested in or exercisable by the Receiver until the Receiver is discharged from or otherwise ceases to hold office and references in the Deed to that Employer shall be deemed to be references to the Receiver until the Receiver is discharged from or otherwise ceases to hold office.

(e) Information from Employers

An Employer shall, as and when requested by the Trustee, give to the Trustee all information in its power or possession which may be reasonably necessary for the management and administration of the Fund. The Trustee may act upon and shall not be required to verify any information given to it by an Employer pursuant to the Deed.

(f) Notices

- (1) A notice, cheque or other written matter (all of which are in this Clause 1.24(f) collectively referred to as **notice**) may be given to any person by:
 - (A) handing it to that person personally;
 - (B) leaving it at that person's address last known to the person giving such notice (including, in the case of a body corporate, the registered office or principal place of business of that office); or
 - (C) sending it to that address by ordinary prepaid post.
- (2) Without limiting Clause 1.24(f)(1), notification of any matter may also be given by the Trustee or an Employer:
 - (A) to an Employee (whether or not a Member), by way of distribution processes or methods normally utilised by the Employer for salary advises or other like information dissemination purposes addressed to the Employee at the last known workplace of such Employee; and
 - (B) to any person:

- (i) by way of a notice placed in a newspaper circulating in such place or places as the Trustee considers appropriate in the circumstances; or
 - (ii) by way of any data or image transmission or communication facility or medium, including without limitation facsimile and electronic mail.
- (3) A notice shall be deemed to have been received:
 - (A) in the case of a notice given or served by hand, at the time of delivery;
 - (B) in the case of a notice given or served by post, at the expiration of five days after posting;
 - (C) in the case of a notice given in the manner as provided in Clause 1.24(f)(2)(A), on the normal working day on which such notice would, in the normal course, have been received by the Employee at the Employee's last known workplace;
 - (D) in the case of a notice given in the manner as provided in Clause 1.24(f)(2)(B)(i), five days after the date such newspaper is published; or
 - (E) in the case of a notice given in the manner as provided in Clause 1.24(f)(2)(B)(ii), when transmitted to the addressee (whether or not legibly received),

or, in any case, at any later date as the Trustee determines to be appropriate in the circumstances.

(g) Australian currency

Except as otherwise expressly provided in the Deed or as otherwise determined by the Trustee either generally or in any particular case, all monetary liabilities and obligations imposed on the Fund, the Trustee, a Member or any other person under the Deed (including contributions and benefits payable under the Deed) must be calculated and expressed in Australian currency using a basis of conversion into Australian currency as the Trustee considers appropriate having regard to applicable exchange rates from time to time.

(h) Proper law

This Deed is governed by, and must be construed in accordance with, the law of the State of Victoria (or any other State or Territory of Australia agreed between the Trustee and the Principal Employer).

1.25 Amendments

(a) Amendments to comply with the Relevant Law

The Principal Employer and the Trustee by deed or by oral or written resolution may together amend, add to, delete or replace all or any of the provisions of the Deed (including this Clause 1.25) in such manner and to such extent as the Principal Employer and the Trustee consider necessary or desirable in order to ensure that the Fund or the Deed complies with the Relevant Law, and any amendment, addition, deletion or replacement shall take effect on the date the deed

or resolution is executed or made on such earlier or later date as may be specified in the deed or resolution for that purpose.

(b) Other amendments

- (1) Without limiting Clause 1.25(a) but subject to Clause 1.25(b)(2), the Principal Employer and the Trustee by deed, verbal agreement or by written resolution may together amend, add to, delete or replace all or any of the provisions of the Deed (including this Clause 1.25) as the Principal Employer and the Trustee see fit and any such amendment, addition, deletion or replacement (**amendment**) shall take effect on the date the deed or resolution is executed or made or such earlier or later date as may be specified in the deed or resolution for that purpose.
- (2) No amendment shall be made pursuant to Clause 1.25(b)(1) or, if made, shall take effect in respect of a Member or Beneficiary if such amendment would have the effect of:
 - (A) reducing the amount of a benefit, calculated on the basis of Employer Contributions or Member Contributions and earnings on those contributions, that has accrued or become payable to the Member or Beneficiary before the date the amendment takes or is to take effect;
 - (B) reducing the amount of a benefit, other than a benefit referred to in Clause 1.25(b)(2)(A), that is, or may become, payable to a Member or Beneficiary in relation to a period before the date the amendment takes or is to take effect; or
 - (C) otherwise adversely altering a Member's right or claim to accrued benefits or the amount of those accrued benefits,
 unless:
 - (D) the reduction or other adverse alteration is required because of, and does not exceed the value of, any tax payable on income of the Fund;
 - (E) the reduction or other adverse alteration is required for compliance with the Relevant Law;
 - (F) the Member or Beneficiary approves in writing of the reduction or other adverse alteration;
 - (G) the reduction or other adverse alteration is approved by the Regulator in writing; or
 - (H) the reduction or other adverse alteration is expressly permitted by the Relevant Law.

1.26 Portability of benefits

(a) Transfers from Approved Benefit Arrangements

Subject to Clause 1.26(h) and the consent of the Principal Employer, the Trustee may make or carry into effect an arrangement with the trustee of, or other person responsible for, an Approved Benefit Arrangement or any person who is a member or former member of an Approved Benefit Arrangement whereby an agreed sum or agreed assets shall be paid or transferred to the Fund from the Approved Benefit Arrangement and such member or former member, if not already a Member, shall

be admitted as a Member and shall have such rights to benefits and such obligations (if any) in relation to Member Contributions (whether additional to or in lieu of the rights or obligations otherwise provided for under the Deed) as shall be determined by the Principal Employer, after obtaining the advice of the Actuary, and approved by the Trustee.

(b) Transfers to Approved Benefit Arrangements

(1) Subject to Clause 1.26(g) and Clause 1.26(h), while a Member is an Employee:

- (A) with the consent of the Member and the Principal Employer, the Trustee may pay or transfer to or towards an Approved Benefit Arrangement an amount agreed or determined in a manner agreed between the Trustee, the Member and the Employer but not exceeding the Member's Equitable Share; or
- (B) if in accordance with the Deed all Member Contributions and Employer Contributions by and in respect of the Member have terminated, the Trustee shall if so directed by the Principal Employer, but with the Member's consent, pay or transfer to or towards an Approved Benefit Arrangement an amount equal to the Member's Fund Interest or such greater amount as may be agreed between the Trustee and Principal Employer, but not exceeding the Member's Equitable Share; or
- (C) if the Member makes a request in accordance with the provisions of the Relevant Law concerning portability of accumulation benefits, the Trustee must, subject to the Relevant Law and in accordance with any rules determined by the Trustee from time to time, pay or transfer to or towards an Approved Benefit Arrangement the amount requested.

(2) Subject to Clause 1.26(h), in the case of:

- (A) a Beneficiary who is entitled to an immediate benefit from the Fund; or
- (B) a Beneficiary who is entitled to a deferred or preserved benefit which is payable from the Fund some time after the Member ceased to be an Employed Member,

in lieu of providing all or part of that benefit from the Fund the Trustee may with the consent of the Beneficiary pay or transfer to or towards an Approved Benefit Arrangement nominated by the Beneficiary:

- (C) an amount representing the value of all or part of that benefit, as determined by the Trustee after obtaining the advice of the Actuary; or
- (D) subject to such conditions as the Principal Employer may impose, such greater amount (if any) as may be agreed between the Trustee and the Principal Employer but not exceeding the Beneficiary's Equitable Share.

(3) Subject to Clause 1.26(h) and (in the case of an Employed Member) any contrary agreement between the Trustee and the Principal Employer, if a

Beneficiary does not take all steps which, in the opinion of the Trustee, are reasonably necessary in order to ensure that the value of the benefit payable to the Beneficiary (including without limitation any deferred or preserved benefit) is transferred to an Approved Benefit Arrangement approved by the Trustee, the Trustee must without obtaining the consent of the Beneficiary:

- (A) after the passage of 90 days (or any longer period allowed by the Trustee either generally or in any particular case) cause that value to be transferred to the Retained Benefits Division; or
- (B) if the Trustee determines either generally (from a particular date determined by the Trustee) or in any particular case, and after any period of time determined by the Trustee and in accordance with any rules determined by the Trustee, cause that value to be transferred to another Approved Benefit Arrangement approved by the Trustee,

except that:

- (C) if the Beneficiary was an Employed Member in respect of whom the Principal Employer has exercised its discretion under Clause 1.16(c)(2)(B), the Trustee must cause the benefit to be transferred to another Approved Benefit Arrangement approved by the Trustee; and
 - (D) the Trustee must refrain from making a payment or transfer under this Clause 1.26(b)(3) if and for so long as the Trustee considers it is necessary to do so in order to comply with the Relevant Law.
- (4) The Trustee may effect a payment or transfer under this Clause 1.26(b) by way of payment of money and/or transfer of assets.
 - (5) Unless otherwise agreed between the Trustee and the Principal Employer, upon the completion of a payment or transfer in respect of a Member or Beneficiary under this Clause 1.26(b) all of the rights and interests of that Member or Beneficiary under the Deed (and all of the rights and interests of any person otherwise entitled to claim in respect of the Member or Beneficiary or on the occurrence of any event or circumstance affecting the Member or Beneficiary) shall be entirely extinguished.

(c) Transfers to other Divisions

Subject to Clause 1.16(c)(2), the Trustee, with the consent of a Member and the Principal Employer, may make or carry into effect an arrangement whereby there is paid or transferred part or all of an amount in respect of the Member agreed, or determined in a manner agreed, between the Trustee and the Principal Employer from one or more Divisions to any other Division.

(d) Transfer of Pension Division Member to Accumulation Division

Subject to Clause 1.26(h) but notwithstanding any other provision of this Deed, in respect of an Employed Member who is a Pension Division Member, if the Employed Member makes a request to the Trustee to transfer to the Accumulation Division, in a form required by the Trustee, and if the Trustee agrees, then the Trustee must –

- (1) cause the Member's benefit under the Pension Division to be calculated (for the purposes of this clause, "**Withdrawal Benefit**") as if the Member:

- (A) had voluntarily ceased to be an Employee in good health on the date that the Trustee receives the request to transfer to the Accumulation Division (with the benefit being calculated under Clause 2.6(a), Clause 2.11 or Clause 2.12, depending on the Member's age as at that date); and
 - (B) if otherwise entitled to elect between a lump sum benefit and a pension, had elected a lump sum benefit under Clause 2.11 or Clause 2.14(1), as applicable;
 - (2) with effect on and from the date that the Trustee receives the request to transfer to the Accumulation Division (or any other date determined by the Trustee), the Member's right or claim to any benefit (other than the Withdrawal Benefit) under the Pension Division is extinguished; and
 - (3) in accordance with any rules determined by the Trustee from time to time, cause that Withdrawal Benefit to be credited to a "Member Account" (as defined in Clause 3.1(b)) which the Trustee will establish for the Member under the Accumulation Division, but the Trustee must refrain from making a transfer under this Clause 1.26(d) if and for so long as the Trustee considers it is necessary to do so in order to comply with the Relevant Law.
- (e) **Transfer of Pension Division Member to Retained Benefits Division following choice of fund election**

Subject to Clause 1.26(h) but notwithstanding any other provision of this Deed, in respect of an Employed Member who is a Pension Division Member, if in accordance with this Deed all contributions by the Member's Employer in respect of the Member have ceased in accordance with Clause 1.19 because the Member is, or is eligible to become, a participant in another Approved Benefit Arrangement as a result of the Member electing under the SG Act that the Employer's contributions be made to that Approved Benefit Arrangement, then the Trustee must –

- (1) cause the Member's benefit under the Pension Division to be calculated (for the purposes of this clause, "**Withdrawal Benefit**") as if the Member:
 - (A) had voluntarily ceased to be an Employee in good health on the date that the Trustee receives the notice of termination of contributions (with the benefit being calculated under Clause 2.6(a), Clause 2.11 or Clause 2.12, depending on the Member's age as at that date); and
 - (B) if otherwise entitled to elect between a lump sum benefit and a pension, had elected a lump sum benefit under Clause 2.11 or Clause 2.14(1), as applicable;
- (2) with effect on and from the date that the Trustee is notified by the Employer that the Employer's contributions are first made in respect of that Member to the Approved Benefit Arrangement, the Member's right or claim to any benefit (other than the Withdrawal Benefit) under the Pension Division is extinguished; and
- (3) in accordance with any rules determined by the Trustee from time to time and subject to Clause 1.26(b)(1)(C), cause that Withdrawal Benefit to be:
 - (A) credited to a "Retained Benefits Division Account" (as defined in Clause 4.1(b)) which the Trustee will establish for the Member under the Retained Benefits Division; or

(B) transferred to an “eligible rollover fund” (as defined in the SIS Act), but the Trustee must refrain from making a transfer under this Clause 1.26(e) if and for so long as the Trustee considers it is necessary to do so in order to comply with the Relevant Law.

(f) Transfer of Accumulation Division Member to Retained Benefits Division following choice of fund election

Subject to Clause 1.26(h) but notwithstanding any other provision of this Deed, in respect of an Employed Member who is an Accumulation Division Member, if in accordance with this Deed all contributions by the Member’s Employer in respect of the Member have ceased in accordance with Clause 1.19 because the Member is, or is eligible to become, a participant in another Approved Benefit Arrangement as a result of the Member electing under the SG Act that the Employer’s contributions be made to that Approved Benefit Arrangement, then the Trustee must –

- (1) in accordance with any rules determined by the Trustee from time to time and subject to Clause 1.26(b)(1)(C), cause the Member’s Aggregate Account Balance to be:
 - (A) credited to a “Retained Benefits Division Account” (as defined in Clause 4.1(b)) which the Trustee will establish for the Member under the Retained Benefits Division; or
 - (B) transferred to an “eligible rollover fund” (as defined in the SIS Act); and
- (2) upon that Aggregate Account Balance being transferred or credited in accordance with Clause 1.26(f)(1):
 - (A) the Member’s right or claim to any benefit under the Accumulation Division is extinguished; and
 - (B) any continuance of insurance cover that may be applicable through the Fund for that Member will be determined in accordance with the relevant policy of insurance,

but the Trustee must refrain from making a transfer under this Clause 1.26(f) if and for so long as the Trustee considers it is necessary to do so in order to comply with the Relevant Law.

(g) Transfers without consent

If the Trustee determines that circumstances satisfy the requirements of the Relevant Law concerning transfers without Member consent, the Trustee may pay or transfer (without obtaining the Member’s consent) to an Approved Benefit Arrangement an amount equal to the Member’s Fund Interest or any greater amount agreed between the Trustee and the Principal Employer, but not exceeding the Member’s Equitable Share.

(h) Overriding conditions on portability

- (1) Notwithstanding anything expressed or implied to the contrary in the Deed, no payment or transfer shall be accepted from or made to an Approved Benefit Arrangement under Clause 1.26(a) or Clause 1.26(b) if, in the opinion of the Trustee, to do so would cause the Fund to fail to comply with any requirement of a Relevant Law.

- (2) Without limiting Clause 1.26(h)(1), in relation to any payment or transfer under Clause 1.26(a) or Clause 1.26(b), the Trustee shall impose such conditions as are necessary in order to ensure compliance with Clause 1.26(h)(1), including without limitation conditions necessary to satisfy conditions imposed under a Relevant Law concerning the deferral or preservation of a benefit. The Trustee may impose such other conditions as it thinks fit.

1.27 Reserve Account

The Trustee may establish in respect of the Fund in accordance with this Clause 1.27 one or more Reserve Accounts, and may determine the credits and debits to be made to a Reserve Account.

2 Division 2 - Pension Division Members

2.1 Application and definitions

(a) Application

- (1) This Division 2 is always subject to Division 1, and Division 1 prevails over this Division 2 to the extent of any conflict.
- (2) This Division 2 only applies to and in respect of a Member who is for the time being categorised as a Pension Division Member.

(b) Definitions

Accrued Pension means an annual pension determined by reducing the Notional Pension in the ratio of the number of years and months of completed Pensionable Service to those which would have been completed had the Member remained an Employee until the Member's Normal Retirement Date.

Child Pension means an annual pension payable to a Member's dependent Child:

- (1) for purposes of Clause 2.8, being equal to 12.5% of the Member's Notional Pension as at the date the Member died; or
- (2) for purposes of Clause 2.9(4), being equal to 12.5% of the pension that the Member Pensioner was receiving at the time of the Member Pensioner's death,

and payable to the Child until:

- (3) the earlier of the date on which the Child attains the age of 16 years or the Child's death; or
- (4) at the Trustee's discretion and subject to the Relevant Law, if the Child continues in full-time education on and after age 16, the earlier of the date on which the Child attains the age of 25 years or the Child's death while continuing in full-time education.

Child Pensioner means a person who receives a Child Pension from the Fund in accordance with this Division 2.

Consumer Price Index means the "Consumer Price Index (All Groups) Weighted Average of Eight (8) Capital Cities" published by the Commonwealth Statistician or any other index which the Trustee on the advice of the Actuary shall select, expressed as a percentage.

Initial Credit means, in relation to a Member who was a Pension Fund Member immediately prior to the Transfer Date and who was a Pension Division Member on the Transfer Date, any amount which the Trustee determines to credit or debit to one or more of the Member's:

- (1) Pension Division Member's Basic Contribution Account, representing the Member's Basic Contributions made, or deemed to have been made, to the Transfer Date accrued with interest under the provisions of the Deed in effect on 30 June 2001;

- (2) Pension Division Member Benefit Account, representing, if applicable:
- (A) in respect of a Member who, as at the Transfer Date, has been a Pension Fund Member for less than 15 years (or in respect of any other Member advised by the Principal Employer to the Trustee), 10% of the Vested Benefit;
 - (B) the Member's additional "long service leave" benefit under clause 45 of the Deed in effect on 30 June 2001, calculated as at the Transfer Date;
 - (C) the amount standing to the credit of the Member's "Membership Division" of the "Supplementary Benefits Account" under clause 44.2 of the Deed in effect on 30 June 2001 (excluding any amounts which were credited under paragraph (1) of this definition of Initial Credit), calculated as at the Transfer Date;
 - (D) the amount standing to the credit of the Member's "Employee Division" of the "Supplementary Benefits Account" under clause 44.4 of the Deed in effect on 30 June 2001, calculated as at the Transfer Date;
 - (E) the amount standing to the credit of the Member's "Productivity and Levy Member Account" under regulation 4 of the third schedule of the Deed in effect on 30 June 2001, calculated as at the Transfer Date;
- (3) Pension Division Special Account, representing the amount (if any) standing to the credit of the Member's "Vesting Division" account under the provisions of the Deed in effect on 30 June 2001, calculated as at the Transfer Date; and
- (4) Surcharge Debt Account, representing the amount (if any) attributable to the Member in respect of superannuation contributions tax under the provisions of the Deed in effect on 30 June 2001, calculated as at the Transfer Date.

Member Pensioner means a Pension Division Member who receives a pension from the Fund in accordance with this Division 2.

Member's Basic Contribution means, in relation to a Member, 5% of the Member's Salary for purposes of Clause 1.18(b)(1).

Non-Salary Sacrifice Member means a Member who, immediately prior to the Transfer Date, was making Member's Basic Contributions from the Member's after-tax salary, as advised to the Trustee by the Principal Employer.

Notional Pension means the annual pension that a Member would have received had the Member remained an Employed Member to the Member's Normal Retirement Date with the Member's Salary continuing at the level applicable at the date of calculation of the Notional Pension.

Pension Division Member Benefit Account means in relation to a Member the account maintained in respect of the Member in accordance with Clause 2.5(a)(2).

Pension Division Member Benefit Account Balance means in relation to a Member as at any particular date the credit balance (if any) in the Member's Pension Division Member Benefit Account after all relevant credits and debits have been made to that account.

Pension Division Member's Basic Contribution Account means in relation to a Member the account maintained in respect of the Member in accordance with Clause 2.5(a)(1).

Pension Division Member's Basic Contribution Account Balance means in relation to a Member as at any particular date the credit balance (if any) in the Member's Pension Division Member's Basic Contribution Account after all relevant credits and debits have been made to that account.

Pension Division Special Account means in relation to a Member the account maintained in respect of the Member in accordance with Clause 2.5(a)(3).

Pension Division Special Account Balance means in relation to a Member as at any particular date the credit balance (if any) in the Member's Pension Division Special Account after all relevant credits and debits have been made to that account.

Previous Fund means a superannuation fund which the Principal Employer deems to be a Previous Fund for purposes of this Deed.

Salary Sacrifice Member means a Member who, immediately prior to the Transfer Date, was making Member's Basic Contributions from the Member's pre-tax salary, as advised to the Trustee by the Principal Employer.

Spouse Pension means an annual pension payable to a Member's Spouse:

- (1) for purposes of Clause 2.8, being equal to 62.5% of the Member's Notional Pension and payable to the Spouse for a period of ten years certain and thereafter until the Spouse's death; or
- (2) for purposes of Clause 2.9(1), being:
 - (A) equal to the full rate that was payable to the Member Pensioner immediately prior to that Member Pensioner's death and payable to the Spouse for the balance (if any) of ten years from the date of retirement of the Member (as provided in Clause 2.6); and
 - (B) equal to 62.5% of the Member Pensioner's pension that was payable to the Member Pensioner immediately prior to that Member Pensioner's death and payable to the Spouse for the period following the period specified in paragraph (A) until the death of the Spouse.

Spouse Pensioner means a Member's Spouse who receives a Spouse Pension from the Fund in accordance with this Division 2.

Surcharge Debt Account means in relation to a Member the account maintained in respect of the Member in accordance with Clause 2.5(a)(4).

Surcharge Debt Account Balance means in relation to a Member as at any particular date the balance (if any) in the Member's Surcharge Debt Account after all relevant credits and debits have been made to that account.

Vested Benefit means an amount equal to the highest lump-sum benefit that the Member would have been entitled to receive from the Fund in accordance with the Deed in effect on 30 June 2001 if the Member had ceased to be an Employee otherwise than on death or Total and Permanent Disablement on the Transfer Date, but excluding:

- (1) the balances of accumulation accounts to which that Member would have been entitled;

- (2) the Member's additional "long service leave" benefit under clause 45.0 of the Deed in effect on 30 June 2001; and
- (3) the balance of any superannuation contribution tax account maintained by the Trustee in respect of that Member.

Voluntary Accumulation Contributions means, in respect of a Member:

- (1) Member Contributions pursuant to Clause 1.18(b)(2);
- (2) Employer Contributions pursuant to Clause 1.18(a)(4); and
- (3) Employer Contributions pursuant to Clause 2.3(3).

2.2 Eligibility

- (1) Subject to Clause 2.2(2), no person is eligible to become a Pension Division Member after 20 July 2001.
- (2) A Productivity and Levy Member who elected prior to 30 July 2001 (or any later date determined by the Principal Employer) to become a Pension Fund Member by notice in writing to the Trustee, was eligible to become a Pension Division Member with effect from 1 July 2001.
- (3) A person who was a Pension Division Member, and who becomes a member of another Division, cannot later become a Pension Division Member again.

2.3 Employer's Contributions

- (1) Employer Contributions will be made in accordance with Clause 1.18(a)(1).
- (2) In respect of a Member who, as at the Transfer Date (or any later date as agreed between the Trustee and the Principal Employer), has been a Pension Fund Member for at least 15 years (or in respect of any other Member as advised by the Principal Employer to the Trustee), Employer Contributions will be made in lieu of the equivalent amount of the Member's Basic Contributions equal to:
 - (A) 2.5% of the Member's Salary in the case of a Non-Salary Sacrifice Member; and
 - (B) 5% of the Member's Salary in the case of a Salary Sacrifice Member,
 and will be deemed to be the Member's Basic Contributions.
- (3) In addition to the Employer Contributions provided for in Clause 2.3(1) and Clause 2.3(2), in respect of a Pension Division Member who, as at the Transfer Date, is aged 45 years or older and has been a Pension Fund Member for at least 15 years (or in respect of any other Member as advised by the Principal Employer to the Trustee), Employer Contributions will be made equal to 5% of the Member's Salary.

2.4 Member's Contributions

- (1) Subject to Clause 2.3(2), Clause 2.4(3) and Clause 2.6(b)(3), a Member's Basic Contribution must be made by each Pension Division Member until the Member ceases to be an Employee.
- (2) Any alteration to the amount of a Member's Basic Contribution consequent upon any alteration to Salary shall become effective on the first normal day for payment

of salaries after such alteration unless otherwise agreed between the Principal Employer and the Trustee.

- (3) The Trustee may reduce or suspend the Member's Basic Contribution in respect of any one or more of the Members or categories of Members for such period as the Trustee thinks fit and may increase or recommence any such reduced or suspended Member's Basic Contribution, but the increase or recommencement will not exceed the original amount of the Member's Basic Contribution without the Member's consent and, if the Member does consent, the increase or recommencement will only be to the extent and for the period necessary to enable restoration of any reduced or suspended contributions. The effect of any such reduction or suspension of the Member's Basic Contributions on a benefit payable to a Pension Division Member will be determined by the Trustee in consultation with the Actuary.

2.5 Accounts

(a) Maintenance of accounts

The Trustee must cause to be maintained in respect of each Pension Division Member:

- (1) an account to be called the Pension Division Member's Basic Contribution Account;
- (2) if:
 - (A) the Member has applied for Additional Voluntary Insurance;
 - (B) Voluntary Accumulation Contributions are made in respect of the Member; or
 - (C) an Initial Credit (under paragraph (2) of the definition of Initial Credit) was payable in respect of the Member on the Transfer Date,
 an account to be called the Pension Division Member Benefit Account;
- (3) if:
 - (A) Special Contributions are made in respect of a Member; or
 - (B) an Initial Credit (under paragraph (3) of the definition of Initial Credit) was payable in respect of the Member on the Transfer Date,
 an account to be called the Pension Division Special Account; and
- (4) if superannuation contributions tax amounts have been assessed by the Australian Taxation Office and are payable, or have been paid, by the Trustee in respect of the Member, an account to be called the Surcharge Debt Account.

(b) Pension Division Member's Basic Contribution Account – credits and debits

There shall be credited to a Member's Pension Division Member's Basic Contribution Account:

- (1) the Member's Initial Credit, if any (under paragraph (1) of the definition of Initial Credit);
- (2) the Member's Basic Contributions;
- (3) interest at the Declared Rate (if positive); and

- (4) any other amounts which this Deed may require to be credited to the Pension Division Member's Basic Contribution Account or which the Trustee and the Principal Employer agree to credit to the Pension Division Member's Basic Contribution Account,

and there shall be debited to the Member's Pension Division Member's Basic Contribution Account:

- (5) any amounts transferred in respect of the Member to an Approved Benefit Arrangement or to another Division in accordance with this Deed and which the Trustee determines to debit to the Pension Division Member's Basic Contribution Account;
- (6) any benefit payable from the Pension Division Member's Basic Contribution Account;
- (7) any amounts which the Trustee may determine to debit in respect of tax and Fund Expenses;
- (8) interest at the Declared Rate (if negative); and
- (9) any other amounts which this Deed may require to be debited to the Pension Division Member's Basic Contribution Account or which the Trustee and the Principal Employer agree to debit to the Pension Division Member's Basic Contribution Account.

(c) Pension Division Member Benefit Account – credits and debits

There shall be credited to a Member's Pension Division Member Benefit Account:

- (1) the Member's Initial Credit, if any (under paragraph (2) of the definition of Initial Credit);
- (2) any Voluntary Accumulation Contributions;
- (3) any Employer Contributions made under Clause 2.6(b)(3);
- (4) any Additional Voluntary Insurance;
- (5) any amount transferred in respect of the Member from an Approved Benefit Arrangement or from another Division in accordance with this Deed and which the Trustee determines to credit to the Pension Division Member Benefit Account;
- (6) any amount that the Member elects to transfer to the Member's Pension Division Member Benefit Account that is an "employment termination payment" (within the meaning of the Tax Act) payable in respect of the Member from an employer;
- (7) interest at the Declared Rate (if positive); and
- (8) any other amounts which this Deed may require to be credited to the Pension Division Member Benefit Account or which the Trustee and the Principal Employer agree to credit to the Pension Division Member Benefit Account,

and there shall be debited to the Member's Pension Division Member Benefit Account:

- (9) any amounts transferred in respect of the Member to an Approved Benefit Arrangement or to another Division in accordance with this Deed and which

the Trustee determines to debit to the Pension Division Member Benefit Account;

- (10) any benefit payable from the Pension Division Member Benefit Account;
- (11) any amounts which the Trustee may determine to debit in respect of tax, Fund Expenses and insurance;
- (12) interest at the Declared Rate (if negative); and
- (13) any other amounts which this Deed may require to be debited to the Pension Division Member Benefit Account or which the Trustee and the Principal Employer agree to debit to the Pension Division Member Benefit Account.

(d) Pension Division Special Account – credits and debits

There shall be credited to a Member's Pension Division Special Account:

- (1) the Member's Initial Credit (under paragraph (3) of the definition of Initial Credit), if any;
- (2) any Special Contributions;
- (3) interest at the Declared Rate (if positive); and
- (4) any other amounts which this Deed may require to be credited to the Pension Division Special Account or which the Trustee and the Principal Employer agree to credit to the Pension Division Special Account,

and there shall be debited to the Member's Pension Division Special Account:

- (5) any amounts transferred in respect of the Member to an Approved Benefit Arrangement or to another Division in accordance with this Deed and which the Trustee determines to debit to the Pension Division Special Account;
- (6) any benefit payable from the Pension Division Special Account;
- (7) any amounts which the Trustee may determine to debit in respect of tax and Fund Expenses;
- (8) interest at the Declared Rate (if negative); and
- (9) any other amounts which this Deed may require to be debited to the Pension Division Special Account or which the Trustee and the Principal Employer agree to debit to the Pension Division Special Account.

(e) Surcharge Debt Account – credits and debits

There shall be debited to a Member's Surcharge Debt Account:

- (1) the Member's Initial Credit (under paragraph (4) of the definition of Initial Credit), if any;
- (2) any amounts which the Trustee may determine to debit after the Transfer Date in respect of superannuation contributions tax pursuant to Clause 1.21(h);
- (3) interest at the Declared Rate (if positive),

and there shall be credited to the Member's Surcharge Debt Account:

- (4) any Voluntary Accumulation Contributions which the Member elects to be credited to the Member's Surcharge Debt Account;

- (5) any amounts transferred in respect of the Member from an Approved Benefit Arrangement or from another Division in accordance with this Deed and which the Trustee determines to credit to the Surcharge Debt Account; and
- (6) interest at the Declared Rate (if negative).

2.6 Retirement benefit

(a) Retirement benefit at or after Normal Retirement Date

Subject to Clauses 2.6(b) and 2.13, if a Pension Division Member ceases to be an Employee at or after the Member's Normal Retirement Date, there is payable to the Member from the Fund:

- (1) an annual pension payable for ten years certain and life thereafter and (subject to any adjustment pursuant to Clauses 2.4(2) and 2.4(3)) calculated as the sum of:
 - (A) an amount equal to 2.5% of Final Average Salary multiplied by the number of years (including any fractional period representing days in the year) of the Member's Pensionable Service up to and including 31 December 2002; and
 - (B) an amount equal to 1.75% of Final Average Salary multiplied by the number of years (including any fractional period representing days in the year) of the Member's Pensionable Service after 31 December 2002;

and the sum of:

- (2) the Member's Pension Division Member Benefit Account Balance (if any);
- (3) the Member's Pension Division Special Account Balance (if any); and
- (4) the Member's Surcharge Debt Account Balance (if any).

(b) Election for members over age 65

- (1) Where a Pension Division Member has remained an Employee after the Member's Normal Retirement Date, the Member may elect that the Member's benefit under Clause 2.6(a) be paid at any time after the Member attains the age of 65.
- (2) Whether or not an election is made under Clause 2.6(b)(1), the rate of pension payable when the Member ceases to be an Employee will not be less than that which the Member would have received had the Member retired at the Member's Normal Retirement Date.
- (3) If a Member makes an election under Clause 2.6(b)(1), from the effective date of that election:
 - (A) the Employer Contributions made in respect of that Member will be only those amounts necessary so that the Employer does not incur a shortfall under the SG Act, which amounts will be credited to the Member's Pension Division Member Benefit Account; and
 - (B) the Member will no longer be required to make Member's Basic Contributions.

2.7 Total and Permanent Disablement benefit

Subject to Clause 2.13, if a Pension Division Member ceases to be an Employee before the Member's Normal Retirement Date because of Total and Permanent Disablement, there is payable to the Member from the Fund:

- (1) subject to any adjustment pursuant to Clauses 2.4(2) and 2.4(3), either (at the election of the Member):
 - (A) a lump sum equal to 10.65 times his or her Notional Pension; or
 - (B) a pension equal to his or her Notional Pension and payable for ten years certain and life thereafter,

and the sum of:

- (2) the Member's Pension Division Member Benefit Account Balance (if any);
- (3) the Member's Pension Division Special Account Balance (if any); and
- (4) the Member's Surcharge Debt Account Balance (if any).

2.8 Death benefits in relation to Employed Members

- (1) Subject to Clause 2.13, if a Pension Division Member dies while an Employee before the Member's Normal Retirement Date, there is payable in respect of the Member from the Fund the sum of:
 - (A) benefits as determined by the Trustee in accordance with (but subject to any adjustment pursuant to Clauses 2.4(2) and 2.4(3)) one of Clause 2.8(2), Clause 2.8(3) or Clause 2.8(4);
 - (B) the Member's Pension Division Member Benefit Account Balance (if any);
 - (C) the Member's Pension Division Special Account Balance (if any); and
 - (D) the Member's Surcharge Debt Account Balance (if any).
- (2) For purposes of Clause 2.8(1)(A), the Trustee may determine to pay the following benefits:
 - (A) a lump sum payable to the Member's Spouse of an amount equal to the Member's Annual Salary at the date of death;
 - (B) a lump sum of an amount of 6.6563 times the Member's Notional Pension; and
 - (C) a Child Pension payable to each of the Member's dependent Children.
- (3) For purposes of Clause 2.8(1)(A), the Trustee may determine to pay the following benefits:
 - (A) a lump sum payable to the Member's Spouse of an amount equal to the Member's Annual Salary at the date of death;
 - (B) a Spouse Pension payable to the Member's Spouse; and
 - (C) a Child Pension payable to each of the Member's dependent Children.
- (4) For purposes of Clause 2.8(1)(A), the Trustee may determine to pay a lump sum equal to 10.65 times the Member's Notional Pension.

- (5) In the event that the Trustee elects to pay benefits in accordance with Clause 2.8(2) or Clause 2.8(3) and there are two or more persons who qualify as a Spouse of the relevant Member, the Trustee may pay a benefit to one or more of such Spouses to the exclusion of one or more of the others and/or to more than one Spouse in such proportions as the Trustee shall in its absolute discretion think fit.
- (6) Where a benefit is payable upon the death of an Employed Member on or after the Member's Normal Retirement Date, the Notional Pension shall be calculated for purposes of this Clause 2.8 assuming that the Member had retired on the date of death. The benefits so determined under Clause 2.8(2), Clause 2.8(3) and Clause 2.8(4) shall not be less than the benefit calculated under Clause 2.6(a)(1).

2.9 Death benefits in relation to pensioners

- (1) If a Member Pensioner dies and the Member had a Spouse at the date of death, a Spouse Pension is payable to the Spouse.
- (2) In the event that there are two or more persons who qualify to receive a Spouse Pension under Clause 2.9(1), then the Spouse Pension otherwise payable to one Spouse shall be paid by the Trustee to one or more of such Spouses to the exclusion of one or more of the others, or it may be divided between more than one Spouse in such proportions as the Trustee in its absolute discretion thinks fit.
- (3) On the death of:
 - (A) a Member Pensioner who did not have a Spouse at the date of death;
 - (B) a Spouse Pensioner; or
 - (C) a person who was at the date of death receiving a pension as a result of an election made under Clause 1.21(a)(3)(A),
 any balance of the pension payable for ten years certain as provided in Clauses 2.6, 2.8, 2.9(1) or Clause 1.21(a)(3)(A) is payable in accordance with Clause 1.22.
- (4) If a Member Pensioner dies, in addition to any amounts payable under Clause 2.9(1) or Clause 2.9(2), a Child Pension is payable in respect of each dependent Child of the Member, commencing with effect from the later of the date of the Member Pensioner's death or the expiry of ten years from the Member Pensioner's date of retirement.

2.10 Temporary disablement benefit

The Trustee and the Principal Employer may agree to the Trustee effecting a policy of insurance providing temporary disablement benefits in respect of a Pension Division Member or any group of Pension Division Members. If a temporary disablement benefit is payable in respect of a Pension Division Member under that policy -

- (a) an equivalent benefit shall be payable to the Pension Division Member from the Fund, subject always to the terms and conditions of that policy; and
- (b) the Trustee may adjust the amount and circumstances of payment of any other benefit under this Deed in the manner and to the extent the Trustee considers appropriate to take account of the temporary disablement benefit.

2.11 Early retirement

Subject to Clause 2.13:

- (1) if a Pension Division Member ceases to be an Employee within five years of the Member's Normal Retirement Date, there is payable to the Member from the Fund:
 - (A) subject to any adjustment pursuant to Clauses 2.4(2) and 2.4(3), either (at the Member's election):
 - (i) a lump sum equal to the Member's Accrued Pension multiplied by 10.65; or
 - (ii) a pension payable for ten years certain and life thereafter equal to the Member's Accrued Pension,

and the sum of:

- (B) the Member's Pension Division Member Benefit Account Balance (if any);
 - (C) the Member's Pension Division Special Account Balance (if any); and
 - (D) the Member's Surcharge Debt Account Balance (if any); or
- (2) if a Member ceases to be an Employee (with the approval of the Employer) not earlier than ten years nor later than five years prior to Normal Retirement Date, there is payable to the Member from the Fund:
 - (A) subject to any adjustment pursuant to Clauses 2.4(2) and 2.4(3), either (at the Member's election):
 - (i) a lump sum equal to the Member's Accrued Pension multiplied by 10.65; or
 - (ii) a pension payable for ten years certain and life thereafter equal to the Member's Accrued Pension reduced by a percentage equal to 1/3 of 1% for each month by which the date of the Member's retirement precedes the date five years prior to the Member's Normal Retirement Date,

and the sum of:

- (B) the Member's Pension Division Member Benefit Account Balance (if any);
- (C) the Member's Pension Division Special Account Balance (if any); and
- (D) the Member's Surcharge Debt Account Balance (if any).

2.12 Withdrawal benefits

Subject to Clause 2.13, if a Pension Division Member ceases to be an Employee in circumstances where no benefit is payable under any other Clause of this Division 2, there is payable to the Member from the Fund the sum of:

- (1) an amount determined as twice the Member's Pension Division Member's Basic Contribution Account Balance;
- (2) the Member's Pension Division Member Benefit Account Balance (if any);
- (3) the Member's Pension Division Special Account Balance (if any); and
- (4) the Member's Surcharge Debt Account Balance (if any).

This benefit will be augmented, if applicable, as advised by the Employer so that the Employer does not incur a shortfall under the SG Act.

2.13 Minimum benefits

- (1) If a Pension Division Member ceases to be an Employee (with the approval of the Employer) within ten years before the Member's Normal Retirement Date and elects a lump sum, the benefit payable to the Member from the Fund will be the greater of the benefit calculated under Clause 2.11 or the benefit calculated under Clause 2.12.
- (2) If a Pension Division Member ceases to be an Employee at or after the Member's Normal Retirement Date and elects a lump sum, the benefit payable to the Member from the Fund will be the greater of the benefit calculated under Clause 2.6 (and Clause 2.14(1)) or the benefit calculated under Clause 2.12.
- (3) If a Pension Division Member ceases to be an Employee before the Member's Normal Retirement Date because of Total and Permanent Disablement and elects a lump sum, the benefit payable to the Member from the Fund will be the greater of the benefit calculated under Clause 2.7 or the benefit calculated under Clause 2.12.
- (4) If a Pension Division Member dies while an Employee before the Member's Normal Retirement Date and the Trustee determines to pay a lump sum benefit in accordance with Clause 2.8(4), the benefit payable in respect of the Member from the Fund will be the greater of the benefit calculated under Clause 2.8(1) or the benefit calculated under Clause 2.12.
- (5) If a benefit calculated under Clause 2.12 becomes payable to a Member pursuant to Clause 2.13(1), Clause 2.13(2) or Clause 2.13(3), the Member may elect that the portion of the benefit calculated under Clause 2.12(1) be paid in the form of an annual pension payable for ten years certain and life thereafter of an amount determined by the Trustee on the advice of the Actuary.

2.14 Commutation of pensions

- (1) Subject to Clause 1.21(b), by notice in writing to the Trustee in such form as the Trustee may from time to time determine, a person who is entitled to receive:
 - (A) a pension under Clause 2.6, Clause 2.7, Clause 2.11 or Clause 2.13; or
 - (B) a Spouse Pension under Clause 2.8,
 may commute any part of that pension at a rate of \$10.65 for each \$1 of annual pension so commuted.
- (2) Subject to Clause 1.21(b), by notice in writing to the Trustee in such form as the Trustee may from time to time determine, a person who:
 - (A) is entitled to receive a Child Pension under Clause 2.8;
 - (B) is entitled to receive a pension under Clause 2.9; or
 - (C) has been receiving a pension under this Division 2 (or has been receiving a pension as a result of an election made under Clause 1.21(a)(3)(A)) for less than six months,
 may commute any part of that pension at a rate to be determined by the Actuary.

2.15 Pension value maintenance

- (1) Every pension which becomes payable to or in respect of a Pension Division Member (or to a person who made an election under Clause 1.21(a)(3)(A)) shall be reviewed and, if appropriate, varied, at least annually having regard to increases or decreases in the Consumer Price Index in accordance with Clause 2.15(2) or Clause 2.15(3) as applicable.
- (2) In respect of a person who was receiving a pension as at the Transfer Date under the first schedule of the Deed ("Pension Fund") in effect on 30 June 2001, the pension shall be varied by such amount as the Trustee, acting on the advice of the Actuary, shall decide provided that no variation shall be made which shall result in either:
 - (A) the reduction in the rate of pension to less than the initial rate of pension; or
 - (B) the rate of pension being less than the lesser of:
 - (i) the initial rate of pension increased by a uniform rate of 5.0 per cent per annum compounded for the period since 30 June following the commencement of the pension (or for any other period as the Trustee determines, acting on the advice of the Actuary); and
 - (ii) the initial rate of pension being increased by a percentage equal to the ratio between the Consumer Price Index published for the second last quarter of the previous financial year and the Consumer Price Index published for the second last quarter of the financial year that immediately preceded the financial year in which the pension commenced (or for any other period as the Trustee determines, acting on the advice of the Actuary).
- (3) In respect of a person who receives a pension under this Pension Division (or receives a pension as a result of an election made under Clause 1.21(a)(3)(A)) after the Transfer Date, the pension shall be varied by such amount as the Trustee, acting on the advice of the Actuary, shall decide having regard to the Relevant Law.

3 Division 3 – Accumulation Division Members - MySuper

3.1 Application and definitions

(a) Application

- (1) This Division 3 is always subject to Division 1, and Division 1 prevails over this Division 3 to the extent of any conflict.
- (2) This Division 3 only applies to and in respect of a Member who is for the time being categorised as an Accumulation Division Member.

(b) Definitions

2007 Accumulation Accounts Balance means in relation to a 2007 FPD Member, an amount equal to the sum of the following accounts for the Member in the Pension Division immediately before the 2007 Transfer Date:

- (1) the Pension Division Member Benefit Account Balance;
- (2) the Pension Division Special Account Balance; and
- (3) the Surcharge Debt Account Balance.

2007 Initial Credit means in relation to a 2007 FPD Member, an amount which the Trustee determines to credit to accounts for the Member in this Accumulation Division, representing:

- (1) the Member's 2007 Accumulation Accounts Balance;
- (2) the Member's 2007 Leaving Service Defined Benefit, where the relevant Date is the 2007 Transfer Date; and
- (3) the Member's 2007 Uplift Amount.

2007 Leaving Service Defined Benefit means in relation to a 2007 FPD Member:

- (1) if the 2007 FPD Member was less than 55 years old on the relevant date, 2 times the Member's Pension Division Member's Basic Contribution Account Balance (as that term is defined in the Pension Division) as at the relevant date; or
- (2) if the 2007 FPD Member was 55 years old or more on the relevant date, the greater of:
 - (A) 2 times the Member's Pension Division Member's Basic Contribution Account Balance (as that term is defined in the Pension Division) as at the relevant date; and
 - (B) 10.65 times the Member's Accrued Pension (as that term is defined in the Pension Division) calculated as at the relevant date,

where the relevant date is the 2007 Transfer Date or 31 March 2007, as applicable.

2007 Uplift Amount means in relation to a 2007 FPD Member, an amount representing:

the greatest of (A minus B), C or D, where:

- A** = a multiple times the Member's Accrued Pension (as that term is defined in the Pension Division) calculated as at 31 March 2007, where the multiple is determined as follows:
- (1) if the Member was 45 years old on 31 March 2007, the multiple is 10.65;
 - (2) if the Member was over 45 years old on 31 March 2007, the multiple is 10.65 plus 1% of 10.65 for each year over 45; or
 - (3) if the Member was under 45 years old on 31 March 2007, the multiple is 10.65 minus 4% of 10.65 for each year under 45;
- B** = the Member's 2007 Leaving Service Defined Benefit, where the relevant date is 31 March 2007;
- C** = 10% of the Member's 2007 Leaving Service Defined Benefit, where the relevant date is 31 March 2007;
- D** = an amount determined by the Actuary, to ensure that a Member who transfers from the Pension Division to the Accumulation Division on the 2007 Transfer Date will be entitled to receive a lump sum benefit in the Accumulation Division at least as great as the value of the benefit that the Member would have been entitled to receive if the Member had remained a Pension Division Member if the Member ceased to be an Employed Member in good health in any of the first 10 years after the 2007 Transfer Date, based on assumptions as determined by the Principal Employer and the Actuary (and notified to the Trustee).

Accumulation Division Special Account means in relation to a Member the account maintained in respect of the Member in accordance with Clause 3.5(a)(3).

Accumulation Division Special Account Balance means in relation to a Member as at any particular date the credit balance (if any) in the Member's Accumulation Division Special Account after all relevant credits and debits have been made to that account.

Former Pension Member Account means in relation to a Member the account maintained in respect of the Member in accordance with Clause 3.5(a)(2).

Former Pension Member Account Balance means in relation to a Member as at any particular date the credit balance (if any) in the Member's Former Pension Member Account after all relevant credits and debits have been made to that account.

Initial Credit means, in relation to a Former Pension Division Member, any amount which the Trustee determines as at the Transfer Date to credit to one or more of the Member's:

- (1) Member Account, representing:
 - (A) the Member's additional "long service leave" benefit under clause 45.0 of the Deed in effect on 30 June 2001, calculated as at the Transfer Date, if any;
 - (B) the amount standing to the credit of the Member's "Membership Division" of the "Supplementary Benefits Account" under clause

44.2 of the Deed in effect on 30 June 2001, calculated as at the Transfer Date, to the extent that it is not already included in the Member's Pension Division Vested Benefit, if any;

- (C) the amount standing to the credit of the Member's "Employee Division" of the "Supplementary Benefits Account" under clause 44.4 of the Deed in effect on 30 June 2001, calculated as at the Transfer Date, if any;
- (D) if the Member is a Former Pension Division Member, 15% of the Member's Pension Division Vested Benefit, if any; and
- (E) the amount standing to the credit of the Member's "Productivity and Levy Member Account" under regulation 4 of the third schedule of the Deed in effect on 30 June 2001, calculated as at the Transfer Date, if any;

less the amount (if any) attributable to the Member in respect of superannuation contributions tax under the provisions of the Deed in effect on 30 June 2001, calculated as at the Transfer Date;

- (2) Former Pension Member Account, the Member's Pension Division Vested Benefit; and
- (3) Accumulation Division Special Account, representing the amount (if any) standing to the credit of the Member's "Vesting Division" account under the provisions of the Deed in effect on 30 June 2001, calculated as at the Transfer Date.

Member Account means in relation to a Member the account maintained in respect of the Member in accordance with Clause 3.5(a)(1).

Member Account Balance means in relation to a Member as at any particular date the credit balance (if any) in the Member's Member Account after all relevant credits and debits have been made to that account.

Pension Division Vested Benefit means, in relation to a Former Pension Division Member, an amount equal to the highest lump-sum benefit that the Member would have been entitled to receive from the Fund in accordance with the Deed in effect on 30 June 2001 if the Member had ceased to be an Employee otherwise than on death or Total and Permanent Disablement on the Transfer Date, but excluding:

- (1) the balances of accumulation accounts to which that Member would have been entitled;
- (2) the Member's additional "long service leave" benefit under clause 45.0 of the Deed in effect on 30 June 2001; and
- (3) the balance of any superannuation contribution tax account maintained by the Trustee in respect of that Member.

3.2 Eligibility

Subject to Clause 1.16(c), each Employee is eligible to become an Accumulation Division Member.

3.3 Employer Contributions

- (1) Employer Contributions will be made in respect of a Member at a rate of the Member's Salary so as to avoid a shortfall under the SG Act (or any higher rate as agreed between the Member and the Principal Employer).
- (2) Subject to Clause 3.3(3), in addition to the Employer Contributions provided for in Clause 3.3(1), if:
 - (A) a Former Pension Division Member, as at the Transfer Date is aged 45 years or more and has been a Member for at least 15 years (but was not previously an Accumulation Division Member) and Employer Contributions were being made in respect of the Member immediately prior to the Transfer Date equal to 5% of the Member's Salary; or
 - (B) a 2007 FPD Member, as at the Transfer Date was aged 45 years or more and had been a Member for at least 15 years (but was not previously an Accumulation Division Member) and Employer Contributions were being made in respect of the Member immediately prior to the 2007 Transfer Date equal to 5% of the Member's Salary,

those Employer Contributions will continue on and after the Transfer Date or 2007 Transfer Date, respectively, in accordance with this Deed.
- (3) The Employer may determine that the Employer Contributions in respect of a Member will be less than would otherwise be required under this Clause 3.3 if the Employer considers that it is reasonable to do so having regard to caps or other restrictions imposed by legislation from time to time (including, without limitation, in relation to the taxation of contributions).

3.4 Member Contributions

Member Contributions may be made pursuant to Clause 1.18(b) in accordance with the procedures determined by the Trustee from time to time.

3.5 Accounts

(a) Maintenance of accounts

The Trustee must cause to be maintained in respect of each Accumulation Division Member (as applicable) the following accounts:

- (1) a Member Account;
- (2) a Former Pension Member Account; and
- (3) an Accumulation Division Special Account.

(b) Member Account – credits and debits

There shall be credited to a Member's Member Account:

- (1) the Member's Initial Credit, if any (under paragraph (1) of the definition of Initial Credit);
- (1A) the Member's 2007 Initial Credit, if any (under paragraph (1) of the definition of 2007 Initial Credit);
- (2) any Member Contributions pursuant to Clause 3.4;

- (3) any Employer Contributions pursuant to:
 - (A) Clause 3.3(1) (except to the extent that Employer Contributions under Clause 3.3(1) are made in respect of any particular Member, as notified by the Employer to the Trustee, and are credited to that Member's Accumulation Division Special Account under Clause 3.5(d)(3) and except to the extent that Employer Contributions under Clause 3.3(1) are made in respect of a Former Pension Division Member or a 2007 FPD Member and are credited to that Member's Former Pension Member Account under Clause 3.5(c)(2));
 - (B) Clause 3.3(2); or
 - (C) Clause 1.18(a)(4);
- (4) any Additional Voluntary Insurance;
- (5) any amount transferred in respect of the Member from an Approved Benefit Arrangement or from another Division in accordance with this Deed and which the Trustee determines to credit to the Member Account;
- (6) any amount that the Member elects to transfer to the Member's Member Account that is an "employment termination payment" (within the meaning of the Tax Act) payable in respect of the Member from an employer;
- (7) interest at the Declared Rate (if positive);
- (7A) any other amount which the Trustee determines to credit in accordance with the MySuper Rules; and
- (8) any other amounts which this Deed may require to be credited to the Member Account or which the Trustee and the Principal Employer agree to credit to the Member Account,

and there shall be debited to the Member's Member Account:

- (9) any amounts transferred in respect of the Member to an Approved Benefit Arrangement or to another Division in accordance with this Deed and which the Trustee determines to debit to the Member Account;
- (10) any benefit payable from the Member Account;
- (11) any amounts which the Trustee may determine to debit in respect of tax (including superannuation contributions tax pursuant to Clause 1.21(h)), Fund Expenses and insurance;
- (12) interest at the Declared Rate (if negative);
- (12A) any other amount which the Trustee determines to debit in accordance with the MySuper Rules; and
- (13) any other amounts which this Deed may require to be debited to the Member Account or which the Trustee and the Principal Employer agree to debit to the Member Account.

(c) Former Pension Member Account – credits and debits

There shall be credited to a Member's Former Pension Member Account:

- (1) the Member's Initial Credit, if any (under paragraph (2) of the definition of Initial Credit);

- (1A) the Member's 2007 Initial Credit, if any (under paragraphs (2) and (3) of the definition of 2007 Initial Credit);
- (2) any Employer Contributions pursuant to former Clause 3.3(2) in effect prior to 1 July 2013 or any Employer Contributions in respect of a Former Pension Division Member or 2007 FPD Member under Clause 3.3(1) at the rate equal to 13% or more of the Member's Salary on or after 1 July 2013;
- (3) interest at the Declared Rate (if positive);
- (3A) any other amount which the Trustee determines to credit in accordance with the MySuper Rules; and
- (4) any other amounts which this Deed may require to be credited to the Former Pension Member Account or which the Trustee and the Principal Employer agree to credit to the Former Pension Member Account,

and there shall be debited to the Member's Former Pension Member Account:

- (5) any amounts transferred in respect of the Member to an Approved Benefit Arrangement or to another Division in accordance with this Deed and which the Trustee determines to debit to the Former Pension Member Account;
- (6) any benefit payable from the Former Pension Member Account;
- (7) any amounts which the Trustee may determine to debit in respect of tax, Fund Expenses and insurance;
- (8) interest at the Declared Rate (if negative);
- (8A) any other amount which the Trustee determines to debit in accordance with the MySuper Rules; and
- (9) any other amounts which this Deed may require to be debited to the Former Pension Member Account or which the Trustee and the Principal Employer agree to debit to the Former Pension Member Account.

(d) Accumulation Division Special Account – credits and debits

There shall be credited to a Member's Accumulation Division Special Account:

- (1) the Member's Initial Credit, if any (under paragraph (3) of the definition of Initial Credit);
- (2) any Special Contributions;
- (3) in relation to any particular Members notified by the Employer to the Trustee, Employer Contributions under Clause 3.3(1);
- (4) interest at the Declared Rate (if positive);
- (4A) any other amount which the Trustee determines to credit in accordance with the MySuper Rules; and
- (5) any other amounts which this Deed may require to be credited to the Accumulation Division Special Account or which the Trustee and the Principal Employer agree to credit to the Accumulation Division Special Account,

and there shall be debited to the Member's Accumulation Division Special Account:

- (6) any amounts transferred in respect of the Member to an Approved Benefit Arrangement or to another Division in accordance with this Deed and which the Trustee determines to debit to the Accumulation Division Special Account;
- (7) any benefit payable from the Accumulation Division Special Account;
- (8) any amounts which the Trustee may determine to debit in respect of tax (including superannuation contributions tax pursuant to Clause 1.21(h)) and Fund Expenses;
- (9) interest at the Declared Rate (if negative);
- (9A) any other amount which the Trustee determines to debit in accordance with the MySuper Rules; and
- (10) any other amounts which this Deed may require to be debited to the Accumulation Division Special Account or which the Trustee and the Principal Employer agree to debit to the Accumulation Division Special Account.

3.6 Benefits

(a) Death and TPD benefits – Former Pension Division Member and 2007 FPD Member – Prescribed Benefit payable

If:

- (1) an Accumulation Division Member who is a Former Pension Division Member or a 2007 FPD Member either dies while an Employee or ceases to be an Employee because of Total and Permanent Disablement before the Member's Normal Retirement Date; and
- (2) subject to Clause 1.17(d)(4), Employer Contributions were being made under former Clause 3.3(2) in effect prior to 1 July 2013 or Employer Contributions were made under Clause 3.3(1) at the rate equal to 13% or more of the Member's Salary on or after 1 July 2013 (or would have been made but for the application of Clause 3.3(3)) in respect of the Member immediately prior to the date that the Member ceased to be an Employee; and
- (3) the Insurer decides that the portion of the Prescribed Benefit that is insured pursuant to Clause 1.13(a) is payable to or in respect of the Member,

there is payable to or in respect of the Member a lump sum benefit of an amount equal to the sum of:

- (4) the Member's Member Account Balance (if any);
- (5) the Member's Accumulation Division Special Account Balance (if any); and
- (6) the greater of:
 - (A) the Prescribed Benefit minus any amount or amounts previously paid or transferred from the Member's Former Pension Member Account (adjusted for interest at the Declared Rate); and
 - (B) the Member's Former Pension Member Account Balance,

or, in the case of a Former Pension Division Member or a 2007 FPD Member who has elected a particular amount of insurance cover for Total and Permanent Disablement in accordance with any terms and conditions determined by the Trustee from time to time, an amount as determined by the Trustee having regard to that election and the proceeds of insurance payable.

(b) Death and TPD benefits – Other Accumulation Division Members

If an Accumulation Division Member to whom Clause 3.6(a) does not apply either dies while an Employee or ceases to be an Employee because of Total and Permanent Disablement before the Member's Normal Retirement Date,

there is payable to or in respect of the Member a lump sum benefit of an amount equal to the sum of:

- (1) the Member's Member Account Balance;
- (2) the Member's Accumulation Division Special Account Balance (if any);
- (3) the Member's Former Pension Member Account Balance (if any); and
- (4) the Insured Benefit (if any).

(c) Other benefits

If a Member ceases to be an Employee and is not entitled to a benefit under Clause 3.6(a) or Clause 3.6(b), there is payable to or in respect of the Member a lump sum benefit of an amount equal to the sum of:

- (1) the Member's Member Account Balance (if any);
- (2) the Member's Accumulation Division Special Account Balance (if any); and
- (3) the Member's Former Pension Member Account Balance (if any).

(d) Temporary disablement benefit

The Trustee and the Principal Employer may agree to the Trustee effecting a policy of insurance providing temporary disablement benefits in respect of an Accumulation Division Member or any group of Accumulation Division Members. If a temporary disablement benefit is payable in respect of an Accumulation Division Member under that policy -

- (1) an equivalent benefit shall be payable to the Accumulation Division Member from the Fund, subject always to the terms and conditions of that policy; and
- (2) the Trustee may adjust the amount and circumstances of payment of any other benefit under this Deed in the manner and to the extent the Trustee considers appropriate to take account of the temporary disablement benefit.

4 Division 4 - Retained Benefits Division Members and Account Based Pensioners

4.1 Application and definitions

(a) Application

- (1) This Division 4 is always subject to Division 1, and Division 1 prevails over this Division 4 to the extent of any conflict.
- (2) Subject to Clause 4.1(a)(3), this Division 4 only applies to and in respect of a Member who is for the time being categorised as a Retained Benefits Division Member.
- (3) With the exception of Clauses 4.2(1) and 4.5(b), if a Beneficiary (who is not a Member but is entitled to a benefit under Clause 1.22) makes an election under Clause 1.21(a)(3)(B) to receive an Account Based Pension which is approved by the Trustee, this Division 4 will apply to that Beneficiary to the extent necessary to facilitate the payment of the Account Based Pension as though a reference to Member, Retained Benefits Division Member or Account Based Pensioner in this Division 4 is a reference to that Beneficiary.
- (4) A Beneficiary who makes an election under Clause 1.21(a)(3)(B) to receive an Account Based Pension which is approved by the Trustee will not become a Member or a Retained Benefits Division Member as a result of the application of Clause 4.1(a)(3).

(b) Definitions

Account Based Pensioner means a Retained Benefits Division Member who is receiving an Account Based Pension under Clause 4.7.

Initial Credit means in relation to a person who has elected to receive an Account Based Pension under Clause 1.21(a)(3)(B), the amount transferred to this Division from another Division or from an Approved Benefit Arrangement to open a Retained Benefits Division Account for that person (excluding the Retained Benefit).

Retained Benefit means any or all of the amount that becomes payable to a Member under any Division of this Deed but receipt of which amount:

- (1) that Member elects to defer; or
- (2) the Trustee determines to defer,

and to retain in the Fund in accordance with this Division 4.

Retained Benefits Division Account means in relation to a Retained Benefits Division Member the account or accounts maintained in respect of the Member in accordance with Clause 4.4.

Retained Benefits Division Account Balance means as at any particular date the credit balance (if any) in the Member's Retained Benefits Division Account after all the relevant credits and debits have been made to that account.

Reversionary Beneficiary means one or more Dependants that the Account Based Pensioner has nominated, in accordance with Clause 4.9, to receive an Account Based Pension on the death of the Account Based Pensioner.

4.2 Eligibility and cessation

- (1) Subject to Clause 1.16(c)(2)(B), if a Member:
 - (A) has a Retained Benefit; and/or
 - (B) elects to receive an Account Based Pension under Clause 1.21(a)(3)(B),
that Member will become a Retained Benefits Division Member in accordance with terms and conditions determined by the Trustee from time to time.
- (2) If:
 - (A) a person joined the Fund as an Eligible Spouse Division Member and subsequently became a Retained Benefits Division Member (but is not an Eligible Employee); and
 - (B) the Retained Benefits Division Member's Spouse ceases to be a Member of the Fund; or
 - (C) the person who was the Retained Benefits Division Member's Spouse ("Former Spouse") ceases to satisfy the definition of Spouse in relation to the Retained Benefits Division Member,
any Account Based Pension payments which are payable in respect of the Retained Benefits Division Member will cease and be commuted and the Retained Benefits Division Account Balance will be paid to the Retained Benefits Division Member or transferred to an Approved Benefit Arrangement in respect of that Retained Benefits Division Member.

4.3 Contributions

- (1) Subject to Clause 4.3(4), a Retained Benefits Division Member may make contributions to the Fund as the Trustee approves from time to time and on conditions determined by the Trustee.
- (2) If a Retained Benefits Division Member is employed, no contributions by the employer in respect of that Member will be accepted by the Trustee into the Member's Retained Benefits Division Account.
- (3) Subject to Clause 4.3(4), the following amounts may be transferred to this Division in respect of a Retained Benefits Division Member:
 - (A) an amount transferred from an Approved Benefit Arrangement or from another Division in respect of the Member in accordance with this Deed; and
 - (B) an amount that the Member elects to transfer to this Division that is an "employment termination payment" (within the meaning of the Tax Act) payable in respect of the Member from an employer.
- (4) No contributions into or transfers from a Retained Benefits Division Account by or in respect of an Account Based Pensioner will be accepted by the Trustee into that Retained Benefits Division Account once Account Based Pension payments have commenced from that account.

4.4 Retained Benefits Division Account

(a) Establishment

The Trustee must cause to be maintained in respect of each Retained Benefits Division Member in accordance with this Clause 4.4 an account to be called the Retained Benefits Division Account (and more than one Retained Benefits Division Account may be maintained for a Retained Benefits Division Member, and this Division 4 shall be interpreted accordingly).

(b) Credits and debits

There shall be credited to a Retained Benefits Division Member's Retained Benefits Division Account:

- (1) the Member's Retained Benefit (if any);
- (2) the Initial Credit (if any);
- (3) any contributions made in accordance with Clause 4.3(1);
- (4) any amounts transferred in accordance with Clause 4.3(3);
- (5) any Additional Voluntary Insurance;
- (6) interest at the Declared Rate (if positive); and
- (7) any other amounts which this Deed may require to be credited to the Retained Benefits Division Account or which the Trustee may determine to credit to the Retained Benefits Division Account,

and there shall be debited to the Member's Retained Benefits Division Account:

- (8) any amounts which the Trustee may determine to debit in respect of tax (including superannuation contributions tax pursuant to Clause 1.21(h)), Fund Expenses and Additional Voluntary Insurance;
- (9) any amount transferred to an Approved Benefit Arrangement or to another Division in respect of the Member in accordance with this Deed and which the Trustee determines to debit to the Retained Benefits Division Account;
- (10) any benefit or Account Based Pension payments paid to or in respect of the Member from the Retained Benefits Division Account;
- (11) any benefit paid by way of commutation under Clause 4.10;
- (12) interest at the Declared Rate (if negative); and
- (13) any other amounts which this Deed may require to be debited to the Retained Benefits Division Account or which the Trustee may determine to debit to the Retained Benefits Division Account.

4.5 Benefits and concurrent membership

(a) General

There is payable from the Fund to a Retained Benefits Division Member:

- (1) the whole or part of the Member's Retained Benefits Division Account Balance when requested by the Retained Benefits Division Member and permitted to be paid by the Relevant Law; or

- (2) the Member's Retained Benefits Division Account Balance when the Relevant Law prescribes.

(b) Temporary disablement benefit

The Trustee and the Principal Employer may agree to the Trustee effecting a policy of insurance providing temporary disablement benefits in respect of a Retained Benefits Division Member (other than an Account Based Pensioner) or any group of Retained Benefits Division Members (other than Account Based Pensioners). If a temporary disablement benefit is payable in respect of a Retained Benefits Division Member under that policy -

- (1) an equivalent benefit shall be payable to the Retained Benefits Division Member from the Fund, subject always to the terms and conditions of that policy; and
- (2) the Trustee may adjust the amount and circumstances of payment of any other benefit under this Deed in the manner and to the extent the Trustee considers appropriate to take account of the temporary disablement benefit.

(c) Concurrent membership

A Retained Benefits Division Member may also be a member of another Division in addition to this Division 4. In that event, any benefit payable from this Division 4 shall be paid in accordance with this Division and any benefit payable from another Division shall be paid in accordance with that other Division.

4.6 Application - Account Based Pensions

Clause 4.7 applies if a Member or Beneficiary makes an election under Clause 1.21(a)(3)(B) to receive an Account Based Pension that the Trustee has approved.

4.7 Payment of an Account Based Pension

- (1) Subject to Clauses 4.2(2) and 4.8, the whole or part of a Retained Benefits Division Member's Account Based Pension benefit will be paid in accordance with this Clause 4.7.
- (2) Subject to Clause 4.7(3), notwithstanding that the size of Account Based Pension payments in each financial year is not fixed, payments from the Retained Benefits Division Account must be made at least once in each financial year until the whole of the Account Based Pensioner's Retained Benefits Division Account Balance is exhausted.
- (3) The frequency of Account Based Pension payments will be, at the election of the Account Based Pensioner, monthly, quarterly or annually (or such other frequency as determined by the Trustee) subject to the Relevant Law and any terms and conditions determined by the Trustee.
- (4) If the Account Based Pension commences on or after 1 June in a year, no Account Based Pension payments need be made in the initial year unless required by the Relevant Law.
- (5) Subject to Clause 4.10, the amount of an Account Based Pension payment in any payment period may be altered by the Account Based Pensioner if advised to the Trustee (subject to any terms and conditions determined by the Trustee), so long as the payment as altered is not less than the minimum amount (or more than the

maximum amount, if applicable) required under the Relevant Law. If the Account Based Pensioner does not specify the amount to be paid, the payment must be the minimum amount required under the Relevant Law.

- (6) On the death of the Account Based Pensioner where no Reversionary Beneficiary has been nominated under Clause 4.9, the Retained Benefits Division Account Balance will be paid by the Trustee in accordance with Clause 1.22.
- (7) If a Reversionary Beneficiary has been nominated under Clause 4.9, the Account Based Pension must be transferred to the Reversionary Beneficiary on the death of the Account Based Pensioner.
- (8) Neither the capital value of the Account Based Pension, nor any income from it, may be used as security for a borrowing.

4.8 Variations to enable compliance with Relevant Law

The Relevant Law contains specific provisions governing the payment of Account Based Pensions. Accordingly, the Trustee may vary any of the provisions of this Division 4 or impose additional conditions in order to ensure that the Fund does not breach, or fail to comply with, the Relevant Law.

4.9 Reversionary Beneficiary

An Account Based Pensioner may, with the consent of the Trustee, nominate one or more Reversionary Beneficiaries to receive the Account Based Pension payments after the Account Based Pensioner's death, providing that the nomination occurs in accordance with:

- (1) any procedures determined by the Trustee; and
- (2) the Relevant Law.

4.10 Commutation

- (1) At any time (subject to any terms and conditions determined by the Trustee and the Relevant Law), an Account Based Pensioner or Reversionary Beneficiary may elect to commute a part or all of the Account Based Pension that the Account Based Pensioner or Reversionary Beneficiary would otherwise be entitled to receive under Clause 4.7 and to be paid the commuted amount as a lump sum. After commutation, the Account Based Pensioner's or Reversionary Beneficiary's future Account Based Pension payments will be re-calculated in accordance with the Relevant Law.
- (2) All or part of a lump sum paid or payable to an Account Based Pensioner in accordance with Clause 4.10(1) may, subject to Relevant Law, be paid into another Retained Benefits Division Account established for the Member.

5 Division 5 - Eligible Spouse Division Members

5.1 Application and definitions

(a) Application

- (1) This Division 5 is always subject to Division 1, and Division 1 prevails over this Division 5 to the extent of any conflict.
- (2) This Division 5 only applies to and in respect of a Member who is for the time being categorised as an Eligible Spouse Division Member.

(b) Definitions

Eligible Spouse Contributions has the meaning given by the Relevant Law.

Eligible Spouse Division Member's Account means in relation to an Eligible Spouse Division Member the account of that name maintained in respect of the Eligible Spouse Division Member in accordance with Clause 5.5.

Eligible Spouse Division Member's Account Balance means in relation to an Eligible Spouse Division Member as at any particular date the credit balance (if any) in the Eligible Spouse Division Member's Account, after all relevant credits and debits have been made to that account.

5.2 Eligibility

(a) Entry

An Eligible Spouse Division Member is a Spouse in respect of whom the Trustee has accepted an application by that person's Spouse (at a time when the Spouse is a Member) for that person's admission to the Fund as an Eligible Spouse Division Member in a form approved by the Trustee.

(b) Cessation of membership

An Eligible Spouse Division Member will cease to be a Member on the earliest of the following:

- (1) the death of the Eligible Spouse Division Member;
- (2) the payment, cessation or termination under the Deed of all benefits to which that Eligible Spouse Division Member could become entitled; or
- (3) the transfer of the Eligible Spouse Division Member's Account Balance from this Division 5 to an Approved Benefit Arrangement.

5.3 Member's Spouse ceasing to be a Member

If:

- (1) the Eligible Spouse Division Member's Spouse ceases to be a Member of the Fund; or
- (2) the person who was the Eligible Spouse Division Member's Spouse ("Former Spouse") ceases to satisfy the definition of Spouse in relation to the Eligible Spouse Division Member,

the Eligible Spouse Division Member's Account Balance will be paid to the Eligible Spouse Division Member or transferred to an Approved Benefit Arrangement in respect of that Eligible Spouse Division Member.

5.4 Contributions

(a) Contributions by Member's Spouse

An Eligible Spouse Division Member's Spouse may make Eligible Spouse Contributions, or may cause an amount to be allotted under a contributions splitting application, (**Contributions**) in respect of that Eligible Spouse Division Member as the Eligible Spouse Division Member's Spouse determines, subject to:

- (1) the Relevant Law; and
- (2) such other conditions as the Trustee determines.

(b) Contributions by or transfers and allotments for Eligible Spouse Division Member

Subject to the approval of the Trustee and such conditions as the Trustee determines, contributions may be made by, or transfers or allotments may be made by or in respect of, the Eligible Spouse Division Member to this Division 5 in accordance with the Relevant Law.

5.5 Eligible Spouse Division Member's Account

(a) Trustee must maintain Account

The Trustee must establish and maintain within the Fund a separate Eligible Spouse Division Member's Account for each Eligible Spouse Division Member.

(b) Credits and debits to Account

At such times as the Trustee determines:

- (1) there must be credited to each Eligible Spouse Division Member's Account:
 - (A) any contributions made by or in respect of the Eligible Spouse Division Member under Clause 5.4;
 - (B) any Additional Voluntary Insurance;
 - (C) interest at the Declared Rate (if positive);
 - (D) any amount transferred from an Approved Benefit Arrangement in respect of the Eligible Spouse Division Member, which is permitted by Relevant Law and which the Trustee determines to credit to the Account; and
 - (E) any other amounts which the Deed may require to be credited to the Account or which the Trustee may determine to credit to the Account;

and
- (2) there must be debited to each Eligible Spouse Division Member's Account:
 - (A) the amount the Trustee may determine to debit in respect of tax (including superannuation contributions tax pursuant to Clause 1.21(h)), Fund Expenses and Additional Voluntary Insurance;

- (B) any amount transferred to an Approved Benefit Arrangement or to another Division in respect of the Eligible Spouse Division Member in accordance with the Deed and which the Trustee determines to debit to the Account;
- (C) any benefit paid to or in respect of the Member from the Account;
- (D) interest at the Declared Rate (if negative); and
- (E) any other amounts which the Deed may require to be debited to the Account or which the Trustee may determine to debit to the Account.

5.6 Benefits

(a) Death

Subject to the Relevant Law, if an Eligible Spouse Division Member dies, there will be payable in respect of the Eligible Spouse Division Member in accordance with Clause 1.22 a lump sum benefit of an amount equal to the Eligible Spouse Division Member's Account Balance.

(b) Benefit payments in accordance with Relevant Law

The Trustee must make payments from an Eligible Spouse Division Member's Account subject to and in accordance with any Relevant Law.

(c) Other circumstances permitted by Relevant Law

The Trustee may pay to or in respect of an Eligible Spouse Division Member all or any part of the Eligible Spouse Division Member's Account Balance in any other circumstances permitted under the Relevant Law, except that the Trustee shall not be required to consider the exercise of its powers under this Clause 5.6(c) in any particular case and shall not be required to give any person any reason for failing to do so.

Executed as a deed:

Executed by

Goldman Sachs Australia Services Pty Ltd

in accordance with section 127 of the *Corporations Act 2001* (Cth):

x Wendy Doyle
Secretary/Director

WENDY DOYLE
Name (please print)

x [Signature]
Director

Yvonne Ling
Name (please print)

Executed by

BEST Superannuation Pty Ltd

in accordance with section 127 of the *Corporations Act 2001* (Cth):

x Angela Manning
Secretary/Director

ANGELA MANNING
Name (please print)

x Kate Aitken
Director

Kate Aitken
Name (please print)