

# **DEED OF AMENDMENT**

## **AMG Super**

Equity Trustees Superannuation Limited  
ABN 50 055 641 757  
**(Trustee)**

**Greenfields Financial Services Lawyers**  
Level 7  
330 Collins Street  
Melbourne Victoria 3000

THIS DEED is made the 23<sup>rd</sup> day of October 2018

**PARTY**

**Equity Trustees Superannuation Limited ABN 50 055 641 757 (Trustee)**

**RECITALS**

- A. The superannuation fund now known as "AMG Super" (**Fund**) was established by a trust deed dated 12 May 2000 (the original trust deed, as amended from time to time, to be referred to as "**the Trust Deed**").
- B. The Trustee is the current trustee of the Fund.
- C. Clause 16 of the Trust Deed authorises the Trustee to amend the Trust Deed by a further deed provided that it does not, amongst other things, adversely affect a Member's right or claim to accrued benefits or the amount of those benefits unless it is consistent with the relevant law.
- D. The Trustee wishes to amend the Trust Deed in the manner set out in this deed with effect on and from 1 November 2018.
- E. The Trustee is satisfied that the amendments made by this deed are authorised by, and do not contravene the limitations contained in, clause 16 of the Trust Deed.

**OPERATIVE PROVISIONS**

**1. AMENDMENT TO TRUST DEED**

With effect on and from 1 November 2018, the Trust Deed is amended by:

- (a) deleting clause 3.5 and substituting the following:

**"3.5 Terms of Participation**

- (a) A Participating Employer may:
  - (i) specify in an application terms and conditions of membership for that Participating Employer's Employees (for example, contributions payable by the Participating Employer or those Employees, or insured benefits applicable to those Employees);
  - (ii) at any time apply to the Trustee to vary terms and conditions of membership for that Participating Employer's Employees,

and, if the Trustee agrees, Employees of that Participating Employer who are admitted as Members are subject to those terms and conditions.

- (b) The document setting out the terms and conditions of membership is the Participating Employer's "Benefit Specification".
- (c) The same Benefit Specification may apply in respect of Employees of two or more Participating Employers, if those Participating Employers request and the Trustee agrees. A Benefit Specification in respect of two or more Participating Employers may identify one "Principal Employer", that has special rights and obligations, and one or more "Associated Employers".
- (d) Each Participating Employer is bound by this Deed.

(e) The Trustee may regard any instruction given or purported to be given by an officer of a Participating Employer as a valid instruction."

(b) inserting the new Schedule C set out in the Annexure to this deed.

2. **GOVERNING LAW**

This deed is governed by the law in force in Victoria.

3. **NOT A RESETTLEMENT**

The amendments effected by this deed do not constitute the declaration of new trusts or a resettlement.

**EXECUTED** as a deed.


**EXECUTED** by **EQUITY TRUSTEES** )  
**SUPERANNUATION LIMITED** ACN 055 )  
641 757 by its Attorneys under Power of )  
Attorney dated 27<sup>th</sup> May 2016 in the )  
presence of: )

  
..... )  
Signature of witness )

**Lydia De Sarvam** )  
..... )  
(Print name) )

  
..... )  
Signature of Attorney )  
**Vasko Zdraveski** )  
Authorised Signatory (Schedule II) )

..... )  
Office & Name of Attorney )

  
..... )  
Signature of Attorney )  
**James Buckley** )  
Authorised Signatory (Schedule II) )

..... )  
Office & Name of Attorney )

## Annexure

### Schedule C

#### Freedom of Choice Division Rules

##### 1. Application of Schedule C

- (a) The Trustee has established the Freedom of Choice Division.
- (b) The provisions of the Deed shall govern the Freedom of Choice Division subject to the rules contained in this Schedule C.

##### 2. Allocation and Admission of Members to the Freedom of Choice Division

- (a) The Trustee shall allocate the Transferred Members to the Freedom of Choice Division.
- (b) The Trustee may allocate to the Freedom of Choice Division such Members that are admitted to the Fund after the Transfer Date as the Trustee determines to be appropriate.

##### 3. Transferred Members

- (a) By operation of these Rules, it is intended to confer on each Transferred Member as at the Transfer Date rights in respect of the benefits transferred from TESH that are equivalent to the rights he or she had in TESH in respect of the transferred benefits immediately before the Transfer Date. If the operation of these Rules does not achieve that intention (including by omission from the Rules of a provision from the TESH trust deed), the Trustee may (despite any other provision to the contrary) adjust that operation in such manner or take such other action as it considers necessary to achieve that intention.
- (b) If a Transferred Member was in receipt of a pension from TESH immediately prior to the Transfer Date (**pre-Transfer Pension**), subject to SIS the Trustee may pay a pension from the Freedom of Choice Division on the same terms and conditions as applied to the pre-Transfer Pension.

##### 4. Binding Death Benefit Nominations for Transferred Members

- (a) If a Transferred Member for whom there is a TESH Binding Nomination dies prior to the TESH Binding Nomination Expiration Date, the benefit payable in respect of the Member will, subject to paragraph (b), be paid in accordance with the TESH Binding Nomination.
- (b) To the extent that a TESH Binding Nomination directs the Trustee to pay a benefit to a person who is not a dependant or Legal Personal Representative (or the TESH Binding Nomination is otherwise ineffective), the Trustee must not give effect to the TESH Binding Nomination and the relevant benefits shall instead be paid in accordance with clause 7.3.
- (c) If a Transferred Member is in receipt of a pension on the Transfer Date and has in TESH nominated a reversionary beneficiary to whom the pension was to be transferred in the event of the Member's death, the Trustee shall subject to Superannuation Law give effect to the nomination of the reversionary beneficiary as if the nomination was made in this Fund unless the Member has subsequently revoked or replaced the nominated reversionary beneficiary.

## 5. Termination

If the Fund or this Division is terminated, clause 15 shall apply to the termination subject to the following:

- (a) The Trustee may decide (subject to Superannuation Law) to transfer all or part of the value of any reserve held in or for this Division to another Superannuation Entity as an unallocated amount, to be applied for the benefit of the Members or former Members or any group of them or otherwise as the Trustee considers appropriate (for example, to be applied for the benefit of:
  - (i) Members for whom the reserve is maintained; or
  - (ii) Employees of the Participating Employer for whom the reserve is maintained).
- (b) The Trustee may decide (subject to Superannuation Law) to allocate all or part of the value of a reserve maintained for the Member's employed by a Participating Employer among:
  - (i) Employees for whom the reserve is maintained;
  - (ii) the Participating Employers in respect of whom the reserve is maintained, and in such proportions, as requested by the principal Participating Employer of the relevant part of the Fund.

## 6. Definitions

In this Schedule C:

**Binding Nomination** means a nomination that complies with the requirements of s.59(1A) of the *Superannuation Industry (Supervision) Act 1993 (Cth)*.

**TESF Binding Nomination** means a Binding Nomination that was given by a Transferred Member to the TESF Trustee prior to the Transfer Date and:

- (a) was first signed or last confirmed or amended by the Transferred Member not more than 3 years prior to the Transfer Date; and
- (b) which the Transferred Member did not revoke prior to the Transfer Date.

**TESF Binding Nomination Expiration Date** in relation to a TESF Binding Nomination means the earliest of:

- (a) the date that is 3 years after the date on which the TESF Binding Nomination was first signed or last confirmed or amended by the Transferred Member whilst the Transferred Member was a member of TESF;
- (b) the date on which the Member revokes the TESF Binding Nomination or notifies the Trustee that the Trustee is not to recognise or give effect to a TESF Binding Nomination by the Member either:
  - (i) giving the Trustee a new valid Binding Nomination; or
  - (ii) giving the Trustee a written notice.

**TESF** means the superannuation fund known as "The Executive Superannuation Fund" on the Transfer Date (RSE Registration Number R1001419).

**TESF Trustee** means the trustee of TESF on the Transfer Date.

**Transfer Date** means 1 November 2018 or such other date as the Trustee may determine.

**Transferred Member** means a Member who:

- (a) was classified as a "Freedom of Choice" or "SimpleWRAP" member in TESF immediately prior to the Transfer Date; and

- (b) transferred from TESH and admitted as a Member of this Division with effect on and from the Transfer Date.