

PERMANENT TRUSTEE COMPANY LIMITED

**AMG UNIVERSAL SUPER
DEED POLL**

**I certify that this is a true copy
of the original document/s**


SOLICITOR

CORRS CHAMBERS WESTGARTH

Lawyers
Level 35, Waterfront Place
1 Eagle Street
BRISBANE QLD 4000
AUSTRALIA
Tel: (07) 3228 9333
Fax: (07) 3228 9444
DX: 135 Brisbane

Ref: CM
5605793
B/260982

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W. W. W. note
THIS DEED POLL is made on *12 May*

BY **PERMANENT TRUSTEE COMPANY LIMITED** ACN 000 000 993 of 8th Floor, 410 Queen Street, Brisbane, Queensland ("Trustee")

RECITALS

- A** The Trustee wishes to establish an indefinitely continuing superannuation fund to provide retirement benefits for persons who become members and for ancillary purposes.
- B** The Trustee agrees to act as trustee of the Fund on the terms set out in this Deed.

OPERATIVE PROVISIONS

1 DEFINITIONS AND INTERPRETATIONS

1.1 Definitions from SIS

In this Deed unless the contrary intention appears, the following expressions have the meanings given to them in SIS:

- "Approved Trustee";
- "Compassionate Ground";
- "Civil Penalty Order";
- "Constitutional Corporation";
- "Eligible Rollover Fund";
- "Gainfully Employed" and "Gainful Employment";
- "Legal Personal Representative";
- "Preservation Age";
- "Regulated Superannuation Fund";
- "Severe Financial Hardship";
- "Spouse".

1.2 Definitions

In this Deed unless the contrary intention appears, the following expressions have the meanings given to them in this **clause 1.2**.

"Account Balance" means in relation to a Member or former Member, the balance standing to the Member's credit in the Member's Member Account.

"Administrator" means a person appointed to administer the Fund pursuant to **clause 10.3(a)**.

“**amend**” includes delete or replace.

“**Assets of the Fund**” means any form of property including cash held by the Trustee on trust in accordance with the terms of this Deed.

“**Auditor**” means a person or persons eligible to act as an auditor in accordance with Superannuation Law or a firm of such persons appointed by the Trustee under **clause 14.4(a)**.

“**Authorised Investments**” means the investments more particularly described in **clause 11.3** and any of them.

“**Child**” in relation to a person includes:

- (a) a child being the issue of the person;
- (b) an adopted child; and
- (c) a step-child.

“**Commodities**” means any tangible personal property, currency, interest rate, financial index or indices (including any share index) or such other tangible or intangible thing determined by the Trustee for the purposes of this definition.

“**Custodian**” means any person appointed under **clause 10.3(d)** to perform the functions of custodian of part or all of the Fund.

“**Deed**” means this document as amended from time to time, and includes any schedules.

“**Dependant**” of a Member means any person who is or was at the relevant time:

- (a) a Spouse of the Member;
- (b) a Child of the Member; or
- (c) dependent upon the Member for maintenance or support.

“**Derivative**” means any financial instrument or arrangement whose economic performance is dependent on any change in interest rate, currency value or exchange rate or the economic performance of another security or Commodity.

“**Eligible Person**” means a person who is eligible under Superannuation Law to join, and remain a member of, a Regulated Superannuation Fund.

“**Employee**” has the meaning given to that term in section 15A of SIS, and in relation to any Participating Employer means an employee of that Participating Employer.

“**Employer**” has the meaning given to that term in section 15A of SIS, and in relation to a Member, or former Member, at any time, means an employer of that Member at that time.

“**Expenses**” means the expenses listed in **clause 13.1**.

“**Financial Year**” means each successive period of 12 Months commencing on 1 July and ending on 30 June, or any part of such period that may occur at the commencement or

termination of the Fund.

"Fund" means the superannuation trust fund constituted by this Deed.

"Index Linked Securities" means any investment whose economic performance is dependent on changes in any index.

"Insurance Investments" means any investment offered by an insurance company or life office, whether the same involves a deposit, a loan, payment of premiums, acquisition of a right or interest in or arising out of insurance or life policies, or in a statutory fund or any similar investment.

"Investment Manager" means a person appointed as an investment manager pursuant to clause 10.3(c).

"Investment Portfolio" means a portfolio established by the Trustee under clause 11.2(a).

"Manager" means a person appointed as the manager of the Fund pursuant to clause 10.3(b).

"Member" means any Eligible Person who:

- (a) has been admitted as a Member; and
- (b) has not ceased to be a Member.

"Member Account" means an account maintained for a Member under clause 6.5.

"Month" means a calendar month.

"Offer Document" means any document issued by the Trustee offering membership of the Fund.

"Participating Employer" means any person who:

- (a) is admitted as a Participating Employer to the Fund; and
- (b) has not ceased to participate in the Fund.

"person" includes partnerships, associations or corporations as the context may require.

"policy of insurance" means any policy of insurance or assurance of any kind taken out by the Trustee and covering a Member, or a group of Members.

"Preserved Benefit" means:

- (a) the amount of any benefit or any part of a benefit; or
- (b) in relation to a Member who has not become entitled to a benefit, the balance in the Member's Member Account or any part of it,

which comprises the amount of the Member's Preserved Benefit for the purposes of SIS, or as otherwise determined by the Trustee, and which has not become unrestricted non-preserved benefits under SIS.

"Regulations" means the regulations to SIS.

"Repos" means agreements, arrangements or understandings with a person whereby any Investments are transferred to or Investments are acquired from that person on the basis that the transaction will be reversed on a predetermined rate and at an agreed price.

"Reserve Account" means an account kept pursuant to **clause 6.1**.

"Retire" has the meaning assigned to that expression in SIS and **"Retires"**, **"Retired"** and **"Retirement"** have corresponding meanings.

"RITS" means the Reserve Bank Information & Transfer System.

"Service" means service as an Employee of an Employer and includes service as a full-time or part-time salaried director of an Employer and such other categories of service as a Participating Employer and the Trustee may agree to from time to time in respect of a Member.

The following periods shall, at the Trustee's discretion, be included in a Member's Service:

- (a) any period during which the Member is employed by any other person directly or indirectly allied or associated with an Employer;
- (b) any period of employment during which the Member is employed (whether in military employment or otherwise) in connection with or in contemplation of hostilities or compulsory national service;
- (c) any period of absence from duty with an Employer which by operation of any statute is deemed to be employment with that Employer;
- (d) any period of absence from duty with an Employer not exceeding six (6) Months (or such longer period as the Trustee upon the advice of the Employer may determine in any particular case) where such absence is due to illness or injury; and
- (e) the whole or any part of a period of absence from duty with an Employer which that Employer determines with the agreement of the Trustee shall be regarded as service of the Member with the Employer.

"Shortfall Component" has the meaning given to that expression in the Superannuation Guarantee (Administration) Act 1992.

"SIS" means the Superannuation Industry (Supervision) Act 1993 and includes the Regulations to it.

"Superannuation Entity" means any entity which may under Superannuation Law receive a transfer or rollover of a Member's benefit or from which the Trustee may accept a transfer or rollover of benefits. A Superannuation Entity includes an Eligible Rollover Fund.

"Superannuation Guarantee Charge" means a charge or tax imposed on employees for not making certain superannuation contributions or not providing certain superannuation contributions or not providing certain superannuation benefits.

"Superannuation Law" means any requirement of a law or a Superannuation Regulator:

- (a) prescribed for the operation of Regulated Superannuation Funds; or
- (b) which must be complied with in order to:
 - (i) obtain the most favourable taxation treatment available to Regulated Superannuation Funds; or
 - (ii) avoid any penalty, detriment or disadvantage.

and includes any proposed requirement which the Trustee believes will have retrospective effect.

"Superannuation Regulator" means the government body or bodies responsible for the regulation of, or the administration of tax concessions available to, superannuation funds in Australia, including:

- (a) the Australian Prudential Regulation Authority;
- (b) the Australian Securities & Investments Commission; and
- (c) the Australian Taxation Office.

"Tax" means all forms of taxes, duties, governmental imposts and surcharges together with interest, penalties, charges, fees and other amounts payable on or in respect of them.

"Termination Date" means the date set by the Trustee under **clause 15.1**.

"Total and Permanent Disablement" in relation to a Member means:

- (a) in relation to a benefit to be provided under a policy of insurance, the definition of "total and permanent disablement" or a corresponding term in the policy of insurance; or
- (b) otherwise, ill-health of the Member, whether physical or mental, such that the Trustee is reasonably satisfied that the Member is unlikely, because of the ill-health, ever again to engage in gainful employment for which the Member is reasonably qualified by education, training or experience.

"Total Disability" in relation to a Member means in relation to a benefit to be provided under a policy of insurance, the definition of "total disability" or a corresponding term in the policy of insurance.

"Trustee" means the person or persons for the time being acting as trustee of the Fund.

1.3 Statutes

- (a) References in this Deed to any statutory enactment include, and shall be construed as, references to the enactment as amended, modified, consolidated, replaced or re-enacted from time to time.
- (b) References in this Deed to a section, regulation or other specific provision of a statute, ordinance, code, law or statutory instrument includes the equivalent

section, regulation or provision in any consolidation, amendment, re-enactment or replacement of that statute, ordinance, code or statutory instrument.

1.4 Plurals and Genders

Words importing the singular number include the plural and vice versa and words importing any gender include all genders.

1.5 Clauses, Schedules and Rules

Any reference in this Deed to a Clause, Schedule or Rule is a reference to the corresponding Clause, Schedule or Rule of this Deed.

1.6 Headings and Sub-Headings

The use of headings in this Deed is for convenience only, and headings do not form part of, and are not to be used in the interpretation of, any provision of this Deed.

1.7 Bodies and Associations

References to authorities, institutes, associations and bodies whether statutory or otherwise, in the event of any such authority, institute, association or body ceasing to exist or being reconstituted, renamed or replaced or its powers or functions being transferred to any other authority, institute, association or body, is deemed to refer respectively to the authority, institute, association or body established or constituted to replace it or succeeding to its powers or functions or any of them.

2 CONSTITUTION OF TRUST

2.1 Commencement Date

The terms of this Deed commence on its execution.

2.2 Constitution on acceptance of contribution

The Fund is constituted as a trust fund to be held by the Trustee under and in accordance with the terms of this Deed on the payment to and acceptance by the Trustee of a contribution made for the purposes of the Fund.

2.3 Declaration of Trust

The Trustee declares that it will hold on the trusts set out in this Deed:

- (a) any contributions paid to and accepted by it for the purposes of the Fund; and
- (b) any property acquired by it on the investment of contributions made to the Fund.

2.4 Name of Fund

The superannuation trust fund constituted under this Deed is known as "AMG Universal Super".

2.5 Fund

The trust fund of the Fund includes:

- (a) the initial investment settled on commencement of the Fund;
- (b) such contributions as may be made from time to time by Participating Employers, Members and other persons;
- (c) all assets, property, benefits or policies in which the Fund is from time to time invested; and
- (d) all earnings from time to time arising from contributions or investments.

2.6 Purpose

The Fund must be maintained solely for one or more of the core or ancillary purposes identified in SIS as the purposes for which a Regulated Superannuation Fund must be solely maintained.

2.7 Compliance

- (a) The Trustee may comply with a requirement of Superannuation Law notwithstanding that:
 - (i) compliance with the Superannuation Law conflicts with an express provision of this Deed;
 - (ii) the Superannuation Law is not required under SIS or otherwise to be included in this Deed.
- (b) The Trustee does not commit any breach of trust by virtue of any act or thing done to comply with any Superannuation Law.
- (c) Notwithstanding any other provision in this Deed:
 - (i) the Trustee in the exercise of its powers under this Deed is not subject to the direction of any other person except where the Superannuation Law permits the direction to be given to the Trustee by that person; and
 - (ii) where any provision of the Deed would permit any person to give a direction to the Trustee other than as permitted by the Superannuation Law the Trustee must disregard any direction given by that person, and the Trustee may alone exercise the power, authority or discretion which is by the terms of this Deed subject to the direction of that other person.
- (d) Notwithstanding any other provision in this Deed, where any discretion under this Deed may be exercised by a person other than the Trustee:
 - (i) the person on whom the discretion is conferred may not exercise that discretion in any case unless the Trustee consents to the exercise of the discretion in the manner in which the person proposes to exercise the discretion;
 - (ii) the provision conferring the discretion is deemed to require the consent of the Trustee to the exercise of the discretion; and
 - (iii) the person on whom the discretion is conferred may exercise the

discretion with the Trustee's consent.

3 PARTICIPATING EMPLOYERS

3.1 Admission of Participating Employer

- (a) An Employer may apply to the Trustee to be admitted as a Participating Employer for the purpose of making contributions for any of its Employees who become Members.
- (b) A Member may apply to the Trustee for the Member's Employer to be admitted as a Participating Employer for the purpose of making contributions for the Member.

3.2 Trustee may reject application for Participation

The Trustee may:

- (a) accept or reject an application to become a Participating Employer without giving any reason;
- (b) impose any conditions when accepting an application; and
- (c) at any time, remove or vary any condition so imposed.

3.3 Date of Admission

An applicant becomes a Participating Employer on the date determined by the Trustee.

3.4 Information to be given to Employers or prospective Employers

The Trustee must give a new or prospective Participating Employer such information as is prescribed by the Superannuation Law.

3.5 Terms of Participation

- (a) Each Participating Employer is bound by this Deed.
- (b) The Trustee may regard any instruction given or purported to be given by an officer of a Participating Employer as a valid instruction.
- (c) A Participating Employer may instruct the Trustee that contributions made by the Employer for any of its Employees are subject to a vesting scale.

3.6 Termination of Participation

- (a) A Participating Employer ceases to participate in the Fund if a written notice to that effect is given by:
 - (i) the Employer to the Trustee;
 - (ii) the Member to the Trustee; or
 - (iii) the Trustee to the Employer.
- (b) The Employer ceases to participate in the Fund with effect on the date determined

by the Trustee.

- (c) A Member may remain a Member despite their Employer ceasing to participate in the Fund.

3.7 Substituted Employer

- (a) Where:
- (i) the whole or substantially the whole of the assets of a Participating Employer's business are acquired by another person; or
 - (ii) another person commences to employ all or any Members formerly employed by a Participating Employer,

the Trustee may elect to accept the performance by that other person of the obligations of the Participating Employer under this Deed in place of the performance of those obligations by the Participating Employer.

- (b) Acceptance by the Trustee of performance of a Participating Employer's obligations by another person discharges the Participating Employer from any further obligations under this Deed.

3.8 Consequences of termination

On termination of a Participating Employer's participation taking effect:

- (a) no persons shall be admitted as Members as Employees of the former Participating Employer;
- (b) the former Participating Employer must not make further contributions to the Fund except contributions due prior to the date of termination.

3.9 Rights of Employer maintained

Neither membership of the Fund nor anything contained in this Deed in any way prejudices or affects the right of a Participating Employer to dismiss any Employee or to vary the terms of an Employee's employment, and neither membership of the Fund nor the rights or benefits of a Member under this Deed may be used as grounds for granting or increasing damages in any action brought by any Employee against the Participating Employer whether in respect of any alleged wrongful dismissal or otherwise.

3.10 Payment to Participating Employer

The Trustee must not pay any part of the Fund to a Participating Employer if to do so would breach the Superannuation Law.

4 MEMBERS

4.1 Application after nomination by Participating Employer

An Employee who is an Eligible Person and who has been nominated for membership of the Fund by a Participating Employer, may apply to become a Member in a form approved by the Trustee.

4.2 Application by other Eligible Persons

An Eligible Person (other than an Employee of a Participating Employer) may otherwise apply to become a Member in a form approved by the Trustee.

4.3 Admission without formal application

Where the Trustee considers that special or extenuating circumstances exist the Trustee may, subject to the Superannuation Law and such specific terms, conditions and restrictions as the Trustee considers appropriate, deem a person who is or was an Employee of a Participating Employer and eligible to become a Member, or is or was otherwise eligible to become a Member, but who has not actually made such an application, to have been admitted as a Member with effect on a date determined by the Trustee, not being earlier than the date on which the person first became eligible to apply for membership.

4.4 Applicant to provide information

An Eligible Person who wishes to become a Member must:

- (a) have any medical examination; and
- (b) provide any information or take any other steps,

which the Trustee requests in relation to the application.

4.5 Membership despite position held

A director, officer or employee of a Participating Employer or Trustee is eligible to be a Member regardless of their position.

4.6 Admission to membership

- (a) The Trustee may:
 - (i) accept or reject an application to become a Member without giving any reason;
 - (ii) impose any conditions when accepting an application; and
 - (iii) at any time remove or vary any condition so imposed.
- (b) The Trustee must reject an application unless the applicant is an Eligible Person.

4.7 Date of admission

An applicant becomes a Member on the date determined by the Trustee, or if the Trustee makes no determination, the date of acceptance of the application.

4.8 Information to be given to Members

The Trustee must:

- (a) provide to prospective Members, prior to accepting an application for membership, such information as is prescribed by Superannuation Law;

- (b) provide such information to a new Member as is prescribed by Superannuation Law.

4.9 Subsequent failure to provide information

If a Member fails after admission to provide information or evidence as and when required by the Trustee and to its satisfaction, the Trustee may refuse to accept any further contributions by or for that Member.

4.10 Members bound

Each Member is bound by this Deed.

4.11 Interest in the Fund

A Member has a beneficial interest in the Fund, but is not entitled to:

- (a) interfere with the exercise of the Trustee's powers or discretions;
- (b) exercise any rights in relation to any of the Assets of the Fund; or
- (c) require the transfer to the Member of any of the Assets of the Fund;

except as expressly provided in this document.

4.12 Termination of Membership

A person ceases to be a Member on the first to occur of:

- (a) the Member's benefit being paid in full;
- (b) transfer of the full amount of the Member's Member Account to another Superannuation Entity; and
- (c) the Member's entitlement to benefits being terminated.

4.13 Cooling Off Period

This Deed is taken to include the provisions described in Sections 171(2) to 171(5) of SIS and the Trustee must comply with those provisions.

5 CONTRIBUTIONS

5.1 Member contributions

A Member may contribute any amount which the Trustee accepts.

5.2 Contributions by other persons

- (a) A Participating Employer may:
 - (i) contribute to the Fund for a Member any amount which the Trustee accepts; or
 - (ii) suspend or reduce its contributions for a Member by giving notice in

writing to the Trustee.

- (b) If Superannuation Law permits, the Trustee may accept contributions for a Member from any other person.

5.3 **Shortfall Component**

The Trustee may accept as a contribution in respect of a Member a Shortfall Component.

5.4 **Payment of contributions**

- (a) A contribution may be paid in cash or by transfer of assets which are Authorised Investments to the Fund.
- (b) The Trustee may debit any expenses in connection with the transfer from the Member's Contribution Account or make other arrangements with the Member for payment of those expenses.
- (c) A contribution may be made directly to a delegate of the Trustee.

5.5 **Discretion to refuse contributions**

The Trustee may refuse to accept all or any part of a contribution from any person without giving any reason.

5.6 **Cessation of contributions**

Contributions must cease to be made for a Member when the Member:

- (a) ceases to be a Member; or
- (b) attains an age at which Superannuation Law prohibits the acceptance of those contributions.

6 **ACCOUNTING FOR MEMBERS**

6.1 **Establishment of Reserve Account**

The Trustee must maintain a Reserve Account for the Fund.

6.2 **Crediting of Reserve Account**

The Trustee must credit to the Reserve Account:

- (a) such proportion of contributions made under **clauses 5.1 and 5.2** as the Trustee may from time to time determine to be necessary for payment of the Expenses of the Fund;
- (b) all income earned on the Fund's investments;
- (c) any gains on the realisation of any of the Fund's investments, and any other accretions to or arising out of the Fund's investments;
- (d) any other amounts which are payable to the Reserve Account under this Deed or in accordance with Superannuation Law; and

- (e) any moneys not required for the payment of benefits in accordance with the Deed.

6.3 Debiting of Reserve Account

The Trustee must debit to the Reserve Account:

- (a) any losses on realisation of any of the Fund's investments;
- (b) any amounts applied by the Trustee in accordance with **clause 6.4**.

6.4 Application of Reserve Account Credit

The Trustee may apply the Reserve Account for any of the following purposes:

- (a) in payment of Expenses;
- (b) by allocation of interest to Members' Member Accounts;
- (c) to augment retirement benefits for Members in proportion to their respective interests in the Fund;
- (d) to provide additional individual benefits other than retirement benefits for all Members on an equitable basis;
- (e) to avoid large fluctuations in the investment returns in accordance with any reserving policy determined by the Trustee from time to time; and
- (f) for any other purpose permitted by Superannuation Law.

6.5 Establishment of Member Account

The Trustee must maintain for each Member an account referred to as the Member Account.

6.6 Crediting and Debiting of Member Account

- (a) The Trustee must credit to each Member Account maintained in respect of a Member:
 - (i) any contributions made by or for the benefit of the Member not otherwise dealt with under **clause 6.2(a)**;
 - (ii) Shortfall Components received for the Member;-
 - (iii) the proceeds of any policy of insurance received in respect of the Member;
 - (iv) allocations of net earnings of the Fund (if positive) pursuant to **clause 6.7**;
 - (v) any amount applied by the Trustee for the benefit of the Member pursuant to **clause 6.4**;
 - (vi) any amounts transferred to the Fund for the credit of the Member;

- (vii) any other amount held or applied for the Member's benefit pursuant to this Deed.
- (b) The Trustee must debit to each Member Account:
- (i) the amount of any benefit paid in respect of the Member;
 - (ii) the amount paid to another Superannuation Entity in respect of the Member;
 - (iii) any insurance premiums payable in respect of the Member which the Trustee decides to debit to the account;
 - (iv) any Expenses which the Trustee decides to debit to the account;
 - (v) the Member's share of any Expenses which the Trustee decides to debit to the account;
 - (vi) any Expense the Trustee determines is properly attributable to the Member's Member Account; and
 - (vii) allocations of net earnings of the Fund (if negative) pursuant to **clause 6.7**.

6.7 Allocation of income and profits

- (a) The Trustee may from time to time allocate to each Member's Member Account a proportion of the net earnings of the Fund determined by the Trustee.
- (b) In determining the net earnings of the Fund for a period, the Trustee may take into account such of the following matters in relation to the period as the Trustee considers relevant:
 - (i) earnings on the Fund's investments;
 - (ii) expenses, and any provision for Expenses, of the Fund;
 - (iii) capital gains and losses on realisation of any of the Fund's investments;
 - (iv) unrealised gains and losses arising on revaluation of any of the Fund's investments;
 - (v) allowance for capital appreciation and depreciation on any of the Fund's investments;
 - (vi) the credit in the Reserve Account;
 - (vii) any other factors which the Trustee considers relevant and Superannuation Law permits.

6.8 Portfolio earning rates

Where the Trustee has established 2 or more Investment Portfolios, the net earnings allocated to Members' Member Accounts for any period must be determined on the basis

of the Investment Portfolio or Investment Portfolios applicable to each Member.

6.9 Negative earnings

Where for any period the Trustee determines that the net earnings of the Fund, or of any Investment Portfolio, are negative, the Trustee may allocate the loss, or any part of the loss, to Members' Member Accounts in proportions determined by the Trustee.

6.10 Revaluation of assets

The Trustee may at any time revalue any of the Fund's investments.

6.11 Segregation of assets

The Trustee may treat any part of the Fund as a separate trust fund for any purpose.

6.12 Other Accounts

The Trustee may maintain any other accounts as the Trustee considers appropriate.

7 BENEFITS

7.1 Benefits payable to Members

A benefit becomes payable in respect of a Member when the Member:

- (a) Retires on or after attaining the Preservation Age;
- (b) attains age 65 and asks the Trustee to pay the benefit;
- (c) attains an age at which the Superannuation Law requires the benefit to be paid to the Member;
- (d) dies;
- (e) ceases to be Gainfully Employed because of Total and Permanent Disablement;
- (f) suffers Total Disability, where the terms of the Member's membership of the Fund entitle the Member to a benefit on Total Disability;
- (g) otherwise ceases Service with a Participating Employer and asks the Trustee to pay the benefit, where the Member was admitted under **clause 4.1**,

or where Superannuation Law otherwise permits payment of the benefit and the Trustee agrees to pay the benefit.

7.2 Amount of benefit payable

- (a) Where a benefit is payable in respect of a Member other than on Total Disability, the amount of the benefit is the balance in the Member's Member Account or if a vesting scale applies, the amount determined in accordance with the vesting scale subject to any minimum benefit payable under Superannuation Law.
- (b) Where a benefit is payable in respect of a Member pursuant to Total Disability, the amount of and terms on which the benefit is paid will be in accordance with

the policy of insurance pursuant to which the benefit is paid.

7.3 **Death Benefit**

- (a) If a Member dies before becoming entitled to a benefit, the Trustee must pay a benefit equal to the amount in the Member's Member Account to:
 - (i) one or more of the Dependants of the Member; or
 - (ii) the Legal Personal Representative of the Member, or both, in proportions determined by the Trustee.
- (b) A Member may nominate to whom and in what proportions the benefit payable on their death is to be paid. The Member may change their nomination at any time in a form approved by the Trustee. The Member's nomination is not binding on the Trustee.
- (b) If, after making reasonable enquiries, the Trustee has not found either a Dependant or Legal Personal Representative of a deceased Member, the Trustee may:
 - (i) pay the benefit to any individual who in the Trustee's opinion has a fair claim to the benefit, where the benefit can be paid to that person in accordance with Superannuation Law; or
 - (ii) retain the amount of the benefit in the Fund, if Superannuation Law permits.
- (c) If a person dies while in receipt of a pension from the Fund, payment of a benefit (if any) on that person's death is governed by **clause 7.12**.
- (d) If a Member dies after a benefit has become payable to the Member but before the benefit is paid, the amount of the benefit is an asset of the Member's estate.

7.4 **Required Payment Date**

The Trustee must pay or commence to pay a benefit if Superannuation Law requires.

7.5 **Other grounds for payment of benefits**

The Trustee may pay an amount from the Fund to or for the benefit of the Member or the Member's Dependants where:

- (a) the Member has requested payment of the amount;
- (b) the Trustee is satisfied that:
 - (i) the Member is in Severe Financial Hardship; or
 - (ii) the amount is required on a Compassionate Ground; or
 - (iii) payment of the amount is otherwise justified; and
- (c) Superannuation Law permits.

7.6 Incapacity

Where a person to whom a benefit is payable is under a legal disability or is in the Trustee's opinion incapable of managing their own affairs for any reason, the Trustee may as Superannuation Law permits:

- (a) pay the benefit to another person on trust for the person entitled to the benefit, or otherwise to be used for the advantage of the person entitled to the benefit; and
- (b) accept the other person's receipt as a valid discharge to the Trustee of its obligations in respect of the payment of the benefit.

7.7 Deferral of benefit payments

- (a) If a Member requests, the Trustee may defer payment of all or part of the Member's benefit.
- (b) Where payment of a Member's benefit is deferred, the Trustee may (if Superannuation Law permits) continue to accept contributions for the Member.
- (c) If a Member requests, the Trustee must (if Superannuation Law permits) pay all or any part of the Member's deferred benefit.

7.8 Payment of rolled over amounts

The Trustee may pay to a Member any amount which was paid to the Fund for the Member from another Superannuation Entity if:

- (a) the Member requests payment; and
- (b) Superannuation Law permits.

7.9 Benefit payment standards

- (a) Despite any other provision of this Deed, the Trustee must not pay a benefit in respect of a Member unless, and to the extent that, Superannuation Law permits.
- (b) Any benefit which cannot be paid from the Fund as a result of **clause 7.9(a)**:
 - (i) may be paid to another Superannuation Entity in accordance with **clause 8.2**;
 - (ii) may be used to purchase a non-commutable life pension or life annuity in accordance with Superannuation Law; or
 - (iii) must be retained in the Fund.

7.10 Form of benefit payments

A benefit is payable as a lump sum. However, if a person who is entitled to the benefit requests, the Trustee may pay all or any part of the benefit as a pension.

7.11 Payment of lump sum benefits

Where a benefit is payable as a lump sum, the Trustee:

- (a) must pay the benefit as soon as practicable after it becomes payable unless **clause 7.7** applies; and
- (b) may pay the benefit in more than one instalment.

7.12 Payment of pension benefits

- (a) Where a benefit is payable as a pension, the Trustee may:
 - (i) pay the pension from the Fund in accordance with this **clause 7.12**; or
 - (ii) use the benefit to purchase a pension or an annuity;
 - (iii) rollover the benefit to a Superannuation Entity nominated by the Member.
- (b) The Trustee and the person entitled to the pension may agree on the terms on which the pension is payable, but the terms must comply with any standards prescribed under Superannuation Law for the payment of pensions and as a minimum:
 - (i) the pension cannot be transferred to any person, other than a person entitled on the death of the Member or another person entitled to a reversionary pension in accordance with the terms of payment of the pension; and
 - (ii) the capital value of the pension, and the income accruing to that capital value, cannot be used as a security for a borrowing.
- (c) If the pension is to be paid from the Fund then:
 - (i) at least one payment must be made in each year; and
 - (ii) the total amount of the pension paid in each year must not be more than the maximum limit nor less than the minimum limit calculated as specified in Regulation 1.06(4) and (5).
- (d) If a person to whom a pension is payable requests, the Trustee may:
 - (i) commute to a lump sum all or any part of the capital value of the pension; and
 - (ii) adjust the amount of the pension payments following.
- (e) If a Member dies while in receipt of a pension, the Trustee may:
 - (i) pay the balance in the Member's Member Account as a lump sum in accordance with **clause 7.3**; or
 - (ii) pay a reversionary pension to any one or more Dependants of the deceased Member in accordance with **clause 7.12**.

7.13 Payment by transfer of assets

- (a) If a person who is entitled to a benefit requests, the Trustee may satisfy all or any part of the person's benefit by transferring any Assets of the Fund to that person.
- (b) Any Assets of the Fund transferred must be equivalent in value to the amount of the benefit entitlement to be satisfied by the transfer.
- (c) The Trustee must calculate the value of any Assets of the Fund transferred at market value, and any Taxes and expenses incurred as a result of the transfer must be paid by that person or deducted from the benefit.

7.14 Payment from the Fund

The Trustee may satisfy an entitlement to a benefit by paying the benefit to another Superannuation Entity in accordance with **clause 8.2**.

7.15 Benefit Information

- (a) A person who is, or may become, entitled to a benefit must:
 - (i) have any medical examination; and
 - (ii) provide any information or take any other steps,
 which the Trustee requests in relation to their benefit entitlement.
- (b) If the person does not comply with the request, the Trustee may withhold the payment of their benefit.

7.16 Deduction of Tax from Benefits

The Trustee may deduct from any benefit any amount on account of Tax paid or payable in relation to the benefit of the Member as the Trustee determines, and the recipient is entitled to receive only the net benefit after deduction of any such Tax.

7.17 Release to Trustee

- (a) The payment or reduction of any benefit in accordance with this **clause 7** is a complete discharge to the Trustee of its obligations in respect of the benefit as against any person claiming an interest in the benefit.
- (b) The payment by the Trustee of an amount in good faith to a person believed by the Trustee to be entitled to receive it, is a complete discharge to the Trustee of its obligations in respect of the payment of that amount.

8 PAYMENTS TO THE FUND**8.1 Payment to Fund**

- (a) The Trustee may arrange with any:
 - (i) Member;
 - (ii) Participating Employer;

- (iii) employer or former employer of a Member; or
- (iv) Superannuation Entity,

for a Superannuation Entity to pay to the Fund an amount to be allocated to the credit of any Member.

- (b) The arrangement may include that the Trustee will provide benefits for a Member which differ from the benefits set out in this Deed.
- (c) The payment to the Fund may be made without the consent of the Member if Superannuation Law permits.
- (d) The payment may be made in cash or by the transfer of assets to the Fund as the Trustee determines.

8.2 Payment to another fund

- (a) If a Member is, or is eligible to become, a member of another Superannuation Entity, the Trustee may pay to the Superannuation Entity all or any part of the Member's Member Account.
- (b) The payment may be made without the consent of the Member if Superannuation Law permits.
- (c) The payment may be made in cash or by the transfer of any assets of the Fund as the Trustee determines.
- (d) The Trustee may determine that any Taxes or expenses associated with the payment to the Superannuation Entity must be paid by the Member or deducted from the payment.
- (e) The receipt of the payment by the Superannuation Entity satisfies the Member's entitlement to benefits in respect of the amount paid. The Trustee is not responsible for the manner in which the payment is dealt with by the Superannuation Entity.

9 TRUSTEE

9.1 Constitutional Corporation

The Trustee must be a Constitutional Corporation and an Approved Trustee in respect of the Fund.

9.2 Covenants by trustee

The Trustee covenants:

- (a) to act honestly in all matters concerning the Fund;
- (b) to exercise in relation to all matters affecting the Fund the same degree of care, skill and diligence as an ordinary prudent person would exercise in dealing with property of another for whom the person felt morally bound to provide:

- (c) to ensure that the Trustee's duties and powers are performed and exercised in the best interests of members;
- (d) to keep the assets of the Fund separate from any money and assets that are held by the Trustee personally or that are money or assets of a Participating Employee;
- (e) not to enter into any contract or do anything else that would prevent the Trustee from or hinder the Trustee in properly performing or exercising the Trustee's functions and powers.

9.3 Discretions Absolute

The Trustee:

- (a) has an absolute and uncontrolled discretion in the exercise of its powers, authorities and discretions;
- (b) may exercise or refrain from exercising all or any of those powers, authorities and discretions at any time; and
- (c) is not bound to give to any person any reason for or explanation of its exercise, non-exercise or partial exercise of any such power.

9.4 Change of Trustee

A Trustee ceases to be the Trustee if:

- (a) the Trustee ceases to be eligible to act as trustee of the Fund under Superannuation Law;
- (b) the Members vote to remove the Trustee and Superannuation Law permits that removal;
- (c) the Superannuation Regulator removes or suspends the Trustee in accordance with the Superannuation Law; or
- (d) the Trustee retires after appointing its replacement.

9.5 Appointment of new Trustee

- (a) The appointment or retirement of a Trustee must comply with the Superannuation Law.
- (b) If the Members have voted to remove the Trustee as permitted by Superannuation Law then the new trustee will be the entity voted by the Members to replace the Trustee.
- (c) If the Superannuation Regulator removes or suspends the Trustee in accordance with the Superannuation Law then the Superannuation Regulator will appoint an acting trustee.
- (d) If the Trustee resigns from its office as trustee then the Trustee will appoint, by deed, a replacement trustee that has been nominated by Acclaim Management Group Limited ACN 091 082 058 ("AMG"). AMG's nominee must be a

Constitutional Corporation and if required by Superannuation Law an Approved Trustee.

9.6 Vesting of Fund in New Trustee

A retiring Trustee must do all acts and execute all documents necessary to transfer the assets of the Fund to the new trustee. The retiring Trustee must deliver to the new trustee all books, documents, records and other property whatsoever relating to the Fund. The costs and expenses incidental to this are an Expense of the Fund.

9.7 Defects in Appointment

Any act of a new Trustee is valid despite any defect in the Trustee's appointment.

9.8 Covenants by new trustee

- (a) A new trustee must execute upon appointment a deed which provides that the new trustee undertakes to be bound by all the covenants and obligations on the part of the Trustee from the date of appointment.
- (b) From the date of appointment of a new trustee:
 - (i) the retiring trustee is absolved and released from all covenants and obligations under this Deed except for liability for any breach prior to the new appointment;
 - (ii) the new trustee is entitled to exercise all the powers and rights and is subject to all the covenants and obligations, of the Trustee in all respects as if the new trustee had been originally named as a party to this Deed.

9.9 Indemnity to Trustee

- (a) Except as provided in **clause 9.9(b)**:
 - (i) the Trustee is not liable for any liability arising from its acts or omissions;
 - (ii) the liability of the Trustee is limited to the property for the time being comprised in the Assets of the Fund; and
 - (iii) the Trustee is entitled to be indemnified from the Assets of the Fund in respect of any liability incurred while acting as trustee.
- (b) **Clause 9.9(a)** does not apply to any liability for:
 - (i) a breach of trust where the Trustee:
 - (A) failed to act honestly in a matter concerning the Fund; or
 - (B) intentionally or recklessly failed to exercise the degree of care and diligence that the Trustee was required to exercise in relation to a matter affecting the Fund; or
 - (ii) a monetary penalty under a Civil Penalty Order.

- (c) **Clauses 9.9(a) and (b)** extend to each of the following persons, if Superannuation Law permits, as if a reference to the Trustee was a reference to that person:
- (i) a director, officer or employee of the Trustee acting in that capacity;
 - (ii) a director, officer or employee of a Participating Employer who is engaged in the administration or management of the Fund.

9.10 Trustee not liable for actions Trustee is obliged to perform

The Trustee is not liable to any person for:

- (a) doing or performing any act or thing which the Trustee is required to do or perform; or
- (b) failing to do or perform any act or thing which the Trustee is hindered, prevented or forbidden from doing or performing,

by any statutory provision or a decree, order or judgment of any court of competent jurisdiction.

9.11 Director may be a Member

- (a) A director, officer or Employee of the Trustee is not, subject to the Superannuation Law, by virtue of that person's office, or of powers being delegated by the Trustee to that person, disqualified from being a Member or from exercising any rights or deriving any benefits as a Member.
- (b) A director or other executive officeholder of a Participating Employer is not by virtue of that person's office, or of any powers being delegated by the Participating Employer to that person, disqualified from being a Member or from exercising any rights or deriving any benefits as a Member.

10 MANAGEMENT AND ADMINISTRATION

10.1 Powers of Trustee

The Trustee may do anything which it considers necessary to administer the Fund and to comply with Superannuation Law including:

- (a) purchasing plant, equipment and fittings;
- (b) leasing and accepting surrenders of leases (or agreeing so to do) with power to compromise with lessees and others;
- (c) conducting and settling legal proceedings;
- (d) settling, compromising or submitting to arbitration any claims relating to the Fund or the Trustee;
- (e) developing, improving, subdividing, repairing, managing and otherwise dealing with any investment;
- (f) borrowing and giving security for that borrowing over any of those assets of the

Fund in accordance with Superannuation Law;

- (g) insuring any risks;
- (h) electing to be bound by legislation; and
- (i) doing such other things as may appear to the Trustee to be incidental to any or all of the above powers.

10.2 Delegation of Trustee powers

- (a) The Trustee may delegate any functions, authorities, discretions or powers exercisable by the Trustee (including a power which the Trustee has a duty to exercise) to any person upon such terms and conditions as it determines.
- (b) The Trustee is not liable or responsible for any act or omission, error of judgment, negligence or breach of trust of a delegate.
- (c) The Trustee may:
 - (i) revoke any delegations;
 - (ii) exercise any delegated function, authority, discretion or power itself concurrently with or to the permanent or temporary exclusion of a delegate.

10.3 Appointment of service providers

- (a) The Trustee may:
 - (i) appoint in writing on such terms as it determines a person ("**Administrator**") to administer the Fund;
 - (ii) delegate to an Administrator such matters as it determines from time to time related to the administration of the Fund.
- (b) The Trustee may:
 - (i) appoint in writing on such terms as it determines a person ("**Manager**") to manage the Fund;
 - (ii) delegate to a Manager such matters as it determines from time to time related to the management of the Fund.
- (c) The Trustee may:
 - (i) appoint on such terms as it determines one or more bodies corporate ("**Investment Managers**") to manage the investments of the Fund or any part of the Fund;
 - (ii) only appoint an Investment Manager if the following conditions are satisfied:
 - (A) the appointment is in writing;

- (B) the Investment Manager is eligible under the Superannuation Law to be appointed to act;
 - (C) the terms of the appointment comply with any applicable Superannuation Law.
- (d) The Trustee may:
- (i) appoint in writing on such terms as it determines any person eligible for appointment in accordance with Superannuation Law as a custodian (“Custodian”), to receive, hold and retain registration of any of the assets of the Fund (whether or not those assets are located in Australia).
 - (ii) by the terms of appointment of a Custodian, allow the Custodian to appoint and remove agents or sub-Custodians to carry out the Custodian’s duties or any of those duties.
- (e) The Trustee may engage accountants, actuaries, asset consultants, bankers, barristers, solicitors, brokers, consultants, valuers, claims assessors, medical practitioners and such other professional advisers from time to time, to give such advice, as the Trustee determines.
- (f) Subject to **clause 9.9**:
- (i) the Trustee is not liable for the neglect, default or misconduct of any person appointed or engaged by it, nor for allowing trust funds or securities to remain in the custody or control of any person so appointed or engaged for any time; and
 - (ii) the Trustee is not bound to take proceedings against any such person.

10.4 Reliance on advice

The Trustee may act on the advice or opinion of any accountant, actuary, asset consultant, banker, barrister, solicitor, broker, consultant, valuer, claims assessor, medical practitioner or other professional person and, subject to **clause 9.9**, the Trustee is not responsible for any loss occasioned by acting on this advice.

10.5 Remuneration of Delegates and Advisers

The Trustee may pay from the Fund, as an Expense, such remuneration as it determines to any delegate appointed by it or adviser engaged by it.

10.6 Remuneration of Trustee

The Trustee is entitled to pay itself from the Fund from time to time a reasonable remuneration for its services as trustee.

10.7 Exercise of Discretion

Any exercise by the Trustee of any power, discretion or authority of the Trustee may be made by a resolution of the corporation or by a resolution of its board of directors or other governing body.

10.8 Disputes

The Trustee must establish such procedures to deal with enquiries and complaints in relation to the Fund by Members and other persons as it determines necessary to comply with Superannuation Law.

10.9 Policy Committees

The Trustee must take all reasonable steps to ensure that policy committees are established as required under the Superannuation Law and that:

- (a) the composition of each policy committee and the manner in which its members are appointed retired and removed complies with Superannuation Law;
- (b) the functions of each policy committee comply with Superannuation Law;
- (c) so far as practicable, each policy committee meets at least once in any financial year;
- (d) facilities reasonably necessary to enable each policy committee to meet and function effectively are provided; and
- (e) a representative of the Trustee is available to attend each meeting of a policy committee where the policy committee requests the Trustee to do so.

10.10 Proofs and presumptions

When determining questions of fact, the Trustee may act upon any proofs or presumptions it considers appropriate, whether or not they are strictly legal proofs or presumptions.

11 INVESTMENT AND BORROWING

11.1 Investment

The Trustee must set investment objectives for the Fund and formulate an investment strategy to achieve those objectives having regard to the whole of the circumstances of the Fund including, but not limited to, the matters prescribed under Superannuation Law.

11.2 Investment directions from Member

Despite **clause 11.1**, the Trustee may:

- (a) set different investment objectives for 2 or more Investment Portfolios;
- (b) formulate an investment strategy for each Investment Portfolio which is designed to achieve the investment objectives of the Investment Portfolio;
- (c) divide the Assets of the Fund between the different Investment Portfolios consistent with the investment strategy for each Investment Portfolio;
- (d) invite Members to nominate one or more Investment Portfolios for the investment of the whole or any part of their Contribution Account and future contributions;
- (e) set rules regarding:

- (i) when, how and in what manner Members may change their nominations;
 - (ii) the minimum amount that may be invested in an Investment Portfolio;
and
 - (iii) any other matters which the Trustee considers appropriate;
- (f) change the investment objectives, strategies, Investment Portfolios and the Assets of the Fund which comprise the Investment Portfolios as the Trustee determines.

11.3 Authorised Investments

The Trustee may invest in the following Authorised Investments:

- (a) any investment in which by the laws of Queensland or any State or Territory of Australia trustees are authorised to invest;
- (b) moneys deposited (whether for a term or at call) with any financial institution (with or without interest) or with any person, including short term money market investments;
- (c) stock, bonds, shares, notes, options, debentures, loan securities or any other securities of any corporation or securities of any government, semi-governmental body or public authority, whether in Australia or any other country, and whether or not listed on a securities exchange in Australia or any other country;
- (d) Commodities;
- (e) the purchase, lease or other acquisition of real property and any improvements, fixtures and fittings erected or installed or to be erected or installed, or rights conferring options, rights of first refusal or otherwise relating to the acquisition of real property;
- (f) the purchase, lease, hire or other acquisition of any personal property and any share or estate or interest in personal property;
- (g) units or sub-units or other rights or interests (however described) in any trust, managed investment scheme or other mutual or common fund or pooled superannuation trust;
- (h) bills of exchange, promissory notes and other negotiable instruments whether purchased or discounted which have been either drawn, issued, endorsed or accepted by a corporation;
- (i) any Derivative including but not limited to any one or more of:
 - (i) a futures contract;
 - (ii) a currency futures contract;
 - (iii) a swap, cap, floor or collar;
 - (iv) a swaption;

- (v) a spot or forward foreign exchange agreement;
- (vi) an option; or
- (vii) options over any of the above Derivatives;

whether or not entered into or acquired for the purpose of hedging against or minimising any loss concerning Authorised Investments held by the Trustee;

- (j) Insurance Investments;
- (k) the investment of money on security (by way of a registrable or registered first mortgage) of any real property;
- (l) discounting of loans, mortgages or leases;
- (m) the purchase of a secondary mortgage market security;
- (n) RITS in respect of investments mentioned elsewhere in this definition and included in RITS;
- (o) Repos;
- (p) Index Linked Securities;
- (q) and otherwise, subject to the provisions of Superannuation Law and provided the investment is made on an arm's length basis, the Trustee may invest the whole or any part of the moneys or assets of the Fund in any investment of any kind which the Trustee, in exercising its absolute discretion, determines.

11.4 Underwriting of Authorised Investments

The Trustee may:

- (a) underwrite or sub-underwrite, or join with others in underwriting or sub-underwriting, the subscription of any Authorised Investment;
- (b) delegate to any Investment Manager general authority to enter into and carry out underwriting or sub-underwriting agreements and the like, whether for the Fund alone or for the Fund in conjunction with other funds and institutions.

11.5 Borrowing

- (a) Subject to **clause 11.5(b)**, the Trustee may borrow any sum or sums of money, whether with or without security, on such terms and conditions in all respects as it determines, and in particular may draw, accept, endorse, discount and issue promissory notes, bills of exchange and other negotiable or transferable instruments without any qualification as to bank acceptance or otherwise.
- (b) The Trustee shall not borrow otherwise than as permitted under Superannuation Law.

11.6 Dealings with Members

The Trustee must not:

- (a) lend money of the Fund, or give any other financial assistance using the resources of the Fund, to any Member or an associate of any Member;
- (b) intentionally acquire an asset from a Member, or an associate of a Member.

except as permitted under Superannuation Law.

11.7 Loans to Participating Employers

The Trustee must not lend any moneys of the Fund to, or invest any moneys of the Fund in, any Participating Employer or an associate of a Participating Employer, except to the extent that the loan or investment complies with the restrictions on the in-house assets prescribed by the Superannuation Law.

11.8 Arm's length

The Trustee must not make any investment unless:

- (a) the Trustee and the other party to the investment are dealing with each other at arm's length; or
- (b) where the investment is not at arm's length, it complies with Superannuation Law.

11.9 Registration in name of nominee or custodian trustee

The title to any property forming part of the Fund may be registered in the name of a custodian, nominee or other delegate of the Trustee.

12 INSURANCE**12.1 Power to insure**

The Trustee has the power to effect or take out at the expense of the Fund from time to time one or more policies of insurance with one or more insurance companies in regard to the Fund and to continue or renew or arrange for the continuance or renewal of all or any of such policies for such period as the Trustee thinks fit. The Trustee may also agree from time to time with the insurance company concerned for any policy to be varied.

12.2 Terms of policy of insurance

A policy of insurance shall be on such terms and conditions as may be approved by the Trustee and the Trustee must pay all premiums, and receive from the insurance company all payments, refunds and other moneys, in respect of the policy of insurance and account for those moneys so received in accordance with this Deed.

12.3 Where Insurance not available

If at any time:

- (a) the Trustee is of the opinion that it is not reasonably practicable to obtain life

insurance or an increase in life insurance or to maintain life insurance in respect of a Member under a policy of insurance on terms acceptable to the Trustee; or

- (b) pursuant to the policy of insurance, the insurance company for any reason whatsoever fails to provide or increase, or reduces, terminates or withholds life insurance in respect of a Member or refuses to admit a claim for the whole or part of the life insurance effected in respect of the Member,

any benefit payable to or in respect of the Member pursuant to this Deed shall be reduced to the extent that life insurance is not obtained, increased or maintained or is not provided or increased or is reduced or terminated or that claim is not admitted in respect of the Member or where life insurance is withheld, will be adjusted accordingly.

13 EXPENSES AND CHARGES

13.1 Expenses

The Expenses of the Fund comprise such of the following costs, charges and expenses as are reasonably and properly incurred in or about the administration of the Fund:

- (a) the costs of establishing the Fund including the costs of the preparation and stamping of this Deed, and such other costs as the Trustee determines have been reasonably incurred in establishing the Fund;
- (b) the costs of keeping and auditing the books of account required by this Deed;
- (c) the costs of establishing and maintaining any registers;
- (d) disbursements in connection with the acquisition, sale, collection, maintenance, distribution of or other dealing with any Authorised Investment including legal fees, consultant fees, stamp duties, brokerage and commission;
- (e) without limiting paragraph (d), expenses incurred by the Trustee in ascertaining, examining and satisfying itself from time to time in connection with the attempted or proposed acquisition or disposal of, or on the suitability of possible Authorised Investments;
- (f) the costs of acquiring, establishing and developing computer hardware and software systems required for the administration of the Fund;
- (g) the fees and disbursements payable to any managing agents or collection agents not exceeding the prevailing commercial rates chargeable by managing agents or collection agents for services performed by them;
- (h) fees payable to any Administrator, Manager, Investment Manager, Custodian, consultant or any other delegate or adviser;
- (i) advertising expenses relating to the sale of property;
- (j) fees and charges imposed by financial institutions, and duties, levies and other imposts imposed by governments or governmental bodies in relation to financial transactions;
- (k) fees payable to and expenses in connection with any dealing with, the

Superannuation Regulator or other government entity;

- (l) stamp duties and similar imposts;
- (m) costs of preparing, printing and issuing of confirmations, accounts, other statements, taxation information, cheques, notice or any other document or report sent to Members or Participating Employers in accordance with the provisions of this Deed or the Superannuation Law;
- (n) costs of postage of all cheques, accounts, notices and other documents posted to Participating Employers, Members;
- (o) disbursements and costs incurred by or on behalf of the Trustee or in connection with the retirement of the Trustee under this Deed and the appointment of a new trustee and anything ancillary or incidental to such retirement or appointment;
- (p) except where the court otherwise directs, disbursements and costs by or on behalf of the Trustee in or in connection with the initiation, carriage and settlement of any court proceedings (including any negotiations and demands relating to any such proceedings) arising in respect of the operation of the Fund;
- (q) costs and disbursements incurred in amending the Deed;
- (r) all rates, taxes, charges, surcharges, assessments and impositions whatsoever (whether parliamentary, municipal or otherwise and whether assessed, charged or imposed by or under Federal or State law or by Federal, State or Local Authorities and whether on a capital or revenue value or any other basis and even though of a novel character) which are assessed, charged or imposed (or the Trustee determines may be assessed, charged or imposed) in respect of the Fund, any part of the Fund or the provision of any goods and services to the Fund;
- (s) costs of the preparation and lodgment of any statutory returns;
- (t) any remuneration payable to the Trustee;
- (u) the cost of premiums payable under any policy of insurance effected by the Trustee for the purpose of indemnifying the Trustee or its directors against any personal liability that any of them may incur in the administration or investment of the Fund;
- (v) costs of preparing, printing, lodging and issuing any brochures or Offer Document advertising the Fund and otherwise incurred in marketing and advertising the Fund including, without limitation, legal, accounting, consulting and other fees;
- (w) costs of establishing and maintaining policy committees as required under **clause 10.9**;
- (x) any other disbursements properly incurred in the administration of the Fund.

13.2 Payment of Expenses

- (a) The Trustee may pay (or reimburse itself or any other party for) any Expenses from the Fund's assets.

- (b) The Trustee may account for the Expenses paid or payable from the Fund by:
- (i) deducting any Expenses from income of the Fund which has not been allocated;
 - (ii) debiting the Reserve Account;
 - (iii) debiting amounts from Retirement Credits,
- as determined by it from time to time, for Expenses generally or for any particular Expense or class of Expenses.

13.3 Charges

- (a) The Trustee may in its discretion from time to time levy charges for entry into the Fund, exit from the Fund, the administration of the Fund, the switching of investment strategies or for any other purpose determined by the Trustee.
- (b) Any charges levied may be applied, as determined by the Trustee:
 - (i) as remuneration of the Trustee;
 - (ii) to cover any Expense (partly or wholly).

14 RECORDS, ACCOUNTS AND AUDIT

14.1 Records

The Trustee must keep or cause to be kept, including (but not limited to):

- (a) a complete record of all Members containing all the information which is necessary to administer the Fund;
- (b) accounting records which correctly record and explain the transactions and financial position of the Fund;
- (c) minutes of all meetings of directors of the Trustee;
- (d) changes of Trustee or the directors of the Trustee;
- (e) reports to Members; and
- (f) entry and withdrawal of Members.

14.2 Accounting Records

The Trustee must:

- (a) keep such accounting records as correctly record and explain the transactions and financial position of the Fund;
- (b) keep the accounting records so as to enable:
 - (i) the preparation of accounts, statements and returns of the Fund as prescribed by Superannuation Law;

- (ii) the accounts, statements and returns to be conveniently and properly audited.

14.3 Accounts

The Trustee must:

- (a) prepare such accounts, statements and returns of the Fund as are required by Superannuation Law;
- (b) make such arrangements as are necessary to enable those accounts to be audited.

14.4 Audit

- (a) The Trustee must from time to time appoint an Auditor to audit the accounts and statements of the Fund.
- (b) The Trustee must ensure that, for each Financial Year, the Auditor audits the accounts and statements of the Fund and reports in writing to the Trustee within the time specified in the Superannuation Law.
- (c) The Trustee shall fix the remuneration of the Auditor, and that remuneration is payable as an Expense.
- (d) The Trustee may at any time remove an Auditor from office.
- (e) The Auditor may retire from office on 1 Month's notice to the Trustee, but must not retire within a period of 3 Months before or after the end of a Financial Year without the consent of the Trustee.

14.5 Auditor's access

The Trustee must allow the Auditor access at all reasonable times to all the books and records under the Trustee's control, and give to the Auditor such information and explanations as the Auditor requires for the performance of the Auditor's duties.

14.6 Information for Members

The Trustee must provide such information to Members and Participating Employers in relation to the records and accounts of the Fund as is prescribed as Superannuation Law.

15 TERMINATION OF THE FUND

15.1 Termination by Trustee

The Trustee may terminate the Fund with effect from a date the Trustee determines.

15.2 Notice of termination

If the Trustee resolves to terminate the Fund, the Trustee must give notice in writing to that effect to the Participating Employers and the Members.

15.3 Contributions on termination

From the Termination Date, the Trustee must not accept contributions from any Employer

or Member, other than arrears of contributions.

15.4 Distribution

As soon as practicable after the Termination Date, the Trustee must:

- (a) pay any outstanding liabilities of the Fund excluding benefits;
- (b) provide for any anticipated liabilities of the Fund excluding benefits;
- (c) pay the following amounts in the following order of priority:
 - (i) benefits which became payable on or before the Termination Date;
 - (ii) benefits for each Member who attained age 65 on or before the Termination Date and who has not Retired, equal to the balance in the Member's Member Account; and
 - (iii) benefits for each Member who has not attained age 65 and has not Retired, equal to the credit in the Member's Member Account.

15.5 Deceased Member

If a Member dies before receiving a benefit under **clause 15.4(c)**, the benefit must be paid in accordance with **clause 7.3**.

15.6 Surplus on termination

If after making the payments provided for in **clause 15.4** a surplus remains in the Fund, the Trustee may distribute the surplus to or for the benefit of any of the following persons, in proportions determined by the Trustee:

- (a) any Members or former Members;
- (b) any Dependants of a Member or former Member;
- (c) the Legal Personal Representative of any Member, former Member or Dependant;
- (d) any Participating Employer or former Participating Employer.

15.7 Payments

- (a) A benefit payable under this **clause 15** must be paid in accordance with **clause 7**.
- (b) A payment to a Participating Employer may be made in cash or by transfer of Assets of the Fund.

16 AMENDMENT OF DEED

16.1 Permitted Amendments

The Trustee may at any time amend all or any of the provisions of this Deed (including this clause), to take effect from a date before or after the date of the amendment, provided that the amendment must not:

- (a) permit the appointment of a person other than a Constitutional Corporation as trustee unless the Superannuation Law permits; or
- (b) adversely affect a Member's right or claim to accrued benefits, or the amount of those accrued benefits, unless it is consistent with Superannuation Law.

16.2 Amendments

Notwithstanding **clause 16.1**, the Trustee may, subject to the consent of the Superannuation Regulator, amend this Deed in order to comply with Superannuation Law.

16.3 Date of effect

An amendment may take effect from a date before or after it is made.

16.4 Form of amendment

An amendment may be made by deed or a written or oral resolution of the Trustee.

16.5 Notice to Members

The Trustee must notify each Participating Employer and Member of every amendment in accordance with Superannuation Law. A failure to comply with this requirement does not however render the amendment void, voidable or unenforceable.

17 GENERAL PROVISIONS

17.1 Notices

- (a) Any notice which is required to be or which may be given to any Participating Employer or Member may be delivered to the Participating Employer or Member personally or sent through the post addressed to the Participating Employer or Member at the address according to the records of the Trustee.
- (b) If sent by post a notice is deemed to have been delivered on the day following the posting of the notice.

17.2 Governing Law

- (a) All matters arising in relation to this Deed and the interpretation thereof shall be governed by the law of the State of Queensland ("**Governing Law**") provided that in the event of a conflict between the Superannuation Law and a law of the State of Queensland, the Superannuation Law will prevail.
- (b) This Deed is to be interpreted so that it complies with the Governing Law. If any provision of this Deed does not comply with such law then the provision must be read down to give effect to the provision as far as possible. If it is not possible to give effect to the provision then it shall be deemed to be severed from the rest of the Deed.

17.3 Workers' Compensation not affected

- (a) Nothing in this Deed in any way affects the right of a Member or Legal Personal Representative or other person to claim damages or compensation for any accident

arising out of and in the course of a Member's employment or payment for long service leave.

- (b) An amount payable under this Deed shall not be reduced by reason of any payment that may be made in respect of damages or compensation or for sick leave, but this **clause 17.3(b)** does not affect the terms of any Policy of Insurance under which a benefit is payable.

17.4 Severance

- (a) If any provision of this Deed is void or voidable or unenforceable or illegal, but would not be void or voidable or unenforceable or illegal if it were read-down and it is capable of being read-down, it shall be read-down accordingly.
- (b) If notwithstanding **clause 17.4(a)**, a provision of this Deed is void or voidable or unenforceable or illegal:
 - (i) if the provision would not be void or voidable or unenforceable or illegal as aforesaid if a word or words (as the case may be) were omitted, that word or those words are hereby severed; and
 - (ii) in any other case, the whole provision is hereby severed,

and the remainder of this Deed has full force and effect.

EXECUTED as a deed.

THE COMMON SEAL of PERMANENT TRUSTEE COMPANY LIMITED is affixed in accordance with its constitution in the presence of: BY AUTHORITY OF THE DIRECTORS:



[Handwritten signature]

[Handwritten signature]

Secretary/Director

Director

PETER HAM
Name of Secretary/Director (print)

PAUL LAHIFF
Name of Director (print)