



**29 April 2022**

**Trust Deed**

**Hostplus Superannuation Fund**

## Table of contents

<b>Section 1 – Management and Administration</b>	<b>1</b>
<b>1. Definitions and interpretation</b>	<b>1</b>
1.1 Definitions	1
1.2 Interpretation	9
1.3 SIS defined terms	10
1.4 Severance	10
1.5 Proper Law	10
1.6 Section 1 prevails over Rules	10
<b>2. Relevant Law</b>	<b>10</b>
2.1 Deed subject to Relevant law	10
2.2 Compliance with Relevant Law	11
2.3 Failure to Comply with Relevant Law	11
2.4 Direction or discretion of a third party	11
2.5 Pension Requirements	11
2.6 MySuper Product	11
<b>3. Trustee, Fund and Fund assets</b>	<b>13</b>
3.1 Trustee	13
3.2 Fund	13
3.3 Fund assets	16
<b>4. Trustee’s Powers</b>	<b>16</b>
4.1 General Powers	16
4.2 Specific Powers	16
4.3 Exercise of Trustee Powers	19
4.4 Trustee Discretion	19
4.5 Trustee Delegation	19
4.6 Trustee Direction	19
4.7 Exercise of Trustee's rights	20
4.8 Fund Expenses	20
4.9 Fees	20
4.10 GST	21
4.11 Risk Premium Charge	21
<b>5. Liability and Indemnity</b>	<b>23</b>
5.1 Liability of Trustee	23
5.2 Indemnity of Trustee	24
<b>6. Participation and Membership</b>	<b>24</b>
6.1 Application to become a Participating Employer	24
6.2 Acceptance of Employer application	24
6.3 Termination of Participating Employer’s contributions	25
6.4 Transfer of Participating Employer's Business	25
6.5 Reconstruction or Amalgamation of a Participating Employer	26
6.6 Nominations and Applications for Membership	26
6.7 Admission to Membership	27
6.8 Membership arising from a Family Law Arrangement or Contribution Splitting Application	27

6.9	Membership arising from receipt of contribution from a Participating Employer	27
6.10	Cessation of Membership	27
6.11	Employer's powers not prejudiced	28
6.12	Disclosure Document	28
<b>7.</b>	<b>Provision and disclosure of information</b>	<b>28</b>
7.1	Members and Beneficiaries to Provide Information	28
7.2	Incorrect or Misleading Information	28
7.3	Information for Trustee	28
<b>8.</b>	<b>Accounts</b>	<b>28</b>
8.1	Accounts	28
8.2	Other Accounts	31
8.3	Fund Earning Rate	34
8.4	Receipt and payment of moneys	35
8.5	Defined Benefit Interests	35
<b>9.</b>	<b>Investments</b>	<b>36</b>
9.1	Authorised Investments	36
9.2	Particular investments	36
9.3	Power to Sell, Vary and otherwise deal with Investments	37
9.4	Investment Manager	37
9.5	Interest of Trustee in Investment	37
9.6	Investment options	37
9.7	Allocation of investment earnings to Accounts	38
<b>10.</b>	<b>Insurance</b>	<b>38</b>
10.1	Trustee to effect Policy	38
10.2	Trustee Right to Rectify	39
10.3	Premiums for Policy	39
10.4	Limitations on Policy	39
10.5	Payment of Insured Benefit	39
10.6	Cessation of insurance upon leaving the Fund	39
<b>11.</b>	<b>Contributions</b>	<b>39</b>
11.1	Minimum contributions	39
11.2	Member's contributions	39
11.3	Employer's contributions	40
11.4	Additional contributions	40
11.5	Refund or Transfer of Payments	40
11.6	Interest on contributions	40
11.7	Other Superannuation Obligations	40
11.8	No Obligation to contribute	40
11.9	Ineligible contributions	40
11.10	Contributions by and on behalf of a Spouse	41
11.11	Manner and timing of payment of contributions	41
11.12	Apportionment Between Members	41
11.13	Other contributions	41
11.14	Contribution Splitting	41
11.15	Trustee may Receive Splittable Contributions	41

11.16	Deductible Member Contributions	41
<b>12.</b>	<b>Transfers</b>	<b>41</b>
12.1	Transfers out of the Fund	41
12.2	Transfers into the Fund	42
<b>13.</b>	<b>Benefits</b>	<b>43</b>
13.1	Address for Benefits	43
13.2	Notification of Address	43
13.3	Receipt for Benefits	43
13.4	Notification of Claims and Proofs	43
13.5	Notification Outside Time Limit	44
13.6	No Personal Claim	44
13.7	Payment to Others on Behalf of Beneficiaries	44
13.8	Preservation Conditions	44
13.9	Payment of Non-Preserved Amounts	45
13.10	Increases to Benefits	45
13.11	Interest on benefits	45
13.12	Retention of Benefit in Fund	45
13.13	Death benefits	46
13.14	Australian Currency	47
<b>14.</b>	<b>Amending the Deed</b>	<b>47</b>
14.1	Deed	47
14.2	Limitation on Variation	47
14.3	Further limitation on Variation	48
<b>15.</b>	<b>Termination</b>	<b>48</b>
15.1	Election to Terminate	48
15.2	Procedure on Winding Up of Fund	48
15.3	Exhaustion of Fund	48
<b>16.</b>	<b>Service of notices</b>	<b>49</b>
16.1	Notices by the Trustee	49
16.2	Notices to Trustee	49
<b>17.</b>	<b>Unitisation</b>	<b>50</b>
17.1	Division into Units	50
17.2	Unitisation of Accounts	50
17.3	Units of Equal Value	50
17.4	Application Price	50
17.5	Withdrawal Price	51
17.6	Determination of Unit Prices	51
17.7	Suspension of Issue	51
17.8	Issue of Units	51
17.9	Redemption of Units	52
17.10	Switching Request	52
17.11	Effect of Request	53
17.12	Selection of Units on Withdrawal	53
17.13	Transaction Costs	53
17.14	Determination of Account balance	53
<b>Section 2 – Divisional Rules</b>		<b>54</b>

<b>Division 1 – Rules of Employer Sponsored Plan</b>	<b>54</b>
<b>Division 2 – Rules of Personal Plan</b>	<b>58</b>
<b>Division 3 – Rules of Pension Plan</b>	<b>61</b>
<b>Division 4 – Local Super Sub-Plan</b>	<b>66</b>
<b>SUB-DIVISION B – GENERAL</b>	<b>72</b>
<b>SUB-DIVISION C - INDUSTRY</b>	<b>83</b>
<b>LS Scheme – Schedule I</b>	<b>123</b>
<b>LS Scheme – Schedule II</b>	<b>124</b>
<b>LS Scheme – Schedule III</b>	<b>125</b>
<b>LS Scheme – Schedule IV</b>	<b>126</b>
<b>LS Scheme – Schedule V</b>	<b>127</b>
<b>Sub-division D – Personal</b>	<b>128</b>
<b>Sub-division E – LS Glossary</b>	<b>129</b>
<b>Division 5 - CCASP SUB-PLAN</b>	<b>148</b>

## Section 1 – Management and Administration

### 1. Definitions and interpretation

#### 1.1 Definitions

In this Deed and Rules, unless the context otherwise requires, the following words, terms and phrases have the following meanings:

**Account** means the accounts which comprise the Accumulation Accounts or Pension Account.

**Account Based Pension** means a Pension in relation to which:

- (a) there is a Pension Account (including a sub-account of a Pension Account) attributable to the Pensioner;
- (b) the capital supporting the Pension cannot be added to by way of contribution or roll over after the Pension has commenced;
- (c) the total payments in any year satisfy the minimum payments required under clause 1 of Schedule 7 of the SIS Regulations;
- (d) it is transferable to another person only on the death of the Pensioner;
- (e) its capital value and the income from it cannot be used as a security for a borrowing; and
- (f) commutations are limited in accordance with regulation 1.07D of the SIS Regulations.

**Actuary** means the actuary (if any) for the time being appointed pursuant to this Deed.

**Accumulation Accounts** means the accounts established on behalf of each Member or Beneficiary of Division 1 or Division 2 of this Deed, as described in clause 8.1.

**Administration Account** means the account or accounts established pursuant to clause 8.2(e).

**Amendment Act** means the *Local Government (Superannuation Scheme) Amendment Act 2008 (SA)*.

**Application Date** means in relation to a Unit:

- (a) the date which the Trustee determines is the Application Date for the purposes of allocating Units in accordance with clause 17.8(a); or
- (b) the date which the Trustee determines is the Application Date for the purpose of redeeming Units in accordance with clause 17.9,

(whichever applies).

**Application Price** means in relation to a Unit the value of the Unit determined under clause 17.4.

**Approved Benefit Arrangement** means a fund or benefit arrangement including without limitation another Complying Superannuation Fund, Retirement Savings Account and an annuity arrangement into which or from which assets can be transferred into or from the

Fund without causing the Fund to be in breach of or to fail to comply with the Relevant Law and includes an Eligible Rollover Fund.

**Badged Division** means any Division established under clause 3.2(h).

**Beneficiary** means a person who is for the time being beneficially entitled to receive, or is receiving, a Benefit from the Fund in accordance with this Deed.

**Benefit** means any amount which is payable by the Trustee out of the Fund in accordance with this Deed to or in respect of a Member or Beneficiary.

**Benefit Entitlement** means any amount held in the Fund which may become payable to a Member, Dependant or Beneficiary but to which the person has not become absolutely and indefeasibly entitled and includes a contingent right to payment of an amount.

**Binding Death Benefit Nomination** means a notice given by the Member to the Trustee which meets the requirements of the Relevant Law relating to Binding Beneficiary Nominations, and requires the Trustee to provide any Benefits in respect of the Member after the Member's death to a person or persons specified in the notice, being the Legal Personal Representative and/or a Dependant or Dependents of the Member.

**Business Day** means a day that is not a Saturday, Sunday or any other day which is a public holiday or a bank holiday in the place where an act is to be performed or a payment to be made.

**CCASP Member** means a Member participating in the CCASP Sub-Plan.

**Child** means in relation to a Member or former Member includes:

- (a) an adopted child, a step child or an ex nuptial child of the Member or former Member; and
- (b) a child of the person's Spouse; and
- (c) someone who is a child of the person within the meaning of the *Family Law Act 1975*.

**Closed Pension** means a Pension that is either a Defined Benefit Pension or any other kind of Pension that is not an Account Based Pension, and which continues to be paid to the Pensioner (including a Pensioner who is a Reversionary Beneficiary of a deceased Pensioner) subject to the Pension Standards relevant to that kind of Pension.

**Commutation Amount** means a lump sum amount resulting from the commutation in whole or in part (as the case may be) of a Pension.

**Commutation Authority** has the same meaning as when that expression is used in Schedule 1 of the *Taxation Administration Act 1953* (Cth).

**Complying Income Stream** means a pension or annuity that is a pension or annuity for the purposes of the SIS Act.

**Complying Superannuation Fund** in relation to a year of income means a fund which is a Complying Superannuation Fund in accordance with the Relevant Law.

**Contribution Splitting Application** means an application to roll over, transfer or allot an amount of contributions under Part 6, Division 6.7 of the SIS Regulations.

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Custodian** means a person appointed to provide custodial services in relation to the Fund.

**Deed** means this Deed and any Rules made under this Deed.

**Defined Benefit Interest** has the same meaning as under the SIS Regulations.

**Defined Benefit Pension** has the same meaning as under the SIS Regulations.

**Dependant** means in relation to a Member means:

- (a) the Spouse of the Member;
- (b) the Child of the Member;
- (c) any person who, in the opinion of the Trustee, is at the relevant time wholly or partially financially dependent on the Member; or
- (d) any other person who in the opinion of the Trustee is or was a dependant of the Member at the relevant time within the meaning of that term in the Relevant Law.

**Directors** means the directors or board of management for the time being of the Trustee.

**Disclosure Document** means any document issued by the Trustee offering participation or Membership in a Division in accordance with the requirements of the Relevant Law.

**Division** unless the context otherwise requires, has the same meaning as under clause 3.2 of this Deed.

**Eligible Person** means any person who is permitted to become a Member of the Fund pursuant to this Deed, including under clause 6.6.

**Employee** means a person in the employment of an Employer and who is:

- (a) a director or secretary (in the case of a corporation) of that Employer; or
- (b) classified by the Employer as an Employee for the purposes of this Deed;
- (c) a person who is an Employee of the Employer for the purposes of the Guarantee Act.

**Employer** means a company person, partnership, incorporated and unincorporated association, firm or any other legal entity which employs an Employee or a Member and in relation to an Employee or Member means the Employer of such Employee or Member.

**Family Law Arrangement** an agreement, order or other arrangement made, or entered into, in relation to superannuation, under the *Family Law Act 1975* or any related legislation.

**Financial Year** means a period of twelve months ending on 30 June or such other period of twelve months as the Trustee determines.

**Fund** means the superannuation fund known as the HOSTPLUS Superannuation Fund established by Deed dated 8 February 1988 (as amended from time to time) and comprising the moneys, assets and property held by and for the Trustee upon the trusts of this Deed.

**Fund Account** means an account established by the Trustee under clause 8.2(a).



**Fund Earning Rate** has the meaning given in clause 8.3(a).

**Fund Expenses** the costs and expenses of, and incidental to the establishment, operation, management, administration, maintenance, investment and termination of the Fund (or any part of the Fund), including Taxation, insurance costs and any fees or charges in relation to the Fund imposed on, or paid by, the Trustee.

**Fund Investment Pool** means any pool of investments (including investment income) comprising assets held in respect of a particular Investment Option established by the Trustee.

**Fund Year** means a period of 12 months ending on 30 June, or such other period of 12 months ending on such other date as the Trustee may determine from time to time.

**GST** means any goods and services tax imposed by authority of any GST Law and includes GST within the meaning of the GST Act. This includes any replacement or subsequent similar tax.

**GST Act** means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**GST Law** has the meaning given to it in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Guarantee Act** means the *Superannuation Guarantee (Administration) Act 1992* (Cth) and any regulations made under that Act.

**Insured Benefit** means the amount (if any) payable on the Member's death, Total and Permanent Disablement, Temporary Total Disablement, Terminal Illness or any other event which the Trustee has insured (as permitted by Relevant Law), under any Policy of insurance maintained by the Trustee for that Member.

**Insurer** means any insurer with whom the Trustee effects a Policy or Policies.

**Internal Roll Over** means the transfer of a Member's Benefit Entitlement from one Division of the Fund to another Division of the Fund or from one Sub-Plan of the Fund to another Sub-Plan of the Fund.

**Investment Manager** means a person appointed for the time being as an Investment Manager in accordance with clause 9.4.

**Investment Option** means an investment option established by the Trustee under clause 9.6.

**Investment Transaction Cost** in relation to a Unit means the cost of acquiring the Unit.

**Member** means an Eligible Person who has been accepted as a Member of a Division of the Fund under clause 6.7 and who has not ceased to be a Member under clause 6.10, and Membership means Membership of a Division of the Fund.

**Nominated Dependant** means a person nominated in writing by a Member to the Trustee as the nominated beneficiary of a benefit, whether under a Binding Death Benefit Nomination or otherwise.

**Normal Retirement Age** means the age of 65 years or such other age not being less than the Preservation Age and as the Trustee with the consent of the Employer of that Member determines.

**Officer** means a Director, secretary or executive officer of the Trustee.

**Old Benefit Member** means a Member participating in the Local Super Sub-Plan, other than a Salarylink Member.

**ORFR requirement** has the meaning given in APRA Prudential Standard SPS 114.

**Participating Employer** means an Employer that by agreement with the Trustee is admitted to participation in the Fund under clause 6.1.

**Pension** means as the context requires:

- (a) a Benefit payable by instalment out of the Pension Account of a Member or Beneficiary; or
- (b) the instalment payable to or in respect of a Pensioner pursuant to Rule 5 or Rule 8 of Division 3; or
- (c) any other benefit or income stream payable from the Fund that is a Complying Income Stream.

**Pension Account** means the accounts established on behalf of each Member of Division 3 of this Deed, as described in clause 8.1.

**Pension Standards** means the standards under the SIS Regulations that must be satisfied in order for a benefit to be taken to be a pension for the purposes of the SIS Act.

**Pensioner** means a Member or Beneficiary who is entitled to receive or has applied to receive Benefits payable to the Member as a Pension and includes a Reversionary Beneficiary in receipt of a Pension.

**Policy** means any group policy of insurance issued to the Trustee by an Insurer under which Insured Benefits are payable to or in respect of Members.

**Portability Request** means a request made in accordance with the Relevant Law:

- (a) to the Trustee by a Member in writing to transfer an amount of a Member's Benefit to an Approved Benefit Arrangement; or
- (b) to the trustee, operator or provider of an Approved Benefit Arrangement by a person in writing to transfer an amount of that person's benefit in that Approved Benefit Arrangement into the Fund.

**Power** means a power, right, discretion, remedy, determination or authority of any nature and however arising (including a power or right to approve and a power which a person has a duty to exercise).

**Preserved Payment** means a payment made to the Fund by an Employer, Member or any other person or by transfer from an Approved Benefit Arrangement which is required to be preserved as provided for in this Deed or the Relevant Law in order for the Fund to be a Complying Superannuation Fund.

**Preserved Payment Benefit** means a Benefit arising from a Preserved Payment.

**Regulator** means, as the case requires, the Australian Prudential Regulation Authority (**APRA**), the Australian Securities and Investments Commission (**ASIC**), the Australian

Taxation Office (**ATO**), the Australian Transaction Reports and Analysis Centre (**AUSTRAC**) or their successors State Revenue Offices of each Australian State and Territory or such other regulatory body responsible for administering the laws or any other rules governing superannuation or the availability of income tax concessions to superannuation entities.

**Release Authority** means a documented authority issued by the Commissioner of Taxation stating the amount of excess contributions tax that a Member of the Fund is liable to pay.

**Relevant Law** means:

- (a) the SIS Act and SIS Regulations;
- (b) the Corporations Act;
- (c) the Tax Act;
- (d) the Guarantee Act;
- (e) the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth);
- (f) Stamp Duty Acts of each Australian State and Territory
- (g) any other present or future law of Australia or a State or Territory of Australia which the Fund, this Deed, the Trustee, or a Participating Employer, Member or Beneficiary must comply with or satisfy to secure or better secure a concession or benefit for the Fund in respect of Taxation or to avoid, in the opinion of the Trustee, a penalty, detriment or disadvantage to the Fund, the Trustee or a Participating Employer, Member or Beneficiary;
- (h) any prudential standard, direction, instruction, ruling, guideline, licence or registration condition issued under Relevant Law or by a Regulator which the Trustee determines is required to be followed or complied with on the basis that non-compliance might result in the Fund ceasing to be a Complying Superannuation Fund or might result in a penalty, detriment or disadvantage to the Fund, the Trustee or a Participating Employer, Member or Beneficiary; and
- (i) any present or future law of Australia, a State or Territory of Australia or a foreign jurisdiction which the Trustee determines to be a Relevant Law for the purposes of this Deed.

**Relevant Person** has the meaning given in clause 12.2(a).

**Retirement Savings Account** has the same meaning as in the *Retirement Savings Account Act 1997* (Cth).

**Reversionary Beneficiary** means a Dependant nominated by a Pensioner and in default of a nomination by the Pensioner, a Dependant nominated by the Trustee who is eligible to receive a Benefit upon the death of a Pensioner.

**Reversionary Pension** means a Pension paid to a Reversionary Beneficiary.

**Roll Over Payment** means any payment made by or received by the Trustee at the request of a Member or former Member or in other circumstances which satisfy the Relevant Law to or from any Approved Benefit Arrangement.

**Rules** means the rules of each Division and Sub-Plan of the Fund, subject to any further definition of the term “Rule” as used in any Division or Sub-Plan.

**SA Trustee Act** means the *Trustee Act 1936 (SA)*.

**Salarylink Member** means a Member participating in the Local Super Sub-Plan, other than an Old Benefit Member.

**Service** means continuous service with an Employer and for the purpose of this definition an Employee's service will not cease to be continuous by reason of a transfer from the service of one employer to that of another employer where each of the employers concerned is one of a group of employers consisting of an Employer and subsidiary and associated Employers.

**Service Provider** means a person who is engaged by or on behalf of the Trustee to provide services in relation to the Fund, including (but not limited to):

- (a) actuarial services;
- (b) auditing services;
- (c) administration services;
- (d) investment management and advisory services; and
- (e) custodial services.

**Shortfall Component** has the same meaning as in the Guarantee Act.

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

**SIS Regulations** means the *Superannuation Industry (Supervision) Regulations 1994 (Cth)*.

**Spouse** includes:

- (a) in relation to a person:
  - (i) another person (whether of the same sex or a different sex) with whom the person is in a relationship that is registered under a law of a State or Territory for the purposes of section 22B of the *Acts Interpretation Act 1901*; and
  - (ii) another person who, although not legally married to the person, lives with the person on a genuine domestic basis in a relationship as a couple,
 

provided that where there is more than one such person the Trustee will determine which one or more of them is deemed to be the Spouse, and, if more than one person is so deemed, the Trustee will determine the proportions in which the Benefit payable to the Spouse is to be divided between them; or
- (b) for the purposes of doing anything in connection with a Family Law Arrangement, a person who is legally married to the Member or the person presumed under the *Family Law Act 1975* to be the Member's spouse.

**Sub-Plan** or **Sub-plan** means a segment of the Fund governed by Sub-Plan Rules applicable to that segment of the Fund and includes any sub-fund or sub-plan as those expressions are used in the Relevant Law.

**Sub-Plan Rules** mean written rules made by the Trustee for a Sub-Plan and designated by the Trustee to apply to that Sub-Plan.

**Successor Fund Transfer** means a transfer in accordance with Regulation 6.29(1)(c) of the SIS Regulations.

**Superannuation Lump Sum** has the same meaning as under the Tax Act.

**Tax** means all income tax, capital gains tax, payroll tax, land tax, excise tax, stamp duty, GST and any other taxes, or duties or any other levies, imposts, deductions and charges of whatever description and any related interest and penalties paid or payable by the Trustee on behalf of the Trust or, where applicable, by any Unitholders (including any amount charged by a supplier of goods or services or both to the Trustee in its capacity as trustee of the Trust (and for the avoidance of doubt excluding any amounts of GST charged to the Trustee in its own corporate capacity) by way of or as a reimbursement for GST).

**Tax Act** means the *Income Tax Assessment Act 1936* (Cth), the *Income Tax Assessment Act 1997* (Cth) and the *Taxation Administration Act 1953* (Cth), as amended, and any regulations or transitional provisions issued under those Acts.

**Temporary Total Disablement** in relation to an Insured Benefit of a Member has the same meaning given to that term, or a similar term, in the applicable Policy effected by the Trustee with an Insurer in force at the time of the Temporary Total Disablement of the Member, satisfaction of which may entitle a Member to the payment of an Insured Benefit relating to their Temporary Incapacity, and the expression "Temporarily Totally Disabled" has a corresponding meaning.

**Terminal Illness** in relation to:

- (a) an Insured Benefit of a Member, has the same meaning given to that term, or a similar term, in the applicable Policy effected by the Trustee with an Insurer in force at the time of the Terminal Illness of the Member, satisfaction of which may entitle a Member to the payment of an Insured Benefit relating to a Terminal Medical Condition, and the expression "Terminally Ill" has a corresponding meaning; or
- (b) a Benefit other than an Insured Benefit, means a Terminal Medical Condition (as defined in the SIS Regulations).

**Total and Permanent Disablement** in relation to:

- (a) an Insured Benefit of a Member, has the same meaning given to that term, or a similar term, in the applicable Policy effected by the Trustee with an Insurer in force at the time of the Total and Permanent Disablement of the Member, satisfaction of which may entitle a Member to the payment of an Insured Benefit relating to their Permanent Incapacity and the expression "Totally and Permanently Disabled" has a corresponding meaning; or
- (b) a Benefit other than an Insured Benefit, means Permanent Incapacity (as defined in the SIS Regulations).

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

**Unclaimed Benefits** means those Benefits described as unclaimed money under the Relevant Law.

**Unit** means the interest of a Member or Beneficiary under the Rules or in respect of a particular Fund Investment Pool.

**Withdrawal Price** means in relation to a Unit the value of the Unit determined under clause 17.5.

**Withdrawal Transaction Costs** means in relation to a Unit the cost of disposing of the Unit.

## 1.2 Interpretation

- (a) Unless a contrary intention appears;
  - (i) one gender includes the others;
  - (ii) the singular includes the plural and vice versa;
  - (iii) a party includes the party's executors, administrators, successors and permitted assigns;
  - (iv) a thing includes the whole and each part of it separately;
  - (v) a statute, regulation, code or other law or a provision of any of them includes:
    - (A) any amendment, substitution, modification, re-enactment or replacement of it; and
    - (B) another regulation or other statutory instrument made under it, or made under it as amended, substituted, modified, re-enacted or replaced; and
  - (vi) dollars means Australian dollars unless otherwise stated.
- (b) 'Amendment' includes an addition, variation, deletion and substitution.
- (c) 'For example' is only illustrative and means including without limitation.
- (d) 'Including' and similar expressions are not words of limitation.
- (e) 'May' confers absolute discretion on the person entitled to exercise a right or power conferred but does not infer any obligation to exercise that right or power.
- (f) 'Person' includes:
  - (i) an individual, a body corporate and any other person recognised at law;
  - (ii) a partnership, joint venture, and any other group or association; and
  - (iii) an authority.
- (g) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- (h) Headings and any table of contents or index are for convenience only and do not form part of this deed or affect its interpretation.
- (i) If an act must be done on a specified day which is not a Business Day, it must be done instead on the next Business Day.
- (j) Any power, right or discretion given under this deed, for example, the power to determine or agree, may be exercised:

- (i) from time to time; and
- (ii) generally or in any particular case.

### **1.3 SIS defined terms**

Unless the context otherwise requires, an expression that is used in this Deed and capitalised, and that is defined or used in the SIS Act or the SIS Regulations has the same meaning in this Deed. These expressions include, but are not limited to: Binding Beneficiary Nominations, Constitutional Corporation, Eligible Rollover Fund, Gainfully Employed, Legal Personal Representative, MySuper Product, Non-Member Spouse, Preservation Age, Successor Fund, Terminal Medical Condition, Permanent Incapacity, Pooled Superannuation Trust and Temporary Incapacity.

### **1.4 Severance**

Any provision of this deed which:

- (a) is invalid in whole or in part; or
- (b) would need to be limited or read down in order to be valid;

is severed or limited or read down to the extent of the invalidity, but the remainder of the provision continues in full force and effect.

### **1.5 Proper Law**

- (a) This Deed is governed and construed, and takes effect in accordance with the laws of Victoria.
- (b) The Trustee, Members, Beneficiaries and Employers will accept the non-exclusive jurisdiction of the Courts of Victoria and of the Commonwealth of Australia.
- (c) The provisions of section 35B of the SA Trustee Act shall not apply to this Deed or to the Fund.

### **1.6 Section 1 prevails over Rules**

The provisions of Section 1 of this Deed prevail over the Rules in the respective Divisions to the extent of any inconsistency, unless the Rules specify otherwise.

## **2. Relevant Law**

### **2.1 Deed subject to Relevant law**

- (a) The provisions of this Deed are subject to the Relevant Law and:
  - (i) if there is any inconsistency between the provisions of this Deed and the Relevant law, the requirements of the Relevant Law prevail; and
  - (ii) if a provision of a Relevant Law is deemed to be or required to be included in this Deed to enable the Fund to qualify for concessional Taxation treatment or to satisfy any other requirement of the Regulator, that provision is included in this Deed for as long as required by the Relevant Law.

- (b) No provision of the Relevant Law will be deemed to be incorporated into this Deed under clause 2.1(a) if it would constitute a breach of the power granted by clause 14 to add to, amend, alter, modify, rescind or vary the Deed.

## 2.2 Compliance with Relevant Law

The Trustee is empowered to, and must, do or cause to be done all acts, matters and things which are necessary to comply with or satisfy the Relevant Law.

## 2.3 Failure to Comply with Relevant Law

The Trustee must not do, or omit to do, or cause or permit to be done or omitted, anything which would result in the Fund failing to comply with the Relevant Law and the Trustee must do all acts, matters and things which it considers necessary to prevent such a failure.

## 2.4 Direction or discretion of a third party

If a provision of this Deed would otherwise be invalid because it is inconsistent with the Relevant Law as it:

- (a) subjects the Trustee to a direction of another person; or
  - (b) permits a person to exercise a discretion without the consent of the Trustee,
- the Trustee's consent is required for the giving of the direction or the exercise of the discretion.

## 2.5 Pension Requirements

If the Trustee decides to issue a Pension, any requirement, standard or condition of the Relevant Law which must be satisfied in order for the Pension to qualify as a pension (or a particular type of pension) or annuity under the Relevant Law (**Pension Requirement**) is deemed to be included in this Deed and will apply to the Pension for as long as the Relevant Law requires the Pension Requirement to be satisfied.

## 2.6 MySuper Product

- (a) If the Trustee is authorised and decides to offer a MySuper Product in the Fund, any requirement, standard or condition of Relevant Law which must be satisfied in relation to a MySuper Product (a **MySuper Requirement**) is deemed to be included in this Deed and will apply to the MySuper Product offered in the Fund for as long as the Relevant Law requires the MySuper Requirement to be satisfied in relation to a MySuper Product.
- (b) A MySuper Product offered in the Fund must have the following characteristics that are specified by section 29TC(1) of the SIS Act:
  - (i) a single diversified investment strategy is to be adopted in relation to assets of the Fund, to the extent that they are attributed to that class of beneficial interest in the Fund; and
  - (ii) all Members who hold a beneficial interest of that class in the Fund are entitled to access the same options, benefits and facilities except to the extent that a benefit is provided by taking out risk insurance; and



- (iii) amounts are attributed to Members in relation to their beneficial interest of that class in the Fund in a way that does not stream gains or losses that relate to any assets of the fund to only some of those Members, except to the extent permitted under a lifecycle exception (under section 29TC(2) of the SIS Act); and
- (iv) the same process is to be adopted in attributing amounts to Members in relation to their beneficial interest of that class in the Fund, except to the extent that a different process is necessary to allow for fee subsidisation by Participating Employers or to comply with section 99G of the SIS Act (fee cap on low balances); and
- (v) if fee subsidisation by a Participating Employer is permitted, that subsidisation does not favour one Member who holds a beneficial interest of that class in the fund and is an employee of a subsidising Employer over another such member who is an employee of that Employer; and
- (vi) the only limitations imposed on the source or kind of contributions made by or on behalf of persons who hold a beneficial interest of that class in the Fund are those permitted under section 29TC(3) of the SIS Act; and
- (vii) a beneficial interest of that class in the Fund cannot be replaced with a beneficial interest of another class in the Fund, unless:
  - (A) the person who holds the interest consents in writing to that replacement no more than 30 days before it occurs; or
  - (B) the person who holds the interest has died and the interest is replaced with a beneficial interest of another class in the Fund of a kind, and in the circumstances, prescribed by the SIS Regulations; and
- (viii) a beneficial interest of that class in the Fund (the **old interest**) cannot be replaced with a beneficial interest (the **new interest**) in another superannuation entity unless:
  - (A) the replacement is permitted, or is required, under a law of the Commonwealth; or
  - (B) the person who holds the old interest consents in writing to the replacement with the new interest no more than 30 days before it occurs; and
- (ix) to the extent that assets of the Fund are attributed to beneficial interests of that class, a pension is not payable out of those assets by the Trustee on the satisfaction of a condition of release of benefits specified in a standard made under section 31(2)(h) of the SIS Act by a person who holds a beneficial interest of that class, unless the payment is derived from a benefit of the kind mentioned in section 62(1)(b)(ii) of the SIS Act provided to the Fund by an Insurer; and
- (x) no Member who holds a beneficial interest of that class in the Fund is precluded from holding a beneficial interest of another class in the Fund because of that fact; and
- (xi) no Member is precluded from holding a beneficial interest of that class in the Fund because the Member holds a beneficial interest of another class in the Fund.

### **3. Trustee, Fund and Fund assets**

#### **3.1 Trustee**

##### **(a) Nature of the Trustee**

The Trustee of the Fund must at all times be a Constitutional Corporation which is eligible to act as trustee of the Fund.

##### **(b) Change of Trustee**

A Trustee must immediately cease to act as Trustee of the Fund if it:

- (i) is placed in receivership or in liquidation;
- (ii) is disqualified from holding office as a trustee of a regulated superannuation fund by operation of the Relevant Law or if the Trustee is removed or suspended from office under the Relevant Law; or
- (iii) resigns as a Trustee of the Fund by giving written notice to the Regulator.

##### **(c) Retirement of Trustee**

If the Trustee has retired from office, the Trustee must do, sign and execute all things, papers, writings, documents, deeds and instruments as may be necessary to give proper effect to such retirement from office and to effect the transfer, assignment or vesting of the assets comprised in the Fund in the new Trustee.

##### **(d) Appointment of Trustee**

A Trustee of the Fund must be appointed in writing in accordance with the provisions of this Deed by the retiring Trustee provided that in the event that the retiring Trustee is unable or unwilling to do so, then the Regulator or the court will determine who will act as Trustee in accordance with the provisions of this Deed and the Relevant Law and will take such steps as are necessary to appoint the person to the office of Trustee.

##### **(e) Trustee role as an Employer**

Where, in this Deed:

- (i) there is a requirement for action to be taken by the Trustee with respect to an Employer or action to be taken by an Employer with respect to the Trustee (including a provision requiring agreement between the Trustee and an Employer); and
- (ii) the Trustee is the relevant Employer,

then the relevant action is deemed to have been taken when the Trustee resolves to take that action.

#### **3.2 Fund**

##### **(a) Maintenance of Fund**

The Trustee agrees to maintain the Fund known as the HOSTPLUS Superannuation Fund which was established by trust deed dated 8 February 1988.

**(b) Sections and Divisions within the Fund**

The Trustee may from time to time establish and vary Sections and Divisions of the Fund and the Trustee may acquire certain assets or determine that certain assets are held in respect of a particular Division or in respect of particular Employers or Members of a particular Division.

**(c) Divisions**

The Fund is divided into the following Divisions:

- (i) Division 1 - HOSTPLUS Superannuation Fund - Employer Division;
- (ii) Division 2 – HOSTPLUS Superannuation Fund – Personal Division;
- (iii) Division 3 – HOSTPLUS Superannuation Fund – Pension Division;
- (iv) Division 4 - HOSTPLUS Superannuation Fund – Local Super Sub-Plan; and
- (v) Division 5 - HOSTPLUS Superannuation Fund – CCASP Sub-Plan.

**(d) Sub-Plans**

- (i) The Trustee may in respect of any Division make or terminate a sub-plan for the Division (**Sub-Plan**) subject to any applicable rules of the Division or Sub-Plan that may apply.
- (ii) In making a Sub-Plan, the Trustee must have regard to all relevant matters, including whether there is a common factor in a segment of the Division (for example where there is a group of Members of the Division who have the same Employer).

**(e) Rules**

The Trustee may make Rules governing each Division or in respect of part of a Division or particular Employers or Members of a Division and those Rules may be amended or varied in the same manner as this Deed may be amended or varied.

**(f) Application of Assets**

The assets of the Fund are pooled (with Pension assets segregated for tax purposes) and may be used to meet the liabilities of the Divisions. Should the Trustee later decide that the assets comprised in each Division will only be applied for the purpose of that particular Division, then they will not be available to meet any liabilities in respect of the other Divisions of the Fund. For the avoidance of doubt, the assets supporting any Defined Benefit Interests within a Division, may only be used to meet the liability in relation to those Defined Benefit Interests of that Division.

**(g) Constitution of New Division**

The Trustee may establish other Divisions of the Fund by amending this Deed to include the Rules for that Division in Section 2- Divisional Rules.

**(h) Badged Divisions**

- (i) The Trustee may enter into arrangements with third parties (**Sponsors**) for the offer by the Sponsor of participation in a Division (the **Badged Division**).

- (ii) The Disclosure Document in respect of a Badged Division may, with the approval of the Trustee, carry the name of the Sponsor or name chosen by the Sponsor and approved by the Trustee for the Badged Division other than the name given to the relevant Division by this Deed.
  - (iii) The provisions of this Deed apply to a Badged Division in the same manner as they apply to any other Division established under this Deed, unless the Rules relating to that Division expressly provide otherwise.
- (i) **Local Super Sub-Plan**
- (i) The Local Government Superannuation Scheme continues in existence as the Local Super Sub-Plan of the Fund pursuant to clause 2(1)(b) of Schedule 1 of the Amendment Act.
  - (ii) The Local Super Sub-Plan is governed by Sub-Plan Rules designated by the Trustee to apply to the Local Super Sub-Plan.
  - (iii) The Local Super Sub-Plan provides Defined Benefit Interests for Members who are described as:
    - (A) “Salarylink Members”; and
    - (B) “Old Benefit Members”,
 and no other Members or Benefit Entitlements are provided under the Local Super Sub-Plan.
  - (iv) Each Salarylink Member and Old Benefit Member also has Membership of Division 1 to provide for their Benefit Entitlements from the Fund (if any) to the extent that they are not Defined Benefit Interests.
  - (v) The Local Super Sub-Plan is closed to new Members.
  - (vi) Employers of a Salarylink Member or Old Benefit Member participate in the Local Super Sub-Plan on the terms of the Sub-Plan Rules.
- (j) **CCASP Sub-Plan**
- (i) The CCASP Sub-Plan is governed by Sub-Plan Rules designated by the Trustee to apply to the CCASP Sub-Plan.
  - (ii) The CCASP Sub-Plan provides Defined Benefit Interests for CCASP Members and no other Members or Benefit Entitlements are provided under the CCASP Sub-Plan.
  - (iii) Each CCASP Member also has Membership of Division 1 to provide for their Benefit Entitlements from the Fund (if any) to the extent they are not Defined Benefit Interests.
  - (iv) The CCASP Sub-Plan is closed to new Members.
  - (v) Employers of a CCASP Member participate in the CCASP Sub-Plan on the terms of the Sub-Plan Rules.

### 3.3 Fund assets

#### (a) Identification of assets of the Fund

The gross assets of the Fund consist of all the cash, investments and other property for the time being held by or on account of the Trustee upon the trusts of this Deed.

#### (b) Assets vested in Trustee

The Fund and its assets are vested in, and managed by the Trustee upon the terms and conditions and subject to the trusts, powers, authorities and discretions contained in this Deed.

#### (c) Segregation of assets

The Trustee may segregate (physically or notionally) particular assets of the Fund from other assets. For the avoidance of doubt, the Trustee may segregate (physically or notionally) assets referable to one class or category of Member (including Pensioners) from other assets for any reason the Trustee determines is appropriate.

#### (d) Valuation of assets of the Fund

At the end of each Fund Year or at such other time as the Trustee considers it appropriate or as the Relevant Law requires, the Trustee will make a valuation of all assets of each Division (including the value of any Policy held by the Fund) at that date and will determine whether there is a surplus or deficiency which it is equitable to transfer to the Investment Account, and the value so determined in respect of each asset will then be reflected in the balance sheet and other accounts of each Division (if applicable) and of the Fund.

## 4. Trustee's Powers

### 4.1 General Powers

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

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

### 4.2 Specific Powers

The Trustee's Powers under clause 4.1 include the Powers to do the following things, subject to this Deed:

(a)	<b>Claims</b>	to settle, compromise or submit to arbitration any claims, matters or things relating to this Deed or the rights of Members, former Members or Beneficiaries;
(b)	<b>Proceedings</b>	to commence, carry on or defend proceedings relating to the Fund or to the rights of Members, former Members or Beneficiaries and to commence,

		carry on or defend legal proceedings in order to recover damages against any person arising out of any loss suffered by any Member or former Member or Beneficiary as a result of any negligence, default, omission, breach of duty or breach of the terms of this Deed, and the Trustee may abandon, settle, compromise or release any such legal proceedings;
(c)	<b>Borrow</b>	to borrow money and to secure the repayment of it in any manner and upon any terms (including with or without security) the Trustee decides;
(d)	<b>Insurance</b>	to insure or reinsure any risks, contingencies or liabilities of the Fund with any insurer, mortgage insurance company, reinsurance company or superannuation fund;
(e)	<b>Underwriting</b>	to underwrite or sub-underwrite any risks, contingencies or liabilities under any superannuation arrangement conducted by an Employer where there is an agreement for a transfer of Employees to the Fund;
(f)	<b>Purchase annuities</b>	to purchase an annuity from an Insurer in order to provide all or a part of the Pension payable in respect of a Member and any such annuity will be in the name of the Trustee or, if the Trustee determines, in the name of the former Member;
(g)	<b>Appoint Service Providers</b>	to appoint and dismiss Service Providers and advisers in relation to the management, investment, administration or conduct of the Fund, and act on the advice of any person so retained and to pay their fee or remuneration;
(h)	<b>Fund Expenses</b>	to pay out of the Fund all costs, expenses and outgoings (including Taxation or amounts paid to satisfy any Release Authority) of and incidental to the management, investment and administration of the Fund and to pay out of the Fund the professional fees (if any) in respect of the provision of its services as Trustee of the Fund;
(i)	<b>Indemnities</b>	to indemnify any person, company, government or institution in respect of any claims, matters or things relating to the Fund or to the rights of Members, former Members or Beneficiaries in respect of the Fund subject to the Relevant Law;
(j)	<b>Releases</b>	to provide a full or partial release to any person, company, government or institution in respect of any matters which have arisen or may arise as a result of an association, involvement or Membership of the Fund by that person;

(k)	<b>Chairpersons</b>	to appoint a person as chair of meetings of the Trustee and any other obligations which the Trustee vests in the person and, if required, to pay a fee or remuneration to such person in respect of such position;
(l)	<b>Professional</b>	to insure and keep insured as it sees fit any liability of the Trustee or any Directors or Officers of the Trustee or the liability of the Fund to indemnify or reimburse the Trustee or its Directors or Officers pursuant to;
(m)	<b>Reserves</b>	to maintain reserves in respect of a Division or the Fund;
(n)	<b>Agreement</b>	to enter into such agreements or enforce any agreement that benefits Members of a Division;
(o)	<b>Compliance activities</b>	to undertake any action which would or may have the effect of committing the Trustee to conduct the Fund at all times as a Complying Superannuation Fund;
(p)	<b>Modifications and exemptions</b>	to seek modifications of or exemptions from the application of the Relevant Law to the Fund if it results in the Trustee being relieved from complying with any provision of the Relevant Law in respect of which an exemption or a modification has been granted;
(q)	<b>Marketing and promoting the Fund</b>	<p>to market, promote and advertise the Fund, including by engaging in any Activity which the Trustee determines:</p> <p>(1) will promote the concept of superannuation and industry superannuation funds generally, and the Fund specifically, in order to limit the reduction in the level of Membership, to increase the level of Membership or for any other purpose which the Trustee believes is in the best interests of the Members; and</p> <p>(2) protect the Contributions base or Membership base of the Fund and which the Trustee believes is in the best interests of Members,</p> <p>provided that the Trustee determines that the Activity is in the best interests of the present and future Membership of the Fund, and that the expense of the Activity is reasonable having regard to the likely benefits to the present and future Membership, and that the expense of the Activity is reasonable having regard to the total value of the assets of the Fund (and for the purposes of this provision "Activity" means any act directly or indirectly related to or incidental to the marketing,</p>

		promoting, advertising or educating of any person or the creation of awareness in or for any person);
(r)	<b>Rules and procedures</b>	to make rules and adopt policies and procedures in relation the Fund and its management and operation;
(s)	<b>Contributions, rollovers and transfers</b>	to refuse to accept: (1) a contribution, rollover or transfer into the Fund; or (2) an application to make a contribution, rollover or transfer into the Fund;
(t)	<b>Rebates</b>	to rebate any fees or income received by it to Members in such proportions pursuant to the Relevant Law as it sees fit;
(u)	<b>General</b>	to do all acts and things as the Trustee may consider necessary or expedient for the administration, maintenance and preservation of the Fund and in the performance of its obligations under this Deed; and
(v)	<b>Anything necessary</b>	to do anything that is necessary or incidental to the exercise of any Power by the Trustee.

#### 4.3 Exercise of Trustee Powers

All the powers and discretions conferred upon the Trustee or any Director by this Deed or by law may be exercised notwithstanding that the Trustee or any Director may have a direct, indirect or personal interest (whether as a shareholder, director, member or partner of any company, organisation or partnership) in the result of exercising such power or discretion or may benefit directly or indirectly as a result of the exercise of any such power or discretion.

#### 4.4 Trustee Discretion

The Trustee in the exercise of the trusts, authorities, powers and discretions conferred on it by this Deed will have an absolute and uncontrolled discretion as to the manner, mode and timing of exercise.

#### 4.5 Trustee Delegation

The Trustee may delegate to any person or committee any of the powers, duties and discretions conferred on it under this Deed (including a power to sub-delegate).

#### 4.6 Trustee Direction

Except as provided by the Relevant Law, the Trustee will not be subject to direction by any person in the exercise of any of its powers except:

- (a) the Trustee may consult a committee;
- (b) the Trustee may from time to time establish and appoint persons to committees and/or working parties for the purposes of such matters as the Trustee considers fit and on such terms as it thinks fit;



- (c) any such committee or working party will be entitled to give advice on those matters required by the Trustee; and
- (d) the Trustee may but will not be bound to act on the advice of any such committee or working party.

#### **4.7 Exercise of Trustee's rights**

All powers, rights, decisions, discretions, appointments and other authorisations of whatsoever nature or kind conferred on the Trustee by, under or for the purposes of this Deed may be fully and effectively exercised by or on behalf of the Trustee by resolution of its Directors in accordance with its constitution or by any person or persons having the authorisation of such Directors to act on their behalf.

#### **4.8 Fund Expenses**

- (a) All Fund Expenses will be paid from the Fund, subject to:
  - (i) clause 5.2;
  - (ii) any specific provision of the Rules which provides that a Fund Expense is to be satisfied other than by being paid from the Fund;
  - (iii) any agreement between the Trustee and a Participating Employer in relation to how a Fund Expense is to be satisfied.
- (b) The Trustee may determine that Fund assets referable to a particular Division, Sub-plan or other part of the Fund will only be applied to Fund Expenses referable to that Division, Sub-plan or other part of the Fund.

#### **4.9 Fees**

##### **(a) Fees Determined at Discretion of Trustee**

- (i) The fees charged by the Trustee will be determined from time to time by the Trustee.
- (ii) A charge for the supply of information of an amount not exceeding the reasonable cost of giving the information may be required by the Trustee to be paid by the person requesting the information, or any other person.
- (iii) Notwithstanding any provisions in the Deed to the contrary, the Trustee may (but is not obliged to) charge different levels of fees to prescribed classes of Members or Employers as it determines in its discretion.

##### **(b) Family Law fees**

In addition to any fees the Trustee may determine pursuant to clause 4.9(a), the Trustee may:

- (i) charge reasonable fees in respect of implementing, giving effect to or doing anything else in relation to a Family Law Arrangement, including the provision of information requested under an application under the *Family Law Act 1975* (Cth) for information about a superannuation interest; and
- (ii) determine who the fee is payable by (including a person who is not a Member or Beneficiary).

#### 4.10 GST

- (a) Unless otherwise defined in this Deed, terms used in this clause 4.10 have the meanings given to those terms in the GST Act.
- (b) Unless expressly stated otherwise, the fees and any other amounts which are payable to the Trustee under any other provision of this Deed are exclusive of GST.
- (c) if the Trustee is liable to pay GST in respect of any supplies it makes under or in connection with this Deed then:
  - (i) in addition to any fees or other amount to which the Trustee is entitled, the Trustee is entitled to recover or be paid from the Trust Assets (by way of increased fee or otherwise), at the same time as the fees or other amount, an additional amount equal to the amount of that GST liability; and
  - (ii) the Trustee will issue a tax invoice for such supplies no later than the time at which the Trustee recovers or is paid the additional amount referred to in clause 4.10(c)(i) from the Trust Assets, or otherwise receives the consideration for the supply.
- (d) If the GST payable in relation to a supply made under or in connection with this Deed varies from the additional amount recovered or paid from the Trust Assets under clause 4.10(c)(i) in respect of that supply, then the Trustee will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from the Trust Assets (as appropriate). Where there is an adjustment event the Trustee must issue an adjustment note as soon as practicable after becoming aware of the adjustment event.
- (e) Any payment or reimbursement required to be made under this Deed for an Expense or other amount paid or incurred by the Trustee will be limited to the total Expense or amount less the amount of any input tax credit to which the Trustee is entitled for the acquisition to which the Expense or amount relates.

#### 4.11 Risk Premium Charge

- (a) Subject to sub-clauses 4.11(b) and (c), the Trustee is entitled to charge an annual fee to hold on its own account against the risk of acting as trustee of the Fund and other RSEs (Risk Premium Charge) which, will be an amount equal to 0.03% of the RSE NAV on the last day of the previous financial year.
- (b) The Risk Premium Charge will be deducted from the assets of the Fund in the manner and at the times as determined by the Trustee from time to time, and will be paid to the Trustee, subject to:
  - (i) such determination being made in the best financial interests of beneficiaries of the Fund; and
  - (ii) such determination being fair and equitable as between classes of beneficiaries of the Fund, and as between beneficiaries within a class.
- (c) A deduction of Risk Premium Charge under clause 4.11(b) may only be made to the extent that at the date of the deduction, the balance of the Risk Premium Reserve does not exceed:
  - (i) 0.06% of the RSE NAV on the last day of the previous financial year; or

- (ii) such amount, if any, as may be required by or under the *Corporations Act 2001* (Cth) or the *Superannuation Industry (Supervision) Act 1993* (Cth) requires, or as a Regulator directs the Trustee to hold as Risk Premium Reserve,
 

whichever is greater.
- (d) The Trustee may determine to:
  - (i) despite anything in this clause 4.11, reduce, waive, postpone or suspend the charging of the Risk Premium Charge (or any part of it) in relation to the Fund as a whole, or a class or classes of beneficiaries, or a particular beneficiary, for such period as it determines; and/or
  - (ii) accept any refund or rebate of the Risk Premium Charge in relation to the Fund as a whole, or a class or classes of beneficiaries, or a particular beneficiary,
 

provided this is in the best financial interests of the beneficiaries of the Fund, and is fair and equitable as between classes of beneficiaries of the Fund, and as between beneficiaries within a class.
- (e) The Trustee must reduce or suspend the charging of the Risk Premium Charge, in relation to the Fund as a whole, or a class or classes of beneficiaries, or a particular beneficiary as the Trustee considers appropriate, if and to the extent to which the Trustee is:
  - (i) directed to do so in writing by a Regulator, including pursuant to any prudential standard made under the SIS Act; or
  - (ii) ordered to do so by a court, pursuant to a proceeding in which the Trustee is a party.
- (f) The Trustee must notify beneficiaries at least annually, of the amount of the Risk Premium Charge:
  - (i) charged directly to a beneficiary's account; or
  - (ii) otherwise, indirectly borne by the beneficiary (for example, by being deducted from the value of the beneficiary's investments or paid out of Fund reserves).
- (g) The Trustee must make available to beneficiaries, at least annually, information on:
  - (i) the balance of the Risk Premium Reserve as at the end of the previous financial year;
  - (ii) net earnings (if any) on the Risk Premium Reserve over the previous financial year;
  - (iii) any payments made into the Risk Premium Reserve in the previous financial year;
  - (iv) any payments made from the Risk Premium Reserve in the previous financial year; and
  - (v) details of the contravention giving rise to the penalty comprising the liability where applicable.

- (h) For the avoidance of doubt the payment of the Risk Premium Charge under this clause 4.11 is treated as the payment of a Fund Expense and does not limit the Trustee's right to reimbursement under clause 4.8 or the Trustee's right of indemnity under clause 5.2.

In this clause 4.11:

**NAV** means the net value of the Fund determined by the Trustee after subtracting all Fund Expenses from the total value of all property and other assets of the Fund.

**Risk Premium Reserve** means the net tangible assets held by the Trustee in its personal capacity, and not as trustee of the Fund, against the risk of acting as trustee of the Fund and other RSEs.

**RSE** means a registrable superannuation entity under the SIS Act.

**RSE NAV** means the NAV of the Fund and the net value of the assets less liabilities of any other RSE for which the Trustee acts as trustee, without any double counting.

## 5. Liability and Indemnity

### 5.1 Liability of Trustee

#### (a) Liability of Trustees, Directors and Officers

To the extent that is permitted by the Relevant Law, the current and former Trustee and each current and former Officer of the Trustee is exempted from any liability incurred while acting as Trustee or Officer of the Trustee (as the case may be).

#### (b) Loss, Default, bona fide acts, mistake

Without limiting the exemption from liability under clause 5.1(a), the Trustee will not incur any liability for:

- (i) any loss suffered by the Fund or suffered by any Member or any person having at any time an interest in the Fund;
- (ii) any act or default of any former Trustee or any Director or Officer of a former Trustee, of any Member or of any agent employed in good faith by the Trustee;
- (iii) any acts done or omitted to be done which any person reasonably believed to be in conformity with any decision of the Trustee; or
- (iv) any mistake or determination or erroneous decision that potentially exposes the Trustee to any claim, action, suit or demand at the instance of any Member or of any person having an interest in the Fund at any time.

#### (c) Trustee not liable for wrongdoing of Custodian

The Trustee is not be liable for any act, omission, error, negligence or breach of trust by any Custodian.

#### (d) Antecedent Breach by Trustee

Nothing in this Deed will relieve a Constitutional Corporation which ceases to be Trustee from liability for any prior breach of trust for which it would otherwise be

liable.

## **5.2 Indemnity of Trustee**

### **(a) Indemnity and Lien**

To the extent that is permitted by the Relevant Law, the current and former Trustee and each current and former Officer of the Trustee is indemnified out of the Fund against all liabilities (including Fund Expenses) incurred by it or them in the exercise or purported exercise or attempted exercise of the trusts, powers, authorities and discretions vested in it or them under this Deed or at law, and the Trustee may use the moneys representing the assets of the Fund for the purpose of this indemnity.

### **(b) Circumstances in which indemnity applies**

The indemnity in clause 5.2(a) extends (but is not limited) to:

- (i) any payments made in good faith to any person whom the Trustee, believed in good faith to be rightly entitled although it was later found that the person was not entitled;
- (ii) the circumstances where the Trustee acts upon the opinion or advice of or statement of barristers or solicitors who are instructed by the Trustee or any bankers, accountants, brokers, investment advisers or other persons believed by the Trustee in good faith and upon reasonable grounds to be expert in relation to the matters upon which they are consulted;
- (iii) the circumstances of the failure of any person or corporation to carry out any agreement made with the Trustee and to the circumstances of any act or omission on the part of such person or corporation; and
- (iv) the circumstances where an agent or servant employed in good faith by the Trustee becomes insolvent or commits an act of bankruptcy or any fraudulent or negligent act.

## **6. Participation and Membership**

### **6.1 Application to become a Participating Employer**

An Employer who is eligible to participate under the Rules of a Division may apply for participation in that Division by completing and signing (which may be done by electronic means) an application, including a benefit specification (if any) in the form stipulated by the Trustee.

### **6.2 Acceptance of Employer application**

- (a) On acceptance by the Trustee of an application by an Employer, the Employer will sign or execute (which may be done by electronic means) such agreements or acknowledgements as the Trustee may require in such form as the Trustee and the Employer agree.
- (b) Upon the date agreed by the Trustee and Employer or, if there is no such date, on acceptance of the duly signed or executed application by the Trustee, the Employer will become a Participating Employer and this Deed together with that application (as

amended in accordance with this Deed) will become binding on the Participating Employer and that Participating Employer's employees who become Members.

- (c) The terms and conditions contained in the application by the Employer override inconsistent provisions of this Deed to the extent of the inconsistency.

### **6.3 Termination of Participating Employer's contributions**

#### **(a) Circumstances of Cessation**

A Participating Employer ceases to be a Participating Employer and contributions to the Fund will terminate from that Participating Employer on the date that:

- (i) a deed of appointment placing the Participating Employer in receivership or under official management is executed by the appointor of that receiver or manager;
- (ii) a resolution of its shareholders or an order of a Court places the Participating Employer in liquidation; or
- (iii) the Participating Employer permanently terminates its contributions to the Fund by written notice in writing to the Trustee.

#### **(b) Exercise of Powers of Participating Employer**

If the Participating Employer ceases to be a Participating Employer, the powers and discretions vested in the Participating Employer under this Deed immediately terminate and will only be exercisable as the Trustee determines.

#### **(c) Employees not to be Admitted**

No Employee of a Participating Employer will be admitted as a Member in connection with that Participating Employer, where the Participating Employer's contributions in respect of its Employees have been terminated under clause 6.3(a).

#### **(d) Benefits Held for Members**

In the event that contributions by a Participating Employer cease in the circumstances described in clause 6.3(a), then all money not already allocated will be allocated by the Trustee to the Member's Accumulation Accounts as the Trustee directs. The Member remains a Member of Division 1 of the Deed unless the Trustee otherwise decides.

#### **(e) Partial Termination**

If the Participating Employer terminates its contributions to the Fund in respect of Members for whom it has been contributing, the Trustee will, unless another Participating Employer agrees to continue the contributions in respect of those Members, deal with all moneys relating to those Members as specified in clause 6.3(d).

### **6.4 Transfer of Participating Employer's Business**

If a Participating Employer (the Former Employer) is amalgamated with or transfers its undertaking to another Participating Employer (the New Employer), contributions are not deemed to have terminated and the New Employer may make future contributions in respect of those Members.

## 6.5 Reconstruction or Amalgamation of a Participating Employer

If a Participating Employer is reconstructed, goes into liquidation for the purpose of reconstruction, is merged or amalgamated with another employer or transfers all or the majority of its undertaking, the Trustee may deal with the interests of Members in any one or more of the following ways:

(a) **Deed of Adoption**

Enter into a deed of adoption with its successor as a Participating Employer with the object of carrying on a Complying Superannuation Fund on such terms and conditions as the Trustee considers to be reasonable and which protects the interests of the Members.

(b) **Transfer Assets**

Retain the assets on the basis the Members continue to remain as Members of a Division of the Fund, or transfer some or all of the Benefits of Members who were Employees of the former Participating Employer to a Complying Superannuation Fund subject to clause 12.1.

(c) **Continue Fund**

Continue to operate the Fund for the benefit of any Members still employed by the former Participating Employer.

## 6.6 Nominations and Applications for Membership

- (a) A Participating Employer will nominate to the Trustee those of its Employees as it decides to become Members of the Fund.
- (b) The Trustee may at its sole discretion determine to admit an applicant who is a Spouse of a Member to Membership of the Fund, An applicant who is admitted to the Fund pursuant to this clause 6.6(b) will be required to complete an application for Membership in accordance with clause 6.6(c).
- (c) A person who is eligible under the Rules of a Division to apply for Membership of that Division may apply for Membership of that Division by:
- (i) completing and signing an application, including the selected benefit specification (if any), in the form prescribed by the Trustee;
  - (ii) lodging the application:
    - (A) at the registered office of the Trustee; or
    - (B) at any other places at which the Trustee accepts applications;
    - (C) by sending it by email to the email address supplied by the Trustee for such purposes; or
    - (D) by using any other method (including by on-line lodgement through a secure on-line portal) which the Trustee permits.

## **6.7 Admission to Membership**

- (a) Upon receipt of a nomination or application for Membership in accordance with clause 6.6, the Trustee may determine to admit the Employee, Spouse of a Member or other Eligible Person to Membership of the Fund.
- (b) The Member is deemed to have joined the Fund on a date determined by the Trustee or, where the Trustee makes no such determination, on the date on which the completed application for Membership is received or is deemed to have been received, provided that the Trustee may grant such additional period of Membership for any Member as it determines in its absolute discretion.
- (c) The Trustee may impose such conditions on an applicant's admission and the rights and duties of the Member as it determines and may limit and impose conditions upon Benefits as it sees fit and the Trustee may remove or vary all or any of the aforesaid conditions at any time.
- (d) Upon admission to Membership of the Fund, the Member will be bound by this Deed.

## **6.8 Membership arising from a Family Law Arrangement or Contribution Splitting Application**

A person may participate in the Fund, subject to the approval of the Trustee and any term or condition imposed by the Trustee, if the Trustee decides to make a person a Member as a result of the splitting of another Member's interest in the Fund in accordance with a Family Law Arrangement or giving effect to a Contribution Splitting Application.

## **6.9 Membership arising from receipt of contribution from a Participating Employer**

A person may become a Member of the Fund, subject to the Relevant Law and the approval of the Trustee and any term or condition imposed by the Trustee, if the Trustee, in its absolute discretion, decides to make the person a Member as a result of receiving a contribution in respect of the person from a Participating Employer, whether or not the person has submitted an application for Membership.

## **6.10 Cessation of Membership**

Subject always to the Trustee's power under clause 6.7(b) to grant an additional period of membership to any Member, a person will cease to be a Member of the Fund upon the earliest to occur of the following:

- (a) the date upon which payment of all the Member's Benefits is made to the Member or to an Approved Benefit Arrangement on behalf of the Member;
- (b) the death of the Member;
- (c) the date on which Unclaimed Benefits in respect of a Member are paid to the Regulator;
- (d) the date when Benefits payable to or on behalf of a Member cease to be payable; or
- (e) such date as the Trustee reasonably determines,

provided that where a Policy providing disablement benefits has been effected in respect of the Member, that Member will remain a Member for such period following resignation, dismissal or retirement from being Gainfully Employed as the Trustee determines.



### **6.11 Employer's powers not prejudiced**

Nothing in this Deed affects the powers of an Employer with regard to the remuneration, terms of employment or dismissal of an Employee or any other dealings between an Employer and its Employee. The existence or cessation of any actual prospective or possible Benefit under the Fund will not be grounds for claiming or increasing damages in any action brought against an Employer in respect of any termination of employment or otherwise.

### **6.12 Disclosure Document**

The Trustee may offer a beneficial interest in the Fund or a Division only by way of a Disclosure Document.

## **7. Provision and disclosure of information**

### **7.1 Members and Beneficiaries to Provide Information**

- (a) Each applicant for Membership and any Beneficiary will, when requested by the Trustee provide any information as the Trustee requires in connection with the Fund, and will submit to medical examinations as required by the Trustee by a registered medical practitioner who is acceptable to the Trustee.
- (b) Where a Member or Beneficiary fails to comply with clause 7.1(a), the Trustee may suspend the acceptance of any contributions in respect of that Member or withhold any Benefits in respect of that Member or Beneficiary or impose conditions on the Membership of that person.

### **7.2 Incorrect or Misleading Information**

Where a Member or Beneficiary furnishes information required by the Trustee which affects or is likely to affect the Benefits payable to or in respect of a Member or Beneficiary and the information supplied is incorrect or misleading or is deliberately withheld, the Trustee may alter or amend the Benefits to amounts that would have applied had full and accurate information been supplied.

### **7.3 Information for Trustee**

- (a) When requested by the Trustee, an Employer will give to the Trustee all information in its power or possession which may in the opinion of the Trustee be necessary or expedient for the management and administration of the Fund. The Trustee may act upon any information given to it by an Employer pursuant to this Deed and will not be required to verify that information other than when required to do so to meet the requirements of the Relevant Law.
- (b) The Employer will advise the Trustee when a Member has ceased to be an Employee.

## **8. Accounts**

### **8.1 Accounts**

- (a) Subject to clause 8.5 and Rule 4.2 of Division 3, the Trustee must establish an Accumulation Account or Pension Account in respect of each Member.
- (b) **Credits to Accumulation Accounts**

The following amounts will be credited to the appropriate Accumulation Account:

- (i) any amount paid into the Fund in respect of the Member as a transfer or a Roll Over Payment which the Trustee considers it appropriate to credit;
- (ii) any contributions made in respect of the Member by the Member or the Member's Spouse;
- (iii) any contributions made in respect of the Member by the Employer;
- (iv) the proceeds of any Policy effected by the Trustee in respect of a Member;
- (v) the proceeds of any annuity effected by the Trustee in respect of a Member;
- (vi) investment earnings at the applicable Fund Earning Rate(s) (if positive);
- (vii) any amounts transferred from the Pension Account of a Member;
- (viii) any Shortfall Component paid in respect of the Member;
- (ix) such other contributions made in respect of the Member and permitted under this Deed or the Relevant Law;
- (x) the benefit of any tax offset or rebates obtained by the Fund; and
- (xi) such other amounts as the Trustee determines from time to time and as permitted by the Relevant Law.

(c) **Debits to Accumulation Accounts**

The following amounts will be debited to the appropriate Accumulation Account:

- (i) any amount paid out of the Fund in respect of the Member as a transfer or a Roll Over Payment which the Trustee considers it appropriate to debit;
- (ii) any other Benefit payments made to or in respect of the Member other than payments from a Pension Account;
- (iii) the costs of any annuity effected by the Trustee in respect of the Member;
- (iv) the costs of any Policy effected by the Trustee;
- (v) such proportion of any amount payable by way of Taxation in respect of contributions or any Shortfall Component paid to the Fund or earnings of the Fund credited to the Accumulation Account or arising as a result of a Roll Over Payment as the Trustee may determine;
- (vi) investment earnings at the applicable Fund Earning Rate(s) (if negative);
- (vii) any amount credited to the Pension Account of a Member;
- (viii) any amount of Taxation attributable to the Member;
- (ix) any amount paid in satisfaction of a Release Authority given to the Trustee for payment of an excess contributions tax assessment;
- (x) where a Member owes money to the Fund, a sum equivalent to the money owing; and

- (xi) such other amounts as the Trustee determines from time to time as permitted by the Relevant Law.

**(d) Credits to Pension Accounts**

The following amounts will be credited to the appropriate Pension Account:

- (i) any amount paid into the Fund in respect of the Pensioner as a transfer or a Roll Over Payment which the Trustee considers it appropriate to credit for the establishment of a Pension;
- (ii) any amount transferred or rolled over from the Pensioner's Accumulation Account for the establishment of a Pension;
- (iii) the proceeds of any Policy effected by the Trustee in respect of a Pensioner which the Trustee considers it appropriate to credit for the establishment of a Pension;
- (iv) the proceeds of any annuity effected by the Trustee in respect of a Pensioner which the Trustee considers it appropriate to credit for the establishment of a Pension;
- (v) investment earnings at the applicable Fund Earning Rate(s) (if positive);
- (vi) the benefit of any tax offset or rebates obtained by the Fund; and
- (vii) such other amounts as the Trustee determines from time to time and as permitted by the Relevant Law.

**(e) Debits to Pension Accounts**

The following amounts will be debited to the appropriate Pension Account:

- (i) any other Benefit payments made to or in respect of the Member;
- (ii) any Commutation Amount paid or applied by the Trustee in respect of the Pension;
- (iii) any amount paid in respect of the Pension pursuant to a Commutation Authority and not otherwise debited to the Pension Account;
- (iv) any amount paid out of the Fund in respect of the Member as a transfer or a Roll Over Payment which the Trustee considers it appropriate to debit;
- (v) the costs of any annuity or Policy effected by the Trustee in respect of the Member;
- (vi) investment earnings at the applicable Fund Earning Rate(s) (if negative);
- (vii) any amount of Tax attributable to the Pensioner;
- (viii) any amount paid in satisfaction of a Release Authority given to the Trustee;
- (ix) where a Pensioner owes money to the Fund, a sum equivalent to the money owing; and
- (x) such other amounts as the Trustee determines from time to time as permitted by the Relevant Law.

## 8.2 Other Accounts

### (a) Fund Accounts

- (i) Without limiting any of the Trustee's powers under clause 4, the Trustee may establish and maintain one or more accounts for the purpose of reserving money or other assets of the Fund to meet actual or anticipated Fund Expenses and other contingencies, or for any other purpose which the Trustee considers would be served by establishing or maintaining such an account (**Fund Account**). Clauses 8.2(b) to 8.2(f) require the Trustee to establish particular accounts, but this does not limit the additional accounts (**Additional Fund Accounts**) that may be established under this clause 8.2(a), which gives the Trustee a general power to establish Fund Accounts.
- (ii) The Trustee may:
  - (A) credit and debit an Additional Fund Account with any amount and in any manner it considers appropriate, including with investment earnings at the Fund Earning Rate or any part thereof, on a periodic basis (by credit or debit, as the case may require);
  - (B) use an Additional Fund Account to meet actual or anticipated Fund Expenses or other contingencies;
  - (C) adopt any method or policy (including unit pricing) it determines to:
    - (1) calculate the investment return or changes in capital value which it may then credit or debit to an Additional Fund Account; or
    - (2) allocate actual and anticipated Fund Expenses to an Additional Fund Account.
- (iii) Whilst any moneys are held in an Additional Fund Account, they will not form part of any Accumulation Account or Pension Account and any income earned by the Fund on the moneys held in that Additional Fund Account will be credited to that Additional Fund Account.

### (b) Insurance Account

- (i) Without limiting clause 8.2(a) above, the Trustee will establish and maintain an account, known as the Insurance Account (**Insurance Account**).
- (ii) Amounts credited to the Insurance Account may include:
  - (A) such amount per Member per week as the Trustee considers necessary in order to provide an Insured Benefit;
  - (B) any rebate received by the Trustee under any Policy;
  - (C) the proceeds of any Policy effected by the Trustee in respect of a Member or Beneficiary and paid to the Trustee which the Trustee considers it appropriate to credit; and
  - (D) such other amounts the Trustee determines from time to time.
- (iii) Amounts debited from the Insurance Account may include:

- (A) the proceeds of any Policy transferred to the Accumulation Account;
  - (B) the costs of any Policy effected by the Trustee in respect of the Member or Beneficiary subject to clause 8.2(d)(iii)(B) below; and
  - (C) such other amounts the Trustee determines from time to time.
- (c) **Investment Account**
- (i) Without limiting clause 8.2(a) above, the Trustee will establish and maintain an account, known as the "Investment Account" (**Investment Account**).
  - (ii) Amounts credited to the Investment Account may include:
    - (A) all income and profits of each year, and profits of the Division or the Fund will include any surplus arising from a valuation undertaken at any time during the year in accordance with clause 3.3(d);
    - (B) the proceeds of any Policy effected by the Trustee where the Trustee determines that it should not be credited to an Account; and
    - (C) such other amounts the Trustee determines from time to time.
  - (iii) Amounts debited from the Investment Account may include:
    - (A) any loss sustained on the disposal of any investments of the Fund;
    - (B) any costs or charges incurred which are not debited to an Account;
    - (C) the cost of any Policy effected by the Trustee where the Trustee determines that it should not be debited to an Account;
    - (D) any deficiency arising from a valuation undertaken of Fund assets;
    - (E) any amount payable or which may become payable by way of Taxation in respect of contributions, Shortfall Components and income and profits of the Fund which are not debited to an Account as the Trustee determines to be equitable;
    - (F) an allocation of investment earnings at the applicable Fund Earning Rate to a Member's Account; and
    - (G) such other amounts the Trustee determines from time to time (including any amount required to be debited to comply with Relevant Law).
- (d) **Operations Account**
- (i) Without limiting clause 8.2(a) above, the Trustee will establish and maintain an account, known as the "Operations Account" (**Operations Account**).
  - (ii) Amounts credited to the Operations Account may include:
    - (A) all fees debited from Member Accumulation and Pension Accounts;
    - (B) any amount transferred from the Administration Accounts pursuant to clause 8.2(e) below;

- (C) the proceeds of any Policy effected by the Trustee where the Trustee determines that it should not be credited to an Account; and
  - (D) such other amounts the Trustee determines from time to time.
- (iii) Amounts debited to the Operations Account may include:
- (A) any costs or charges incurred pursuant to clauses 4.8, 4.9 and 5.2 which are not debited to an Account;
  - (B) the cost of any Policy effected by the Trustee where the Trustee determines that it should not be debited to the Insurance Account;
  - (C) any deficiency arising from a valuation undertaken in accordance with clause 3.3(d);
  - (D) any amount payable or which may become payable by way of Taxation in respect of contributions, Shortfall Components and income and profits of the Fund which are not debited to an Account as the Trustee determines to be equitable; and
  - (E) such other amounts the Trustee determines from time to time.
- (e) **Administration Accounts**
- (i) Without limiting clause 8.2(a) above, the Trustee may establish and maintain one or more accounts, known as "Administration Accounts" for the purposes referred to in clause 8.2(e)(iv) below (each an **Administration Account**).
  - (ii) The Trustee may transfer to the credit of an Administration Account any amount remaining in the Investment Account under clause 8.2(c) above.
  - (iii) Whilst any moneys are held in an Administration Account, they will not form part of any Accumulation Account or Pension Account and any income earned by the Fund on the moneys held in the Administration Account will be credited to the Administration Account.
  - (iv) The Administration Accounts will, at the discretion of the Trustee, be used for the following purposes:
    - (A) to generally give effect to the reserving strategy established by the Trustee to stabilise the investment earnings of the Fund;
    - (B) to provide for such contingencies as the Trustee determines;
    - (C) to augment the Fund Earning Rates;
    - (D) to meet any Taxation payments payable by the Fund;
    - (E) to or for the benefit of a Member, Pensioner, Beneficiary or former Member including augmentation of the Accumulation Account or Pension Account; or
    - (F) for any other purpose determined by the Trustee from time to time, including:

- (1) by way of transfer to the Operations Account under clause 8.2(d)(ii)(B);
- (2) for the crediting of fees debited from Member Accumulation and Pension Accounts; and
- (3) for the debiting of expenditure relating to the administration and operation of the Fund.

(f) **Operational Risk Reserve Account**

- (i) Without limiting clause 8.2(a) above, the Trustee will establish and maintain a reserve account, known as the "Operational Risk Reserve Account" for the purpose of meeting the Operational Risk Financial Requirement (**ORFR**) target amount in relation to the holding of an amount or level of capital (**Operational Risk Reserve Account**).
- (ii) Whilst any moneys are held in the Operational Risk Reserve Account they will not form part of any Account or Pension Account, and subject to clause 8.2(f)(iii), any income earned by the Fund on the moneys held in the Operational Risk Reserve Account will be credited to the Operational Risk Reserve Account.
- (iii) The Operational Risk Reserve Account can only be used as permitted by Relevant Law, and any debits or credits to the account may only be made where permitted by Relevant Law.
- (iv) If the Trustee uses or is directed to use any moneys in the Operational Risk Reserve Account by the Regulator, it must replenish the account to the amount required under Relevant Law.

(g) **Use of accounts**

Nothing in clause 8.2 should be read as limiting the Trustee's discretion to allocate cash or other assets of the Fund to any reserve or account established by the Trustee in the books of the Fund, for accounting or record keeping purposes.

### 8.3 Fund Earning Rate

- (a) The Trustee may determine the rate of investment earnings (which may be positive or negative and may be reflected as a variation in unit price) in respect of any period and for the purposes of the whole or any particular provision or provisions of this Deed, and whether applicable to the whole Fund, an Investment Option or any part of the Fund (such as a Division or Sub-plan) (**Fund Earning Rate**).
- (b) The Fund Earning Rate will be determined by the Trustee having regard to such factors as the Trustee considers appropriate, including (but not limited to):
  - (i) the income of the Fund, the relevant Investment Option or any part of the Fund (such as a Division or Sub-plan);
  - (ii) if the Trustee is making use of an Investment Account, an account specified in Clauses 8.2(b) to 8.2(f) or any other Fund Account for investment-related purposes, any amounts held in that account as the Trustee considers appropriate; and

- (iii) any provisions or reserves for future contingencies which the Trustee considers reasonable.

and without limiting the preceding words, but subject to any conditions determined by the Trustee:

- (iv) a Fund Earning Rate may be prospectively determined on an interim basis in respect of a particular period; and
  - (v) a Fund Earning Rate may be subsequently determined on a final or declared basis in respect of that period.
- (c) As a minimum, the Trustee will determine the Fund Earning Rate following the debiting of the Investment Account at the end of the Fund Year, and make an allocation to the Member's Account for that Fund Year, in accordance with clause 8.2(c)(iii)(F) above, and in proportion to the balance of the Member's Account at the start of that Fund Year, as adjusted by credits or debits to that Account during the Fund Year.

#### **8.4 Receipt and payment of moneys**

All moneys of the Divisions of the Fund will be lodged as soon as practicable to the credit of an account in the name of the Trustee or Custodian kept with a bank or non-bank financial institution or to the credit of an Insurer for the payment of premiums or into the trust account of a solicitor, accountant or Investment Manager appointed by the Custodian in accordance with this Deed.

#### **8.5 Defined Benefit Interests**

- (a) To the extent that a Member's interest is a Defined Benefit Interest or a Closed Pension the Trustee may maintain such accounts and other records as are appropriate to enable the Member's Benefit to be determined and to ensure that their interest in the Fund is otherwise properly recorded.
- (b) Notwithstanding clause 8.1, the Trustee may determine not to establish and maintain an Accumulation Account for a Member with a Defined Benefit Interest. Notwithstanding rule 4.2 of Division 3, the Trustee may determine not to establish and maintain a Pension Account for a Pensioner with a Closed Pension. The Trustee may maintain such other records for those Members as it considers appropriate and as may be required by the Rules governing a Benefit Division or Sub-Plan.
- (c) The Trustee may determine to voluntarily comply with a Release Authority where the Trustee would not otherwise be compelled to release an amount if:
  - (i) it relates to the release of an amount from a Member's Defined Benefit Interest;
  - (ii) the Trustee has determined a method for adjusting the Member's Defined Benefit Interest and the Benefit that would otherwise be payable from the Fund to or in respect of the Member; and
  - (iii) the Member has approved or otherwise consented to the payment of the amount to be released and the methodology for the adjustment of the Member's Defined Benefit Interest and Benefit otherwise payable from the Fund.



- (d) Without limiting clause 8.5(c), the Trustee may determine a method for adjusting the Member's Defined Benefit Interest in respect of any amount paid pursuant to a Release Authority by:
- (i) establishing an account in respect of the Member known as a "Release Account";
  - (ii) debiting the Release Account with any amount paid under clause 8.5(c) pursuant to a Release Authority;
  - (iii) varying the balance of the Release Account with movements in the value of Units notionally allocated by the Trustee in respect of the balance of the Release Account; and
  - (iv) reducing the Benefit otherwise payable to the Member by the balance of the Release Account.

## **9. Investments**

### **9.1 Authorised Investments**

The Trustee may apply the whole or any part of the Fund not immediately required for another purpose under this 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.

### **9.2 Particular investments**

Without limiting clause 9.1, the investment of Fund assets may include:

- (a) any investment for the time being authorised by the laws of the Commonwealth of Australia or any State or Territory for the investment of trust funds;
- (b) the purchase or acquisition in any way of shares, stocks, debentures, notes, bonds, mortgages, options or other like security in any company incorporated in any part of the world whether or not carrying on business in Australia and whether the shares or stock be fully or partly paid up and whether secured or unsecured, registered or unregistered;
- (c) on deposit with any bank, building society, credit co-operative, trustee company or other registered financial institution in any type of account, whether secured or unsecured and on such terms as the Trustee determined;
- (d) on deposit with or on loan to any person, company or organisation whatsoever with or without security and at such rate of interest and upon such terms as the Trustee may deem reasonable notwithstanding that the Trustee may have a direct or indirect interest in the borrowing or may benefit directly or indirectly from it;
- (e) any Policy or annuity with an Insurer whether by proposal, purchase or otherwise, and any choses in action, interests for life or any lesser term or in reversion or otherwise arising;
- (f) the purchase or acquisition of any real or personal property and the improvement or extension of that property;

- (g) the purchase or acquisition of or subscription for any unit, sub-unit or other rights or interests (however described) in any trust, managed investment scheme or other mutual or common fund or Pooled Superannuation Trust established or situated anywhere in the world whether individually or jointly and whether such units or sub-units are fully paid up or whether their issue involves any contingent or reserve liability;
- (h) the acquisition of any derivatives or other synthetic investment and participation in any hedging, swapping or other like arrangement irrespective of whether such dealing is related to any other property forming part of the Fund; and
- (i) any other investments or joint ventures anywhere in the world which the Trustee considers appropriate.

### 9.3 Power to Sell, Vary and otherwise deal with Investments

The Trustee has power to sell any investments, to vary and change any investments into other investments authorised by this Deed and to otherwise deal with and manage the investments of the Fund as the Trustee in its discretion sees fit.

### 9.4 Investment Manager

- (a) The Trustee may appoint in writing one or more appropriately qualified persons or companies to act as Investment Manager for the Fund for such period and on such terms and conditions as the Trustee determines.
- (b) The Trustee may delegate to each Investment Manager such powers, discretions and authorities relating to the purchase, sale, management, investment, administration, valuation, retention and transposition of that part of the Fund entrusted to such Investment Manager as the Trustee determines and may reallocate the assets of the Fund being invested by that Investment Manager.

### 9.5 Interest of Trustee in Investment

- (a) Subject to clause 9.5(b) below, the Trustee and any Director has the power and are authorised to make or vary any of the investments authorised under this Deed notwithstanding that the Trustee or Director may have a direct or indirect interest in the investment or may benefit directly or indirectly from it.
- (b) The Trustee and any Director must disclose details of any interest in an investment to which clause 9.5(a) applies in the manner prescribed under Relevant Law.

### 9.6 Investment options

Subject to any conditions imposed by the Trustee generally or in any particular case:

- (a) **Investment options** - The Trustee may establish investment portfolio arrangements within the Fund with distinct portfolios of assets or classes of assets, on such basis and within such parameters as the Trustee considers appropriate, (for example, on the basis of a particular investment strategy), for the purpose of:
  - (i) investing; or
  - (ii) inviting Members to elect to invest,

all or part of the Member's Account in one or more of such investment arrangements (each to be referred to as an Investment Option). For the avoidance of doubt, the Trustee is not required to allocate or designate specific and identifiable assets of the Fund to a particular Investment Option.

- (b) **Variation of elections** - At any date or dates determined by the Trustee, the Trustee may allow a Member to revoke or vary any previous Investment Option election made by the Member and to make further elections.
- (c) **Closure of Investment Option** - The Trustee is not bound to establish or maintain any Investment Option or, having established an Investment Option, to make it available to any particular Member or Beneficiary, and the Trustee may vary, discontinue, close, cease to offer or dispose of any Investment Option, as it considers the circumstances require.
- (d) **Rules** - The Trustee may adopt rules from time to time in relation to:
  - (i) the temporary suspension of redemptions, withdrawals or switches of investments in an Investment Option in whatever circumstances the Trustee considers appropriate including during any period in which the Trustee is of the opinion that to process the redemption, withdrawal or switch would not be fair to all members holding that Investment Option;
  - (ii) any notice periods or advance notice required before a redemption, withdrawal or switch may be effected; and
  - (iii) any other matter relating to Investment Options.

## 9.7 Allocation of investment earnings to Accounts

Where any part of a Member's Account is invested in an Investment Option, in determining how and to what extent the relative investment performance of that Investment Option is allocated to the Account, the Trustee:

- (a) will have regard to the extent to which the Member's Account is represented by or is attributable to assets forming part of the Investment Option; and
- (b) may allocate that investment performance to the Member's Account on such basis as the Trustee may determine either generally or in any particular case, including, without limitation, by way of unit price movements and/or a particular Fund Earning Rate.

## 10. Insurance

### 10.1 Trustee to effect Policy

The Trustee may effect Policies in its own name with an Insurer and may secure the Benefit of a Member by means of a group Policy or Policies or partly in one way and partly in another. The Trustee will not be responsible or liable to a Member, a Member's Legal Personal Representative or the Dependants of a Member should the Trustee determine not to exercise the power to effect such Policy or Policies or is unable to obtain a Policy or Policies.

## **10.2 Trustee Right to Rectify**

The Trustee has the right to rectify any Member's insurance cover or insurance information if it is found to be incorrect, and the Trustee must notify the Member in writing of any such rectification.

## **10.3 Premiums for Policy**

The premiums for any Policy effected may be debited to the Insurance Account, Administration Account or directly to the Accumulation Account or Pension Account of the Member in respect of whom the Policy is effected or alternatively in such proportions amongst other Members as the Trustee considers to be equitable, in which case, premiums may be debited against each relevant Member's Accumulation Account.

## **10.4 Limitations on Policy**

Where a Policy is being effected by the Trustee in respect of a Member and an Insurer refuses to insure a Member or seeks to impose any limitations or special conditions in respect of a Member or Beneficiary, then the Trustee may impose such limitations or special conditions in respect of the Benefits otherwise payable to or in respect of the Member or Beneficiary as it determines. If cover has been declined by an Insurer in respect of a Member, the Trustee is under no obligation to arrange alternative insurance policies.

## **10.5 Payment of Insured Benefit**

If any Insured Benefit is being provided, the Trustee will only be obliged to commence payment of the Insured Benefit to the extent that moneys for the Insured Benefit are received by the Trustee from the insurer and credited to the Member's Accumulation Account.

## **10.6 Cessation of insurance upon leaving the Fund**

Immediately upon a Member leaving the Fund by way of the transfer or rollover of the Member's entire Benefit, any Policy taken out by the Trustee with an Insurer for an Insured Benefit in respect of the Member will immediately cease to apply to the Member, subject to any term of the relevant Policy which provides for an extension or continuation of the Member's insurance cover under the Policy.

# **11. Contributions**

## **11.1 Minimum contributions**

The Trustee may set a minimum amount and maximum amount for any initial contribution to the Fund for or in respect of any Member, and may set a minimum amount and maximum amount for any subsequent contribution.

## **11.2 Member's contributions**

- (a) Subject to clause 11.1 and the Relevant Law, a Member may make contributions to the Fund.
- (b) Pursuant to the Relevant Law, salary sacrifice contributions can be made by Participating Employers on behalf of Members.

### **11.3 Employer's contributions**

Contributions payable by any Participating Employer will be paid to the Trustee, and paid in such manner and at such times as outlined in the Rules of a Division or Sub-Plan and as agreed between the Trustee and that particular Participating Employer.

### **11.4 Additional contributions**

An Employer may make additional contributions on behalf of a Member in addition to its contributions made under or in accordance with the Guarantee Act.

### **11.5 Refund or Transfer of Payments**

If any monies paid to the Fund will or may jeopardise the status of the Fund as a Complying Superannuation Fund or, in the opinion of the Trustee, may have been paid by mistake (whether of law or of fact) or the Contributions are not able to be otherwise accepted under the Relevant Law, the Trustee may refund those monies to the person who paid them to the Fund or transfer them pursuant to clause 12.1(a). Subject to the Rules, the Trustee is not liable to pay any interest, or account for any earnings or compensate the person who paid those monies in any way and a person will not be deemed to have become an Employer or a Member merely by reason of the receipt of the Trustee of those monies.

### **11.6 Interest on contributions**

The Trustee may require a Participating Employer to pay interest at a rate determined by the Trustee and any collection costs on any of its contributions which are in arrears or may require a Participating Employer or Member, as appropriate, to pay interest on any Member's contributions which are in arrears.

### **11.7 Other Superannuation Obligations**

Where at any time an obligation, whether compulsory or otherwise, is imposed upon a Participating Employer to make contributions to a superannuation fund (other than the Fund) providing retirement, death or disablement benefits in respect of Members, then the Participating Employer may, with the consent of the Trustee, reduce its contributions to the Fund by the amount of the contributions being made to the other fund in respect of those Members.

### **11.8 No Obligation to contribute**

In the absence of any agreement to the contrary, neither a Member nor a Participating Employer will be under any obligation to make a contribution to the Fund in respect of any Fund Year, and a Member may remain a Member of the Fund notwithstanding a contribution is not made in respect of that Member in respect of any Fund Year.

### **11.9 Ineligible contributions**

If the Trustee determines that a contribution has been accepted in breach of the provisions of this clause, the Trustee may in its discretion and subject to the Relevant Law, refund such contribution within any time period which may be required by the Relevant Law, less any:

- (a) charge which an Insurer may have made in respect of any extra cover which it has provided in relation to that contribution; and
- (b) reasonable administration, Taxation and applicable investment charges,

and reduce the Benefits held for the Member in the Fund to those which would have been held if such Contribution had not been received.

#### **11.10 Contributions by and on behalf of a Spouse**

The Spouse of a Member may, with the consent of the Trustee and subject to any applicable requirements the Trustee determines, make contributions to the Fund in respect of that Member.

#### **11.11 Manner and timing of payment of contributions**

- (a) Contributions must be paid by a Participating Employer to the Fund in the manner and at the times reasonably determined or approved by the Trustee, and with such information as is required by the Trustee.
- (b) The Trustee may, but will not be required to, take any action to recover unpaid contributions from a Participating Employer.

#### **11.12 Apportionment Between Members**

With each payment of contributions to the Trustee, the Participating Employer will advise such details with respect to those contributions as are required by the Trustee.

#### **11.13 Other contributions**

The Trustee may accept any other contribution permitted by the Relevant Law.

#### **11.14 Contribution Splitting**

A Member of the Fund may in a financial year make a Contributions Splitting Application. The Trustee may give effect to such an application subject to Relevant Law and any terms and conditions the Trustee determines in its discretion.

#### **11.15 Trustee may Receive Splittable Contributions**

The Trustee may accept into the Fund any amount received by the Fund arising from the giving effect to a Contributions Splitting Application, subject to any terms and conditions determined by the Trustee and provided the Trustee receives all the information that is required by the Trustee.

#### **11.16 Deductible Member Contributions**

The Trustee may make an election under the Tax Act in respect of the Fund so that after-tax contributions made by Members in respect of their Defined Benefit Interests cannot be claimed by those Members as a deduction for their personal income tax purposes.

### **12. Transfers**

#### **12.1 Transfers out of the Fund**

##### **(a) Transfers to Approved Benefit Arrangements**

Where a Member requests the transfer of the whole or part of his or her entitlement in the Fund, or if the Trustee wishes to transfer the whole or part of the entitlement held on behalf of a Member to an Approved Benefit Arrangement or between Divisions or Sub-Plans, then the Trustee may transfer the whole or any part of the amount in the

Fund representing the Member's Benefit or Benefit Entitlement to the trustee, operator or provider of the Approved Benefit Arrangement, or otherwise transfer via an Internal Rollover to a different Division or Sub-Plan, with or without the Member's consent (in the case of a Successor Fund Transfer) provided that a transfer may only be made pursuant to this clause where the Trustee is satisfied that:

- (i) the transfer is permitted under, and is made in accordance with, the Relevant Law; and
- (ii) in the case of a Portability Request the request has been made in accordance with Relevant Law.

**(b) Effect and Method of Transfer Out**

- (i) The receipt of the transferred amount by an authorised representative of the Approved Benefit Arrangement is a complete discharge to the Trustee of all liabilities in respect of the transferred amount and the Trustee will have no responsibility to see to the application of the transferred amount.
- (ii) Upon the completion of a payment or transfer in respect of a Member or Beneficiary all the rights and interest of that Member or Beneficiary under this Deed and all the rights and interest of any person otherwise entitled to claim in respect of the Member or Beneficiary in respect of the transferred amount will be entirely extinguished.

**(c) Roll Over**

Where a Member or former Member wishes to effect a Roll Over Payment or an Internal Roll Over in respect of all or any of the entitlement of the Member in the Fund the Member must:

- (i) make a request to the Trustee in writing nominating the Approved Benefit Arrangement to which the Roll Over Payment or Internal Roll Over is to be made, and the amount to be applied as the Roll Over Payment or Internal Roll Over or the percentage of the Member's Account or Pension Account to be applied as the Roll Over Payment or Internal Roll Over; and
- (ii) complete and execute a notification of the Roll Over Payment or Internal Roll Over or such other documentation as is required by the Tax Act to enable the Roll Over Payment or Internal Roll Over to be effected to the Approved Benefit Arrangement in accordance with the Relevant Law.

## **12.2 Transfers into the Fund**

**(a) Takeover or Transfer of Benefits**

Subject to clause 12.2(b), where a person (**Relevant Person**) is or was a member of, or is or was the beneficiary under any other Approved Benefit Arrangement, the Trustee may by resolution determine to take over or acquire by transfer from the trustee, operator or provider of the other Approved Benefit Arrangement the whole or any part of the assets of such Approved Benefit Arrangement or the interest of any person who is a participant or former participant of that Approved Benefit Arrangement with the intent of preserving the rights, entitlements and interests of the member of such Approved Benefit Arrangement at the time of transfer.

**(b) Rights and Entitlements of Member in Transferred Benefits**

The Trustee will hold any such amounts transferred in accordance with clause 12.2(a) above as part of the Fund and reflect such equivalent rights, entitlements and interests as existed in the other Approved Benefit Arrangement as the Trustee decides and, if the Trustee so determines, the Relevant Person will be deemed to have become a Member of the Fund on the date the Relevant Person became a member of the Approved Benefit Arrangement from which the Benefit was transferred.

**(c) Consent of Relevant Person**

If a resolution of the kind referred to in clause 12.2(a) is made in circumstances where, for the purposes of the transfer, the Fund will be a Successor Fund of the other Approved Benefit Arrangement, the Trustee is not required to obtain the consent of the Relevant Person. Otherwise, the resolution may only be carried into effect with the prior consent of the Relevant Person.

**13. Benefits****13.1 Address for Benefits**

The Trustee may pay Benefits to a Beneficiary:

- (a) in cash to the Beneficiary in person;
- (b) by electronic funds transfer to the bank account of the Beneficiary to which the Beneficiary requests that the Benefit be paid;
- (c) by cheque to the postal address of the Beneficiary last advised to the Trustee; or
- (d) otherwise as may be determined by the Trustee and advised to the Member or Beneficiary.

**13.2 Notification of Address**

Every Beneficiary must (except where no further Benefit is payable from the Fund) notify the Trustee of the full postal address of the Beneficiary:

- (a) at the time the Benefit becomes payable; and
- (b) immediately after the Beneficiary changes address at any time .

**13.3 Receipt for Benefits**

Any person to whom a Benefit is payable will, if requested, furnish the Trustee with a receipt and release in a form from time to time required by the Trustee.

**13.4 Notification of Claims and Proofs**

Where a Benefit is payable to or in respect of a Member, prior to payment of the Benefit the Trustee must notify, as applicable:

- (a) the Member, in the case of a Benefit payable to the Member;
- (b) the Nominated Dependant, the Reversionary Beneficiary, the Legal Personal Representative, any known Dependants or any other person who the Trustee



reasonably believes may have an entitlement to or an interest in the Benefit, in the case of a Benefit payable on death of a Member; and

- (c) in any other case, such persons as the Trustee reasonably believes may have an entitlement to or interest in the Benefit,

in writing of the period (if any) within which the person may seek to claim an entitlement to the Benefit or otherwise, of their entitlement to the Benefit and such notification may be by any method of communication which the Trustee considers appropriate in the circumstances. Where a person has produced to the Trustee such evidence, done all such acts and executed all such documents as the Trustee may reasonably require in order to satisfy the Trustee that the person is entitled to the payment of part or all of the Benefit under this Deed, the Trustee must pay such Benefit, provided that the Trustee must notify in writing any person mentioned in paragraphs (a), (b) or (c) above of the period (if any) within which the person may object to the payment of the Benefit and may defer the payment of the Benefit until that period for objections has elapsed.

### **13.5 Notification Outside Time Limit**

Where a person has failed to notify the Trustee of a claim or of the intention to make a claim within the period determined by the Trustee in clause 13.4, no payment will be made to the person unless the Trustee is satisfied that such a payment may be made from the Fund in accordance with this Deed and the Relevant Law.

### **13.6 No Personal Claim**

No Member or person claiming through a Member or on behalf of a Member or as the Dependant of a Member is entitled to require payment of that Member's interest in the Fund except as may be provided in this Deed.

### **13.7 Payment to Others on Behalf of Beneficiaries**

When any Beneficiary is under the age of 18 years or is under any legal disability or when in the opinion of the Trustee it would be in the best interests of the Beneficiary, the Trustee may pay all or part of any Benefit in such one or more of the following ways as the Trustee determines:

- (a) to or towards the maintenance, education, advancement, support or benefit of the Beneficiary in such manner and on such terms and conditions as the Trustee determines; or
- (b) to any other person who appears to the Trustee to be a trustee for the Beneficiary or Spouse, Child, parent or guardian or a person having custody of the Beneficiary for application on behalf of the Beneficiary,

and the receipt of the person to whom the Benefit is paid will be a complete discharge of the Trustee for the payment in respect of the Beneficiary and the Trustee will not be bound or concerned to see to the application of the Benefit paid.

### **13.8 Preservation Conditions**

Notwithstanding any other provision of this Deed which may be construed to the contrary, any Preserved Payment Benefits held by the Trustee which are unable to be paid out to the Member may, at the discretion of the Trustee, be dealt with in accordance with clause 12.1, or be retained in the Fund subject to clause 13.12.

### 13.9 Payment of Non-Preserved Amounts

Notwithstanding any other provisions of this Deed which may be construed to the contrary and subject to the Relevant Law:

(a) **Member Election**

A Member may elect at any time to withdraw the whole or any part of the amount of the Member's Account which is not required to be preserved under the Relevant Law by giving notice to the Trustee in such form and manner as may be determined by the Trustee from time to time.

(b) **Minimum Payment**

The minimum amount which may be withdrawn by a Member pursuant to clause 13.9(a) will be determined by the Trustee and notified to Members of the Fund.

### 13.10 Increases to Benefits

In circumstances where a Member ceases to be a Member of a Division of the Fund, the Trustee may pay some part of an Administration Account which the Trustee considers represents the interest of that Member in that Account to the Member's Accumulation Account for purposes of the payment of a Benefit.

### 13.11 Interest on benefits

In determining the amount standing to the credit of an Account at the time a Benefit is calculated or becomes payable, the Trustee will make such adjustment (up to the date of payment) reflecting the Fund Earning Rates then applying as it considers equitable and in accordance with the Relevant Law.

### 13.12 Retention of Benefit in Fund

Where a Member or Beneficiary entitled to Benefits does not require Benefits to be immediately paid, the Trustee may in its absolute discretion retain all or any part of any Benefit payable in the Fund until:

(a) **Request**

- (i) the Member or Beneficiary entitled requests that it be paid to that Member or Beneficiary; or
- (ii) If the Member or Beneficiary entitled is a Member of Division 1 or 2, when the Member or Beneficiary requests that it be transferred into Division 3 of the Fund;

(b) **Death**

the Member dies, in which event it will be paid in accordance with clause 13.13;

(c) **Payment otherwise required**

payment of the Benefit is required in accordance with the provisions of this Deed or the Relevant Law; or

(d) **Discretion**

the Trustee elects for whatever reason to pay the Benefit to the Member or Beneficiary,

whichever occurs first, and the amount then payable will be the Benefit standing to the credit of that Member's or Beneficiary's Account as at the date of payment.

### 13.13 Death benefits

#### (a) **Non-binding death benefit nominations**

A Member may upon admission and from time to time thereafter in a manner approved by the Trustee notify the Trustee of:

- (i) the names and addresses of any Dependants to whom the Member wishes any Benefit payable upon the Member's death to be paid; and
- (ii) the proportions and manner in which the Member wishes those Benefits to be paid.

The nomination:

- (A) may be varied or replaced from time to time in a manner approved by the Trustee; and
- (B) is not binding upon the Trustee but the Trustee may consider the nomination when exercising any of its discretions in respect of the payment or application of any Benefit to be made upon the death of the Member.

#### (b) **Binding and consent death benefit nominations**

- (i) A Member may upon admission and from time to time thereafter give the Trustee a Binding Death Benefit Nomination.
- (ii) In circumstances where the Fund will become a Successor Fund of another Approved Benefit Arrangement the Trustee may, pursuant to the Relevant Law, provide, and if necessary revoke, its consent to the terms of a valid binding death benefit nomination that the Relevant Person provided the trustee of the previous Approved Benefit Arrangement (**External BDBN**).
- (iii) The Trustee may only provide its consent to an External BDBN for a period of no longer than three years from the date that the Fund became a Successor Fund of the other Approved Benefit Arrangement.

#### (c) **Payments to Dependants, Legal Personal Representatives or Other Persons**

Subject to the Relevant Law, upon the death of a Member or Beneficiary, the Trustee will:

- (i) if required by a Binding Death Benefit Nomination given by the Member to the Trustee, or an External BDBN that the Trustee had continued to consent to at the time of the death of the Relevant Person, pay or apply the Benefit in accordance with that Binding Death Benefit Nomination or External BDBN, as relevant;

and otherwise:

- (ii) where the Member or Beneficiary had Dependants: pay or apply the Benefit to one or more of the Member's or Beneficiary's Dependants (including any Nominated Beneficiaries) and Legal Personal Representative in such proportions, form, manner and at such times as the Trustee in its discretion determines, provided that the payment of the Benefit complies with the Relevant Law; or
  - (iii) where the Member or Beneficiary had no Dependants: pay the Benefit to the Legal Personal Representative of the Member or Beneficiary, or if there is no Legal Personal Representative may pay or apply the Benefit in such a manner as permitted by the Relevant Law.
- (d) **Discharge of Trustee**

The receipt by a Dependant, the Legal Personal Representative or other person of a Benefit paid or applied in accordance with the Relevant Law under this clause 13.13 will be a complete discharge to the Trustee in respect of any amount paid to that person.

(e) **Death of Former Member Prior to Benefit Payment**

Where a Member or former Member has become entitled to payment of a Benefit as a Lump Sum and before payment has been made by the Trustee, the Member or former Member dies, the Trustee may pay that Benefit in accordance with the provisions of this clause 13.13.

### 13.14 Australian Currency

All Benefits will be expressed and paid in Australian currency unless otherwise specifically agreed between the Member and the Trustee.

## 14. Amending the Deed

The provisions of this Deed including this clause may be added to, amended, altered, modified, rescinded or varied (the Variation) from time to time by the Trustee either prospectively or retrospectively on the following basis:

### 14.1 Deed

The Variation must be by Deed executed by the Trustee.

### 14.2 Limitation on Variation

No Variation must have the effect of:

- (a) reducing or adversely affecting the rights or claims of a Member to accrued entitlements under the Fund which have arisen prior to the Variation being effected; or
- (b) reducing the amount of an entitlement other than an entitlement referred to in clause 14.2(a) above that is or may become payable in relation to a period before the date of the Variation, unless:
  - (i) the reduction is required to enable the Fund to comply with the Relevant Law; or
  - (ii) the Member so affected consents in writing to the reduction; or

- (iii) the Regulator consents in writing to the reduction.

### 14.3 Further limitation on Variation

No Variation to this Deed must:

- (a) have the effect of providing that the sole or primary purpose of the Fund is other than the provision of old-age pensions within the meaning of the Relevant Law, unless the Trustee of the Fund is a Constitutional Corporation or the Relevant Law otherwise permits; or
- (b) permit a person or body other than a Constitutional Corporation to be appointed as Trustee, unless the Deed provides that the sole or primary purpose of the Fund is the provision of old-age pensions within the meaning of the Relevant Law or the Relevant Law otherwise permits.

## 15. Termination

### 15.1 Election to Terminate

The Trustee may elect to wind up the Fund at a certain date (the **Termination Date**) in the following circumstances:

- (a) if there are no further Members remaining in the Fund;
- (b) if the Trustee determines for any reason that the Fund should be wound up; or
- (c) if it is required by the Regulator.

### 15.2 Procedure on Winding Up of Fund

Where the Fund is to be wound up the Trustee must:

- (a) give written notice to each Participating Employer and Member that the Fund is to terminate on the Termination Date; and
- (b) arrange to transfer the Benefits of Members to another Approved Benefit Arrangement which is a Successor Fund to the Fund without the consent of Members as permitted under the Relevant Law, after deducting from the assets of the Fund all the costs and expenses of administering and winding up the Fund; or
- (c) arrange to pay or transfer Benefits to Members, former Members and Beneficiaries in accordance with clause 15.3 below, after deducting from the assets of the Fund all the costs and expenses of administering and winding up the Fund.

### 15.3 Exhaustion of Fund

Subject to the Relevant Law, if the Trustee determines that clause 15.2(c) will apply, the Trustee will pay the following Benefits in the following order to the extent that the assets of the Fund permit:

- (a) benefits to which Members, former Members or their Dependants who have not been paid a Benefit immediately prior to the Termination Date are entitled at the Termination Date; and
- (b) the provision of additional Benefits to Members, former Members and their Dependants as the Trustee in its absolute discretion considers appropriate.

## 16. Service of notices

### 16.1 Notices by the Trustee

- (a) Any notice or other document to be given by the Trustee to any Participating Employer or to any Member (**Recipient**):
- (i) must be given in writing (or in such other manner as the Trustee determines);
  - (ii) is taken to be given by the Trustee and received by the Recipient:
    - (A) if delivered by hand either personally to the Recipient or to the Recipient's physical address, upon that delivery;
    - (B) if sent by prepaid post addressed to the Recipient's address last known to the Trustee, in which case it will be deemed to have been received on the date when in the ordinary course of post it would normally have been delivered at such address;
    - (C) if sent by email to the email address last known to the Trustee, unless the Trustee receives a notification of delivery failure within 24 hours of the email being sent, at the time recorded on the Trustee's computer as the time the communication was sent;
    - (D) where the Recipient has agreed to receive notices and documents through a secure on-line portal, when the notice or document is first made available through that portal; or
    - (E) where otherwise sent, distributed or communicated by any other method (including through electronic means) permitted by Relevant Law, at the time the Trustee determines.
  - (iii) (including through electronic means) permitted by Relevant Law.
- (b) Where at least one notice has been returned and unclaimed from the last known address of a Member and the Trustee is satisfied on reasonable grounds that the address is incorrect or no address for the Member can be obtained and the Trustee has taken reasonable steps to locate the Member but has been unable to do so, then the Trustee will not be required to serve the notice until the Trustee later becomes aware of the address or location of the Member.

### 16.2 Notices to Trustee

Any notice or other document to be given to the Trustee by a Participating Employer or Member:

- (a) must be in writing (or in any other form or manner determined by the Trustee);
- (b) must be signed personally or bear the facsimile or electronic signature or other electronic identification of:
  - (i) the Member; or
  - (ii) the Participating Employer or, of a duly authorised officer or representative of the Participating Employer;

unless the Trustee determines otherwise;

- (c) is taken to be given by the sender and received by the Trustee:
- (i) if delivered by hand either personally to the Trustee or to the Trustee's office, upon that delivery;
  - (ii) if sent by prepaid post to the office of the Trustee, in which case, it will be deemed to have been received on the date when, in the ordinary course of post, it would normally have been delivered at such address;
  - (iii) if sent by email to the email address that the Trustee notifies from time to time, unless the sender receives a notification of delivery failure within 24 hours of the email being sent, at the time recorded on the sender's computer as the time the communication was sent.

## 17. Unitisation

### 17.1 Division into Units

The beneficial interest in the assets of each Account is comprised of notional Units in the relevant Fund Investment Pools applicable to each member. No Unit confers a legal or equitable interest in any of the assets of the Fund.

### 17.2 Unitisation of Accounts

- (a) The Trustee must cause each Account and/or Fund Investment Pool to be valued at times which the Trustee considers appropriate.
- (b) The Trustee must determine, as it considers appropriate, for each Account and/or Fund Investment Pool:
  - (i) the period during which an Application Price is to apply;
  - (ii) the period during which a Withdrawal Price is to apply;
  - (iii) the time of any valuation under this clause which is to apply to the periods in (i) and (ii) above.

### 17.3 Units of Equal Value

- (a) All Units in a Fund Investment Pool have an equal value.
- (b) The amounts in clauses 17.4 and 17.5 may be rounded as the Trustee considers appropriate.

### 17.4 Application Price

The Application Price of each Unit in a Fund Investment Pool for the period determined under clause 17.2(b)(i) is:

$$\frac{\text{VIP} + \text{ITC}}{\text{U}}$$

where:

- VIP is the value of the Fund Investment Pool under clause 17.2(a) and applicable for the period;

ITC is the share of the Investment Transaction Costs which the Trustee considers appropriate to apportion to the Fund Investment Pool;

U is the number of Units on issue in the Fund investment Pool.

### 17.5 Withdrawal Price

The Withdrawal Price of Units in a Fund Investment Pool for a period determined under clause 17.2(b)(ii) is one of the following as the Trustee determines to be appropriate:

(a) 
$$\frac{VIP - WTC}{U}$$

U

where:

VIP is the value of the Fund Investment Pool determined under clause 17.2(a) and applicable for the period;

WTC is the share of Withdrawal Transaction Costs which the Trustee considers appropriate to apportion to the Fund Investment Pool;

U is the number of Units in issue in the Fund Investment Pool;

(b) the Application Price for the period; or

(c) an amount between the amounts determined under (a) and (b) above.

### 17.6 Determination of Unit Prices

The Application Price and Withdrawal Price of Units in a Fund Investment Pool may be determined by the Trustee at any time (including more than once a day) and must be determined by the Trustee at least once each month.

### 17.7 Suspension of Issue

The Trustee may suspend the issue and redemption of Units in respect of the whole or any part of a Fund Investment Pool as the Trustee considers appropriate, including during any period in which the Trustee is of the opinion that the issue price or redemption price of those Units cannot be calculated in a manner that is fair to all persons holding those Units. The Trustee may determine that clause 17.6 does not apply if it suspends the issue and redemption of Units under this clause 17.7.

### 17.8 Issue of Units

(a) On accepting an amount under this Division in respect of a Member, the Trustee must:

(i) allocate Units to the Member in the Fund Investment Pool notified to the Trustee by the Member;

(ii) to the extent that no Fund Investment Pool is notified by the Member, allocate Units to the Member in the Fund Investment Pool as the Trustee considers appropriate.

(b) The number of Units in a Fund Investment Pool to be allocated to a Member is determined as:



$$\frac{A - T}{AP}$$

where:

- A is the amount applied for in the Fund Investment Pool;
- T is any Tax, costs, charges, expenses or fees which the Trustee considers appropriate to deduct in respect of A;
- AP is the Application Price of Units in that Fund Investment Pool on the Application Date.

### 17.9 Redemption of Units

- (a) The Trustee may redeem any Units (including fractions of Units) allocated to a Member to:
- (i) pay any Benefit to the Member;
  - (ii) transfer or rollover Benefits from the Fund;
  - (iii) meet any Taxation, costs, charges, expenses or fees or provision for any of them that the Trustee considers appropriate in relation to the Member; or
  - (iv) switch an amount to another Fund Investment Pool.
- (b) The number of Units to be redeemed is determined as:

$$\frac{B - T}{WP}$$

where:

- B is the amount of the Benefit or payment;
- T is any Tax, costs, charges, expenses or fees or provision for any of them which the Trustee considers appropriate to apply in respect of B;
- WP is the Withdrawal Price of the Units on the Application Date.
- (c) The Trustee may round the number of Units to a fraction of a Unit if the Trustee considers appropriate.

### 17.10 Switching Request

- (a) A Member may request, using the Trustee's prescribed form, for any or all of the Units referable to a particular Fund Investment Pool to be switched to Units referable to another Fund Investment Pool. The Trustee is not required to comply with the switching request if the request is not in the prescribed form or where to do so would be unfairly prejudicial to the interests of other Members in the relevant Fund Investment Pool.
- (b) The Trustee may:
- (i) set a minimum switching amount for each Fund Investment Pool;
  - (ii) vary any minimum switching amount at any time;

- (iii) refuse to process any switching request for an amount less than the minimum switching amount;
- (iv) if the amount remaining in the Fund Investment Pool is less than a minimum prescribed by the Trustee in the Disclosure Document then the amount can be transferred by the Trustee into any remaining Fund Investment Pools held by the Member; and
- (v) refund that amount less any applicable Taxation to the Member pursuant to the Relevant Law.

#### **17.11 Effect of Request**

A switching request:

- (a) is firstly, a redemption of Units referable to the relevant Fund Investment Pool under clause 17.9(a)(iv), and must be treated by the Trustee as a redemption under clause 17.9; and
- (b) is secondly, the application of the redemption proceeds from clause 17.11(a) above, which must be treated by the Trustee as an allocation of Units referable to the nominated Fund Investment Pool under clause 17.8.

#### **17.12 Selection of Units on Withdrawal**

The Trustee, unless agreed with the Member, may select what class and type of Units it withdraws from any investment option selected by the Member in order to meet any liability of a particular Division applicable to that Member.

#### **17.13 Transaction Costs**

The Trustee is entitled to retain the Investment Transaction Costs and Withdrawal Transaction Costs in relation to the Application Price or Withdrawal Price of Units.

#### **17.14 Determination of Account balance**

The Trustee will determine the balance of a Member's Account by aggregating the value of the notional Units attributed to that Member based on the Withdrawal Price in each of the Fund Investment Pools invested in by the Trustee on behalf of that Member.

## **Section 2 – Divisional Rules**

### **Division 1 – Rules of Employer Sponsored Plan**

#### **1. Membership and Application of Division**

##### **1.1 Membership Criteria**

- (a) A Member may be admitted by the Trustee to this Division 2, if at the time of their admission, they are Employees who have been nominated in writing by a Participating Employer for Benefits under clause 6.2(a) of this Deed, and the provisions of this Division 1 will apply to such admitted Members. For the avoidance of doubt, Members of this Division 1 may include Members who are former Employees of a Participating Employer who have remained in the Division after ceasing to be an Employee of a Participating Employer.
- (b) The provisions of this Division 1 also apply to Participating Employers.

##### **1.2 Application of this Part**

The Membership classification, contributions payable by or in respect of, and the Benefits payable in respect of Members under this Division are exclusively determined in accordance with the provisions of this Division.

#### **2. Membership Classification**

At least one category of Membership under this Division and Members will be designated as ordinary Members by their Participating Employer, provided however, that a Participating Employer will, with the consent of the Trustee, have the power to create such other Membership categories or classes with such rights, entitlements, conditions of eligibility and Benefits as the Participating Employer may determine.

#### **3. Contributions**

##### **3.1 General**

The Trustee may accept into the Fund any contribution made by or in respect of a Member of Division 1 that the Relevant Law permits the Trustee to accept, subject to any applicable requirements determined by the Trustee.

##### **3.2 Employer Contributions**

- (a) A Participating Employer must, with the agreement of the Trustee, contribute to the Fund in respect of a Member such amounts as required to satisfy the Participating Employer's obligations under:
  - (i) the Guarantee Act, and
  - (ii) under the Employer application referred to in clause 6.2(a) of this Deed.
- (b) In addition to the contributions made in respect of the Member under Rule 3.1 a Participating Employer may make additional Contributions which will be in such amount (if any) as may be agreed between the Participating Employer and the

Member or as specified under any membership category created by the Participating Employer.

#### **4. Payment of Benefits**

##### **4.1 Lump Sum Payment**

Subject to Rule 9, where a Member:

- (a) retires from Employment with an Employer (including a Participating Employer) at or after the Normal Retirement Age; or
- (b) retires from an arrangement under which the Member was Gainfully Employed having attained the age of 60 years or such other age prescribed for this purpose under the Relevant Law and the Member requests that the Benefit be paid; or
- (c) in the opinion of the Trustee becomes Totally and Permanently Disabled; or
- (d) in the opinion of the Trustee is suffering from a Terminal Illness; or
- (e) satisfies the Relevant Law for the payment of Benefits under this Rule notwithstanding that the Member continues in employment; or
- (f) otherwise satisfies the Relevant Law for the payment of Benefits,

then such Member may be paid part or all of the amount standing to the credit of the Accumulation Account of the Member as at the date upon which payment is made.

##### **4.2 Pension Payment**

Where a Member is eligible for payment of a Benefit in accordance with Rule 4.1 above and the Member elects to receive part or all of the Benefit as a Pension, the Trustee may transfer the Member's Benefit into Division 3.

#### **5. Temporary Total Disablement**

##### **5.1 Recognition of Temporary Total Disablement**

In the event that a Member becomes in the opinion of the Trustee Temporarily Totally Disabled then such Member upon being notified by the Trustee that the Trustee has formed such an opinion will be paid an income stream equal to the Insured Benefit the Trustee receives under a Policy effected in relation to Temporary Total Disablement for the Member.

##### **5.2 Ceasing to be Temporarily Totally Disabled**

A Member will cease to be Temporarily Totally Disabled in the event that the Member:

- (a) ceases to satisfy the definition of Temporary Total Disablement;
- (b) ceases to be covered under a Policy effected in relation to Temporary Total Disablement;
- (c) attains the Normal Retirement Age; or
- (d) dies.

### **5.3 Payment of Insured Benefit**

An income Benefit payable under this Rule will in the case of an Insured Benefit payable under a Policy be paid in accordance with, and will cease in the circumstances set out in the Policy.

### **5.4 Contribution Suspended**

Payment of contributions to the Fund by the Member (if any) may be suspended during such period in which any income Benefit is payable under this clause.

### **5.5 Membership Continues**

The Member will continue to be a Member of the Fund during the period the Member is Temporarily Totally Disabled and for the eligibility period specified in the Policy for the Temporary Total Disablement.

## **6. Early Retirement from Employment**

In the event of a Member, for any reason other than death, Terminal Illness or Total and Permanent Disablement:

- (a) ceasing to be an Employee of an Employer (including a Participating Employer) prior to the Normal Retirement Age and the Member is at least the preservation age; or
- (b) retiring from gainful employment,

the Trustee must, unless that Member applies to or is admitted by the Trustee to participate in the Fund as a Member under Division 2 or 3 of this Deed, pay to the Member or an Approved Benefit Arrangement the amount standing to the credit of the Accumulation Account of the Member as at the date upon which payment is made.

## **7. Late Retirement from Employment**

- (a) A Member who remains in the employment of an Employer (including a Participating Employer) after the Member attains the Normal Retirement Age may with the consent of the Employer continue to make contributions to the Fund in accordance with Rule 3.1.
- (b) An Employer (including a Participating Employer) may with the consent of the Trustee continue to make contributions to the Fund in respect of a Member who remains in the employment of the Employer after the Member attains the Normal Retirement Age in accordance with Rule 3.2.

## **8. Temporary Leave Of Absence**

If a Member is temporarily absent from the Service of their Employer through illness or injury or upon leave from their Employer and is not in receipt of salary or if any Member ceased to be an Employee in circumstances in which it is reasonable to expect that cessation will only be of a temporary nature and that Member will re-join the Service of their Employer, their Membership of the Fund will continue on conditions agreed to between the Employer and the Member with the consent of the Trustee.

## **9. Payment on Death**

### **9.1 Lump Sum Benefits**

On the death of a Member whilst still a Member, the Trustee will pay the full amount standing to the credit of the Member's Accumulation Account as at the date upon which payment is made in accordance with the provisions of clause 13.13 of the Deed.

### **9.2 Pension Benefit**

If the Trustee determines that a Beneficiary is to be paid a Benefit on the death of a Member in accordance with clause 13.13 of the Deed, it may, with the consent of the Beneficiary, transfer that Benefit to Division 3.

## **Division 2 – Rules of Personal Plan**

### **1. Membership and Application of Division**

A Member may be admitted by the Trustee to this Division 2, if at the time of their admission:

- (a) they are persons in respect of whom no Employer would make contributions; or
- (b) they are otherwise an Eligible Person;

and in respect of whose Membership contributions may be made, and the provisions of this Division 2 will apply to such admitted Members.

### **2. Application of this Division**

The Membership classification, the contributions payable by or in respect of, and the Benefits payable in respect of Members under this Division are exclusively determined in accordance with the provisions of this Division, provided that a Member under this Division who is an Employee of a Participating Employer is not precluded from becoming a Member of Division 1.

### **3. Membership Classification**

At least one class of Membership under this Division and Members will be designated as ordinary Members, provided however, that the Trustee will have the power to create such other Membership classes with such rights, costs and entitlements, conditions of eligibility and Benefits as the Trustee determines.

### **4. Contributions**

The Trustee may accept into the Fund any contribution made by or in respect of a Member of Division 2 that the Relevant Law permits the Trustee to accept, subject to any applicable requirements determined by the Trustee.

### **5. Payment of Benefits**

#### **5.1 Lump Sum Payment**

Subject to Rule 10, where a Member:

- (a) retires from Employment with an Employer at or after the Normal Retirement Age; or
- (b) retires from an arrangement under which the Member was Gainfully Employed having attained the age of 60 years or such other age prescribed for this purpose under the Relevant Law and the Member requests that the Benefit be paid; or
- (c) in the opinion of the Trustee becomes Totally and Permanently Disabled; or
- (d) in the opinion of the Trustee is suffering from a Terminal Illness; or
- (e) satisfies the Relevant Law for the payment of Benefits under this Rule notwithstanding that the Member continues in employment; or
- (f) otherwise satisfies the Relevant Law for the payment of Benefits,

then such Member may be paid part or all of the amount standing to the credit of the Accumulation Account of the Member as at the date upon which payment is made.

## **5.2 Pension Payment**

Where a Member is eligible for payment of a Benefit in accordance with Rule 5.1 above and the Member elects to receive part or all of the Benefit as a Pension, the Trustee may transfer the Member's Benefit into Division 3.

## **6. Temporary Total Disablement**

### **6.1 Recognition of Temporary Total Disablement**

If a Member becomes in the opinion of the Trustee, Temporarily Totally Disabled, then such Member will be paid an income stream equal to the Insured Benefit the Trustee receives under a Policy effected in relation to Temporary Total Disablement for the Member.

### **6.2 Ceasing to be Temporarily Totally Disabled**

A Member will cease to be Temporarily Totally Disabled in the event that the Member;

- (a) ceases to satisfy the definition of Temporary Total Disablement;
- (b) ceases to be covered under a Policy effected in relation to Temporary Total Disablement;
- (c) attains the Normal Retirement Age; or
- (d) dies.

### **6.3 Payment of Income Benefit**

An income Benefit payable under this Rule will in the case of an Insured Benefit payable under a Policy be paid in accordance with, and will cease in the circumstances set out in the Policy.

### **6.4 Contribution Suspended**

Payment of contributions to the Fund by the Member (if any) may be suspended during such period in which any income Benefit is payable under this clause.

### **6.5 Membership Continues**

The Member will continue to be a Member of the Fund during the period in which the Member is Temporarily Totally Disabled and for the eligibility period as is specified in the Policy for the Temporary Total Disablement.

## **7. Early Retirement from Employment**

In the event of a Member, for any reason other than death, Terminal Illness or Total and Permanent Disablement:

- (a) ceasing to be an Employee of an Employer prior to the Normal Retirement Age and the Member is at least the preservation age; or
- (b) retiring from gainful employment,



the Trustee must, unless that Member applies to or is admitted by the Trustee to participate in the Fund as a Member under Divisions 1 or 3 of this Deed, pay to the Member the amount standing to the credit of the Accumulation Account of the Member or an Approved Benefit Arrangement as at the date upon which payment is made.

## **8. Late Retirement from Employment**

- (a) A Member who remains in the employment of an Employer after the Member attains the Normal Retirement Age may with the consent of the Employer continue to make contributions to the Fund in accordance with Rule 4.
- (b) An Employer may with the consent of the Trustee continue to make contributions to the Fund in respect of a Member who remains in the employment of the Employer after the Member attains the Normal Retirement Age in accordance with Rule 4.

## **9. Temporary Leave of Absence**

If a Member is temporarily absent from the Service of their Employer through illness or injury or upon leave from their Employer and is not in receipt of salary or if any Member ceased to be an Employee in circumstances in which it is reasonable to expect that cessation will only be of a temporary nature and that Member will re-join the Service of their Employer, their Membership of the Fund will continue on conditions agreed between the Employer and the Member with the consent of the Trustee.

## **10. Payment on Death**

### **10.1 Lump Sum Benefits**

On the death of a Member whilst still a Member, the Trustee will pay the full amount standing to the credit of the Member's Accumulation Account as at the date upon which payment is made in accordance with the provisions of clause 13.13 of the Deed.

### **10.2 Pension Benefit**

If the Trustee determines that a Beneficiary is to be paid a Benefit on the death of a Member in accordance with clause 13.13 of the Deed, it may, with the consent of the Beneficiary, transfer that Benefit to Division 3.

## **Division 3 – Rules of Pension Plan**

### **1. Membership and Application Of Division**

#### **1.1 Membership Criteria**

Members may be admitted by the Trustee to this Division 3, if they are:

- (c) persons who are entitled to receive a Superannuation Lump Sum or who may elect to receive a Complying Income Stream, who make an application for Membership pursuant to clause 6 of this Deed; or
- (d) Members who have elected to receive a Pension and have been transferred from Division 1 or Division 2,

and the provisions of this Division 3 will apply to such admitted Members.

#### **1.2 Application of this Division**

The Membership classification, the contributions and the Benefits payable in respect of Members under this Division are exclusively determined in accordance with the provisions of this Division.

### **2. Membership Classification**

There is one class of Membership under this Division and Members are designated as ordinary Members, provided however, that the Trustee will have the power to create such other Membership classes with such rights and entitlements as the Trustee determines.

### **3. Rollovers**

A Member may only make such rollovers to this Division as are permitted by the Relevant Law.

### **4. Pension Payment and Pension Account**

#### **4.1 Application to Convert to Pension**

At such time as a Benefit or part of a Benefit becomes payable to a Member or Beneficiary under the terms of this Deed in accordance with the Relevant Law the Trustee may, on the application of the Member or Beneficiary but otherwise in its absolute discretion determine to pay a Pension or Pensions from the Fund to the Member or Beneficiary (as the case might be):

- (a) in lieu of the whole or a portion of any lump sum Benefit which is otherwise payable to the Member or Beneficiary; or
- (b) in respect of any amounts credited to the Pension Account of a Member or Beneficiary.

#### **4.2 Establishment of Pension Account**

Where a Member or a Beneficiary has made an application under Rule 4.1 above and the Trustee determines to pay all or any part of the Benefit to the Member or the Beneficiary as a Pension, the Trustee must establish one or more Pension Accounts in respect of the Member or the Beneficiary to which Accounts the Trustee will transfer amounts determined in accordance with this Deed which the Trustee believes are necessary in order to provide the Benefits as a Pension.

### 4.3 Segregation of Pension Assets

In relation to each Pension payable to a Member or a Beneficiary, the Trustee may:

- (a) segregate or set apart the assets which represent the Pension Account of the Member or Beneficiary for the sole purpose of enabling the discharge of the whole or part of the current or non-current liabilities in relation to the payment of Pensions as those liabilities fall due for payment; and
- (b) constitute the segregated assets as segregated current and non-current pension assets pursuant to the Tax Act and obtain such certificates in relation to the adequacy of the assets segregated and set apart to meet the current and non-current pension liabilities as the Trustee considers necessary for the purposes of the Tax Act or as the Relevant Law requires.

### 4.4 Pension Account Limitation

Where a Pension is payable to or in respect of a Member or a Beneficiary or where the Trustee purchases an annuity on behalf of a Member or a Beneficiary, the total instalments of such Pension or the total purchase price of such annuity will not exceed the amount standing to the credit of a Member or Pensioner in the relevant Accumulation Account or Pension Account of the Member or Pensioner at the relevant time.

### 4.5 Pension Increase

Any Pension payable pursuant to the provisions of this Deed will, if permitted by the Relevant Law and agreed to by the Trustee, be increased in the course of payment from time to time by such amount as the Trustee in its absolute discretion considers appropriate to compensate the Pensioner for cost of living increases, provided however, that any increase will be at least the minimum required by the Relevant Law in respect of the type of Pension being paid.

### 4.6 Nominated Beneficiary

#### (a) Reversionary Beneficiary

A Member may, upon the opening of their Pension Account, notify the Trustee of the name and address of any Reversionary Beneficiary to whom a Reversionary Pension payable upon the Member's death must be paid.

#### (b) Non-Binding Nomination

- (i) A Member may notify the Trustee of the name and address of any Dependant to whom the Member wishes any Reversionary Pension payable upon the Member's death to be paid.
- (ii) The nomination in 4.6(b)(i):
  - (A) may be varied or replaced from time to time in the manner approved by the Trustee; and
  - (B) is not binding upon the Trustee, but the Trustee may consider the nomination when exercising any of its discretions under the Deed.

(c) **Binding Death Benefit Nomination**

A Member may upon admission to this Division and from time to time thereafter in a manner approved by the Trustee give the Trustee a Binding Death Benefit Nomination.

**4.7 Death of Pensioner where there is a Reversionary Beneficiary**

After the death of a Pensioner who was at the time of death still in receipt of a Pension under this Deed, the Trustee may in its discretion determine to pay to the Reversionary Beneficiary a Pension or a lump sum Benefit which must not exceed an amount calculated in accordance with the Relevant Law.

**4.8 Death of Pensioner where there is no Reversionary Beneficiary**

In the event of the death of a Pensioner whilst there is still an amount standing to the credit of the Pension Account of the Pensioner and where no Reversionary Beneficiary has been nominated the balance of such Pension Account will be dealt with in accordance with the provisions of clause 13.13(c) of this Deed.

**4.9 Closed Pensions**

- (a) Each Closed Pension is to be maintained by the Trustee and payable to a Pensioner according to the terms and conditions agreed between the Pensioner and the Trustee and/or any rules made by the Trustee to govern the Closed Pension.
- (b) The Trustee must not make payments, commute or otherwise deal with a Closed Pension if such payment, commutation or dealing is proscribed by the Pension Standards or otherwise by the Relevant Law.
- (c) This rule 4.23 applies to a Pensioner in receipt of a Closed Pension despite any other rules in this Benefit Division.

**5. Account Based Pension**

Where an Account Based Pension is payable from the Fund, the following conditions apply to the payment of the Pension:

- (a) The total of any Pension payments in any year must be at least the amount required by the Relevant Law; and
- (b) The Pension is transferable only to another person on the death of the Pensioner; and
- (c) The capital value of the Pension and the income from it cannot be used as security for a borrowing; and
- (d) Upon the death of the Pensioner the Pension must not continue to be paid as a Pension to:
  - (i) an adult Child at least 25 years of age (unless they have a disability); or
  - (ii) a Child between the ages of 18 and 24 who was not a financial dependant on the Pensioner; or
  - (iii) the Legal Personal Representative of the estate of the Pensioner; and

- (e) The Pension cannot be commuted in whole or in part except where permitted by the Relevant Law.
- (f) No minimum payment of the Pension will be required in a financial year where that Pension commences after 1 June in that financial year unless the Relevant Law otherwise requires; and
- (g) No payment by way of contribution or by way of a Roll Over Payment will be added to the Pension Account after it is established, unless otherwise permitted by Relevant Law.

## **6. Commutation of Pension**

### **6.1 Conditions of Commutation**

On the written application of a Pensioner or Reversionary Beneficiary, the Trustee may commute to a lump sum Benefit the whole or any part of a Pension payable from the Fund to such Pensioner or Reversionary Beneficiary as applicable, provided that:

- (a) the commutation of the Pension is permitted by the Relevant Law;
- (b) the Trustee determines the amount of the lump sum payable in respect of the Pension being commuted and may for that purpose obtain the advice of the Actuary; and
- (c) in the opinion of the Trustee, the commutation would not be to the disadvantage of the Fund, the Employers, the remaining Members, Beneficiaries, Pensioners or Reversionary Beneficiaries.

### **6.2 Payment of Lump Sum Benefit**

The Trustee must pay the amount of the lump sum Benefit in respect of the Pension being commuted to the Pensioner or the Reversionary Beneficiary who applied for the commutation but subject to any other applicable provisions of this Deed.

### **6.3 Adjustment of Pension following the Commutation**

Following the commutation of a part of a Pension, the Trustee must reduce the total amount of the instalments of any Pension payable to the Pensioner by such amount as it considers appropriate.

## **7. Variation of Pensions**

### **7.1 Trustee may change Pension Terms**

Notwithstanding Rules 5, 6 and 8, the Trustee has full discretion to offer the Pensions on terms which are consistent with the Relevant Law and may therefore offer Pensions on terms which reflect changes in the Relevant Law without being required to amend the terms of this Deed or may further change the terms of a Pension which has already commenced without being required to amend the terms of the Deed.

### **7.2 Pensions may be paid in other forms**

The Trustee also has a discretion to pay Pensions in any form permitted by the Relevant Law which may include forms other than those specifically referred to in this Deed.

### 7.3 Trustee may document variations

The Trustee may further document the terms governing Pensions in any manner it considers appropriate whether by way of variation, addition, qualification or deletion.

## 8. Transition to Retirement Income Stream at preservation age

8.1 Where a Member attains his or her preservation age but does not retire from gainful employment the Trustee may offer an Account Based Pension (**Transition to Retirement Income Stream**) on the terms specified in these Rules except that the Account Based Pension cannot be commuted to a Superannuation Lump Sum unless:

- (a) the purpose of the commutation is:
  - (i) to cash an unrestricted non-preserved benefit; or
  - (ii) to pay a superannuation contributions surcharge; or
  - (iii) to give effect to an entitlement of a Non-Member Spouse under a Payment Split;  
or
- (b) before the commutation the Pensioner has satisfied a condition of release in respect of which the cashing restriction for Preserved Payment Benefits and restricted non-preserved benefits is nil.

8.2 The total Pension payments made in a financial year to a Pensioner for a Transition To Retirement Income Stream may be no more than 10% of either:

- (a) the Pension Account balance on 1 July in the financial year in which the payment is made; or
- (b) if the relevant financial year is the year in which the Pension commences, the Pension Account balance on the commencement day or such other amount as required under the Relevant Law.

## **Division 4 – Local Super Sub-Plan**

### **Sub-Division A – Introduction**

#### **1. Continuation of LS Scheme**

- 1.1 With effect from 29 April 2022 the scheme known as the Local Government Superannuation Scheme (also known as Local Super and the LS Scheme) continues in existence as a Sub-plan of the Fund pursuant to clause 2(1)(b) of Schedule 1 to the Amendment Act and is governed by the terms and conditions of these Rules. That scheme is a Sub-plan of the Fund known as the Local Super Sub-plan and is referred to in these Rules as the “LS Scheme”.

#### **2. Provisions applicable to LS Scheme**

- 2.1 These Rules govern the LS Scheme.

- 2.2 The Trustee shall administer the LS Scheme:

- (a) in accordance with these Rules; and
- (b) in such a way that it satisfied the standards and conditions required by the SIS Act, the SIS Regulations and the APRA Standards.

To the extent that there is any conflict between a provision of these Rules and the standards and conditions required by the SIS Act, the SIS Regulations or the APRA Standards, the standards and conditions required by the SIS Act the SIS Regulations and the APRA Standards prevail.

- 2.2A To the extent that any Member of the LS Scheme has a MySuper Product and any provision under clause 2.6 of the Deed conflicts with or is otherwise inconsistent with the operation or application of these Rules the provisions of clause 2.6 of the Deed prevail and apply.

- 2.3 These Rules are divided into five (5) sub-Divisions, as follows:

- (a) Sub-Division A – Introduction;
- (b) Sub-Division B – General;
- (c) Sub-Division C – Industry;
- (d) Sub-Division D – Personal [Deleted]; and
- (e) Sub-Division E – LS Glossary.

- 2.4 Sub-Divisions A and B apply to Members of Sub-Division C.

- 2.5 Sub-Division C applies only to Members of that Sub-Division.

- 2.6 Sub-Division D has been deleted.

- 2.7 [Deleted]

- 2.8 These Rules form part of the Deed and the Trustee has power to amend these Rules in the same way as it has power to amend the Deed, subject to the additional restrictions on amendment expressly set out in these Rules.

2.9 Unless expressed to the contrary in these Rules (including without limitation under rule 1.1 and notwithstanding clause 3.2(e) of the Deed):

- (a) to the extent of any conflict between the terms of the Deed (excluding these Rules) and these Rules, these Rules prevail, other than clauses 2.1, 2.2, 2.3, 2.6, 8.1(c)(v), 8.1(c)(viii), 8.1(c)(ix), 8.1(c)(iii)(E), 8.1(d)(iii)(D), 8.1(e)(iv)(D) and 11.9(b) of the Deed;
- (b) to the extent of any conflict between the terms of Sub-Division A and the terms of Sub-Divisions B, C or D, the terms of Sub-Division A prevail;
- (c) to the extent of any conflict between the terms of Sub-Division B and the terms of either Sub-Division C or Sub-Division D, the terms of Sub-Division B prevail;
- (d) the definitions used in these Rules and set out in Sub-Division E apply only to these Rules; and
- (e) a reference in these Rules to a particular Sub-Division is a reference to that Sub-Division of these Rules.

2.10 Subject to Rules 2.9, 2.11 and 2.12:

- (a) the provisions of Part 1 of the Deed apply in respect of the LS Scheme; and
- (b) a term defined in the Glossary to the Deed applies in respect of the LS Scheme only to the extent that:
  - (i) it is used in these Rules; and
  - (ii) it is not defined in the LS Glossary.

2.11 The following provisions of the Deed do not apply in respect of the LS Scheme:

- (a) [Deleted];
- (b) Clause 6 (Participation and Membership)
- (c)
- (d) clauses 8.1 to 8.4 (other than clause 8.3);
- (e) [Deleted];
- (f)
- (g) [Deleted];
- (h) [Deleted];
- (i) clause 7.1(b) (Suspension of Contributions)
- (j) clause 8.1(c)(x) (Moneys Owing to Fund)
- (k) [Deleted]
- (l) clauses 8.1(c)(v), 8.2(a)(iii)(E), 8.2(d)(iii)(D) and 8.2(e)(iv)(D) but only to the extent these clauses relate to the Fund's taxable income (**Tax on Income**);
- (m) clause 10.2 (Trustee Right to Rectify);



- (n) clause 10.3 (Premiums for Policy);
- (o) clause 10.4 (Limitations on Policy);
- (p) [deleted];
- (q) clause 10.5 (Payment of Insured Benefit);
- (r) clause 13.12 (Retention of Benefit in Fund);
- (s) Division 3

2.12 The definition of "Member" in the Glossary to the Deed is modified in respect of its application to the LS Scheme and these Rules to appear as follows:

"**Member** has the meaning given to that term for Rules governing the Local Super Sub-plan and for the avoidance of doubt includes a person who remains a Member of the LS Scheme as an LS Restructured Member;"

2.13 [Deleted]

2.14 [Deleted]

2.15 [Deleted]

2.16 [Deleted]

2.17 In respect of an LS Restructured Member, notwithstanding the other provisions of these Rules, with effect from the Restructure Date:

- (a) the LS Restructured Member will have a nil balance in each of the following:
  - (i) the Member's Credit;
  - (ii) [deleted];
  - (iii) the special account established under rule 58(d) of Sub-Division C the Member's Credit,

as those accumulation accounts and rules existed and were known under the former Division 9 of the Former Fund's trust deed as it applied on the Restructure Date (LS Accumulation Accounts);

- (b) the LS Restructured Member will have no entitlement to be paid the balance of any LS Accumulation Account under these Rules;
- (c) the LS Restructured Member will not be entitled to any other benefit under these Rules to the extent that it is attributable to the present or prospective entitlement that was transferred to former Division 1, Division 2 and/or Division 3 of the Former Fund's trust deed in respect of that Member on the Restructure Date and the LS Restructured Member shall not be entitled to any insured benefit under these Rules other than (as applicable):
  - (i) Salarylink Insurance Benefits;
  - (ii) benefits that constitute an insured component of the defined benefit presently or prospectively payable in respect of a Restructured Old Benefit Member;

- (iii) [Deleted]; and
- (iv) any insured benefits effected by the Trustee under rule 2.18;
- (d) no amounts paid to the Fund will be allocated to any LS Accumulation Account in respect of the LS Restructured Member under these Rules;
- (e) if these Rules provide for an amount to be credited or allocated to, paid to, retained in, or transferred to, an LS Accumulation Account, that amount must instead be:
  - (i) credited or allocated to, paid to, retained in or transferred to a Superannuation Account in respect of the LS Restructured Member in Division 1 or Division 2 (as applicable) and/or to a new Pension Account in respect of the LS Restructured Member in Division 3 if the Restructured Member has requested the establishment of such a Pension Account; or
  - (ii) if the LS Restructured Member does not have a Superannuation Account in the Division 1 or Division 2 (as applicable) and has not requested the establishment of a Pension Account in Division 3, subject to Relevant Law:
    - (A) transferred to an Approved Benefit Arrangement; or
    - (B) credited or allocated to, paid to, or transferred to (as the case may be) a Superannuation Account in Division 1 or Division 2 (as applicable) established in respect of the Member, in such manner as the Trustee determines is appropriate in respect of the LS Restructured Member.

2.18 Subject to Relevant Law, the Trustee may (but is not obliged to) under these Rules effect Policies and provide entitlements to benefits insured under such Policies in order to provide for a continuation of insurance cover for LS Restructured Members (or particular categories of LS Restructured Members) who cease Service in circumstances where such cessation of Service would otherwise result the cessation of insurance cover and, if the Trustee does so:

- (a) an LS Restructured Member will cease to be entitled to such insurance cover and insured benefits under these Rules upon the earliest of the following:
  - (i) the LS Restructured Member ceasing to be entitled to any other benefits under these Rules;
  - (ii) cancellation of such insurance cover;
  - (iii) at such time, or on the occurrence of such event, as is determined by the Trustee either in respect of a particular LS Restructured Member or in respect of a particular class of LS Restructured Members; and
- (b) the Trustee may deduct from the benefits payable in respect of an LS Restructured Member an amount representing the cost of providing insurance cover in respect of the LS Restructured Member under this rule 2.18, as determined by the Trustee.

2.19 Notwithstanding the transfer of accumulation benefit entitlements of LS Restructured Members from the LS Scheme to the Statewide Super Benefit Division or the Statewide Super Pension Benefit Division on or about 1 July 2013 and subsequently to the Fund on or about 29 April 2022, until an LS Restructured Member ceases to be a Member of the Fund, that LS Restructured Member will be deemed to remain a "Member" of the "LS Scheme", but with such terms and conditions applicable to such membership being (subject to sub-clauses 45(d),

45(e), 45(f)(vi), 45(f)(vii) and 45(f)(viii) of the terms of the former Section 1 of the Former Fund's trust deed):

- (a) in respect of an LS Restructured Member the terms and conditions of these Rules to the extent they are applicable to entitlements of such an LS Restructured Member;
- (b) the terms and conditions applicable to a Member of the Statewide Super Pension Benefit Division to the extent they are directly or indirectly relevant to any Pension entitlement of the LS Restructured Member under that Benefit Division; and
- (c) the terms and conditions applicable to a Member of the Statewide Super Benefit Division in respect of any other entitlements of the LS Restructured Member in the Fund.

### **3. LS Fund**

3.1 The assets and monies held by the Trustee pursuant to funds generated under the LS Scheme pursuant to the 1934 Act and continued pursuant to the 1999 Act and the Amendment Act continue as the LS Fund governed by these Rules.

3.2 The LS Fund shall consist of:

- (a) contributions paid by Members of Sub-Division C of the LS Scheme and by Councils in respect of such Members;
- (b) [Deleted];
- (c) all other moneys received by the Trustee in connection with the LS Scheme; and
- (d) income derived from the investment of the LS Fund.

3.3 The LS Fund shall:

- (a) form part of the Fund;
- (b) be separately identifiable within the Fund;
- (c) only be held, applied and dealt with by the Trustee for the purposes of the LS Scheme in accordance with these Rules;
- (d) be available for the payment of benefits under the LS Scheme;
- (e) be available for the payment of other costs and expenses of administering the LS Scheme; and
- (f) be available for the payment of any taxation for which the LS Fund is liable in pursuance of the Tax Act.

3.4 [Deleted]

3.5 The Trustee may establish a separately identifiable reserve account within the LS Fund (known as the "LS Administration Reserve Account") for the purposes of satisfying any requirement under the Relevant Law for the Trustee to maintain a minimum level of separately identifiable liquid assets in a reserve account. The LS Administration Reserve Account, if established, shall initially be funded from existing reserves in the LS Fund and may be applied and replenished

from other reserves within the LS Fund as determined by the Trustee in a manner that is consistent with rule 3.3 and Relevant Law.

#### **4. Actuarial Reviews**

- 4.1 The Trustee must at least once in every three years obtain a report from an Actuary on the state and sufficiency of the LS Fund.
- 4.2 An investigation shall be made by the Actuary into the state and sufficiency of the LS Fund as at 30 June 2017 and as at the expiration of each period of three years thereafter and at such other times as may be required under the SIS Act.
- 4.3 The Actuary shall within six months forward the Actuary's report on the investigation to the Trustee and the Actuary's report shall state:
  - (a) any variation necessary in contributions, given no change in benefits, and any variation necessary in benefits, given no change in contributions; and
  - (b) any other matter required to be included in the Actuary's report under the SIS Act.
- 4.4 If the Actuary recommends a change in the relationship between contribution levels and benefit levels the Trustee shall refer the report to the LGA and the Employee Associations for comment before making any recommendations it thinks fit to make as a result of the report.
- 4.5 The Trustee shall not make any recommendation to increase the rate of contributions payable by Councils in terms of rule 23(a)(i) of Sub-Division C unless it first receives the agreement of the LGA.
- 4.6 The Trustee shall not recommend any change to the LS Scheme which will detrimentally affect any of the rights of an Old Benefit Member or which will reduce the benefits of a Transferred Member arising from the Member's membership of a Previous Plan without the consent of that Member.
- 4.7 [Deleted]

#### **5. Restrictions on Amendment**

- 5.1 No amendment to the Deed may operate so as:
  - (a) to reduce the amount of a benefit presently or prospectively payable from the LS Scheme to the extent that the benefit has accrued in respect of the period up to the date of commencement of the amendment;
  - (b) to impose a liability on a person (other than the Trustee) in connection with the LS Scheme in respect of anything done or omitted to be done before the date of commencement of the amendment; or
  - (c) to cause the Trustee to contravene the SIS Act in connection with the LS Scheme.
- 5.2 Any amendments to the Deed must be made in accordance with clause 14 of the Deed and will take effect in accordance with that clause, subject to the additional restrictions set out in this rule 5.

## **6. Excess Contributions**

Notwithstanding any other provision of these Rules:

- 6.1 the Trustee shall not accept contributions into the LS Fund which would not be permitted to be accepted into the LS Fund under the SIS Act;
- 6.2 the Trustee must return contributions to a Member to the extent that the SIS Act requires it to do so;
- 6.3 the Trustee may reduce or deduct amounts from the amount that would otherwise be returned to a Member to the extent it is permitted to do so under the SIS Act;
- 6.4 the Trustee may in such time and manner as the Trustee considers necessary or convenient to comply with the Tax Act or the SIS Act:
  - (a) determine and report contributions in respect of a Member to the Commissioner;
  - (b) release amounts for the payment of excess contributions tax in respect of a Member;
  - (c) make provision for excess contributions tax payable in respect of a Member using such assumptions as the Trustee considers reasonable;
  - (d) take any other action to pay an account for an amount to be paid in respect of a Member to the Commissioner or receive by way of refund in respect of the Member from the Commissioner including any consequential adjustment to the Member's benefits accrued in respect of the period from 1 July 2007.

## **SUB-DIVISION B – GENERAL**

### **PART 1 – APPLICATION OF SUB-DIVISION B**

#### **1. Application**

This Sub-Division B of these Rules applies to and in respect of all Members in Sub- Division C unless expressed to the contrary.

#### **2. Interpretation**

- (a) A reference to a Member in this Sub-Division B is a reference to a Member of this Sub-Division.
- (b) In respect of a Member, a reference to these Rules in this Sub-Division B is, unless expressed to the contrary, a reference to these Rules set out in each of Sub-Divisions A, B and C.
- (c) A reference to a specific rule under this Sub-Division B is, unless expressed to the contrary, a reference to a rule under this Sub-Division B.

### **PART 2 – BENEFIT PAYMENTS**

#### **3. Payment of Benefits**

A benefit payable in accordance with these Rules shall be paid or applied by the Trustee in the following manner:

- (a) where the Member has died and as a result a lump sum benefit becomes payable in respect of the Member, the benefit shall be paid:
  - (i) if the Member is an LS Restructured Member – in accordance with clause 13 of the Deed
  - (ii) [Deleted];
  - (iii) [Deleted];
- (b) subject to paragraph (c) and to rule 58 of Sub-Division C and rule 8, in any other case the benefit shall be paid to the Member in a lump sum;
- (c)
  - (i) any benefit which is required to be preserved by the Relevant Law shall remain in the Fund or be transferred to an Approved Benefit Arrangement until payment is permitted under the Relevant Law;
  - (ii) if the benefit is or becomes a retained benefit under the Sub-Division C because either:
    - (A) the Election Conditions are satisfied by the Member; or
    - (B) the Default Conditions are satisfied by the Member,

the benefit shall be dealt with in accordance with rule 58 of Sub-Division C;

- (d) all benefits payable to Members or their beneficiaries will from the date of cessation of Service until the date of payment unless otherwise provided by these Rules accrue interest at the Declared Rate to 30 September 2001 and thereafter will vary in accordance with movements in the value of Units notionally allocated by the Trustee in respect of those benefits which have not been cancelled;
- (e) if any portion of a benefit is covered by a Policy an amount will be allocated under paragraph (d) to such portion of the Member's or beneficiary's benefit only from the time that the Trustee receives proceeds from the Insurer in respect of the relevant claim under the Policy unless the Member had ceased Service before 1 October 2003;
- (f) if under Sub-Division C any portion of a benefit is an insured benefit which is not covered by a Policy an amount will be allocated under paragraph (d) to such portion of the Member's or beneficiary's benefit only from the later of:
  - (i) the date the Member ceased Service; and
  - (ii) the date the insured benefit is approved by the Trustee for payment to or in respect of the Member,

on the basis that the Trustee must not make any allocation of Units in respect of an insured amount of a benefit until such insured benefit entitlement is approved by the Trustee or an authorised delegate of the Trustee.

#### **4. Nominated Dependants**

[Deleted]

## 5. Restriction of Discretion

Notwithstanding any rule under which a discretion is conferred upon the Trustee in relation to a benefit payable to someone other than a Member in the event of the Member's death or physical or mental incapacity, the Trustee, in exercising such a discretion, shall not discriminate against a potential beneficiary on the grounds of the sex or marital status of that potential beneficiary.

## 6. Moneys Owing by Former Member

Where a Member ceased to be a Member and at the time of that cessation that former Member was indebted to the LS Fund for any moneys, the Trustee may retain out of the moneys payable to that former Member a sum sufficient to satisfy that indebtedness.

## 7. Forfeiture of Benefits

If any Member shall:

- (a) in the opinion of the Trustee be or become of unsound mind or incapable of managing the Member's own affairs; or
- (b) attempt or claim to assign, charge, dispose of or otherwise alienate any benefit (excluding any conduct which constitutes an act of bankruptcy or a deed of assignment or a deed of arrangement or otherwise results in the Member becoming a bankrupt under the *Bankruptcy Act 1966*),

then any benefit in respect of the Member shall immediately be forfeited (except to the extent that the Relevant Law does not permit such forfeiture) and the Trustee in its discretion shall apply such benefit for the benefit of that Member in such manner as the Trustee in its discretion shall think fit.

## 8. Pension Option

- (a) If a Member or any other person in respect of whom an amount would otherwise be payable in accordance with these Rules so requests prior to the Restructure Date and the Trustee agrees the Trustee shall pay to that Member or person as the case may be in lieu of part or all of such amount a pension of such amount and payable in such manner as the Trustee shall determine on the advice of the Actuary.
- (b) [Deleted]
- (c) From 20 September 2007, the Trustee may continue to pay a Non-commutable Allocated Pension to a Member if it commenced to be paid prior to 20 September 2007.
- (d) Subject to the above conditions, the Trustee shall pay any such Account Based Transition to Retirement Pension or Non-commutable Allocated Pension to a Member in such amounts and in such manner as the Trustee shall determine. If while a Member is in receipt of either an Account Based Transition to Retirement Pension or a Non-commutable Allocated Pension the Member otherwise becomes entitled to a benefit payment under these Rules the Trustee must adjust any lump sum or other pension benefit payable to the Member to take account of the amount already applied towards the Member's Account Based Transition to Retirement Pension or Non-commutable Allocated Pension (as the case may be).

- (e) For the purposes of paragraph (a) above, the Trustee may determine rules and policies regarding the pension benefits which may be paid from the LS Scheme and, without limiting the generality of the foregoing, the Trustee may determine rules and policies for the payment of:
  - (i) in the case of pensions offered prior to 20 September 2007:
    - (A) a Life Time Pension;
    - (B) a Term Pension (provided that no Term Pension may be commenced on or after 1 July 2013);
    - (C) an Allocated Pension (including a Non-commutable Allocated Pension);
    - (D) a Term Allocated Pension; and
  - (ii) in the case of pensions offered from 20 September 2007:
    - (A) an Account Based Pension (including an Account Based Transition to Retirement Pension);
    - (B) a Non-Account Based Pension.
- (f) Without limiting the Trustee's power under this rule 8 to make rules and policies regarding pension benefits which may be paid from the LS Scheme, upon the written request of a Member in a form prescribed by the Trustee, the Trustee may determine in circumstances permitted by the Relevant Law to commute all or part of an Account Based Transition to Retirement Pension or a Non-commutable Allocated Pension and the Trustee shall take such action as it considers necessary and appropriate in the circumstances to adjust any benefits for the Member and make any other arrangements for the Member and for the LS Scheme to take account of such commutation.
- (g) The Trustee may vary the rules and policies which apply to pension benefits, segregate assets, establish separate accounts, obtain actuarial advice and certification and take such other action to ensure that the pension standards under the SIS Regulations are satisfied and that the optimum taxation concessions are available in connection with the pension benefits payable from the LS Scheme.
- (h) On and from 1 June 2003 a Member who is entitled to an Account Based Pension (including an Account Based Transition to Retirement Pension, if applicable) or to an Allocated Pension (including a Non-commutable Allocated Pension, if applicable) may elect by notice in writing to the Trustee (which notice may be received by the Trustee before 1 June 2003), in a form prescribed by the Trustee, to have the Member's pension payments made by cancellation of Units in one or more of the Investment Portfolios to which the Member's Account Based Pension (including an Account Based Transition to Retirement Pension, if applicable) or Allocated Pension (including a Non-commutable Allocated Pension if applicable) benefit is applied in the proportions selected by the Member. The Trustee must give effect to a Member's election made pursuant to this rule 88(h) as soon as is reasonably practicable after written notice of the election has been received. If a Member does not make an election pursuant to this rule 88(h) or if at any time the Trustee is unable to implement the Member's election the pension payments will be made by cancellation of Units in one or more of the Investment Portfolios to which the Member's Account Based Pension (including an Account Based Transition to Retirement Pension, if applicable) or Allocated Pension (including a Non-



commutable Allocated Pension, if applicable) benefit is applied in proportions determined by the Trustee.

- (i) A Member who is entitled to a Term Allocated Pension may elect by notice in writing to the Trustee, in a form prescribed by the Trustee, to have the Member's pension payments made by cancellation of Units in one or more of the Investment Portfolios to which the Member's Term Allocated Pension benefit is applied in the proportion selected by the Member. The Trustee must give effect to a Member's election made pursuant to this rule 88(i) as soon as is reasonably practicable after written notice of the election has been received. If a Member does not make an election pursuant to this rule 88(i) or if at any time the Trustee is unable to implement the Member's election the pension payments will be made by cancellation of Units in one or more of the Investment Portfolios to which the Member's Term Allocated Pension Benefit is applied in proportions determined by the Trustee.
- (j) For the avoidance of doubt, the Trustee must comply with the Family Law Requirements and exercise all powers under rule 12 to the extent that they relate to the payment of pensions.
- (k) Without limiting any other powers of the Trustee under these Rules or otherwise, the Trustee may impose a fee on a Member in respect of the establishment, maintenance, payment, commutation or other administration connected with an Account Based Pension, Account Based Transition to Retirement Pension or a Non-commutable Allocated Pension for the Member.

### **PART 3 – TRANSFERS AND LIKE ARRANGEMENTS**

#### **9. Rollover Payments, SHASA and SG Vouchers**

- (a) Where, immediately prior to becoming a Member, a Member participated in an Approved Benefit Arrangement (other than a Previous Plan), the Trustee may accept into the LS Fund the whole or any part of a benefit payable in respect of that Member from that Approved Benefit Arrangement and the benefits payable under these Rules in respect of that Member shall be adjusted in such manner as is determined by the Trustee, after considering the advice of the Actuary, to take account of the amount of benefit received by the LS Fund.
- (b) [Deleted]
- (c) [Deleted]
- (d) [Deleted]
- (e) [Deleted]

#### **10. Eligible Rollover Funds**

Notwithstanding any other provision of these Rules the Trustee:

- (a) shall transfer a Member's or beneficiary's benefits out of the LS Fund as required by the Relevant Law; and
- (b) may transfer a Member's or beneficiary's benefits out of the LS Fund as permitted by the Relevant Law,

and shall not be required to obtain the consent of the Member or beneficiary to effect such transfers unless the Relevant Law so requires.

## 11. Splittable Contributions

- (a) A Member may, in the circumstances permitted and form required by Division 6.7 of the SIS Regulations, apply to the Trustee to rollover or transfer out of the LS Scheme or Allot an amount of benefits that is equal to some or all of the Splittable Contributions made by, for, or on behalf of the Member in:
  - (i) the last financial year that ended before the application; or
  - (ii) the financial year in which the application is made where the Member's entire benefit is to be rolled over or transferred in that year.
- (b) The Trustee may at its discretion accept and give effect to an application by a Member made under this rule 11 but only if it is permitted to do so by Division 6.7 of the SIS Regulations.
- (c) If the Trustee accepts an application by a Member under this rule 11, the Trustee must as soon as practicable and in any event within 90 days of receiving the application:
  - (i) transfer or rollover the amount of benefits for the benefit of the Receiving Spouse to an Approved Benefit Arrangement in accordance with the Relevant Law, following which the Receiving Spouse will cease to have any entitlement under the LS Scheme with respect to the amount transferred or rolled over; or
  - (ii) permit a Receiving Spouse to become a Member of Division 1 or Division 2 (as applicable) and if a Receiving Spouse becomes a Member of Division 1 or Division 2 (as applicable) or is already a Member of Division 1 or Division 2 (as applicable) – Allot the amount of benefits for the benefit of the Receiving Spouse to the Member's Superannuation Account, following which the Receiving Spouse will cease to have any entitlement as a Receiving Spouse with respect to the amount Allotted.
- (d) If the Trustee rolls-over or transfers out of the LS Scheme or Allots an amount of benefits for the benefit of the Receiving Spouse in accordance with this rule 11, the Trustee must make a corresponding reduction in the entitlement of the Member who made the application under rule 11.
- (e) To the extent permitted by the Relevant Law, the Trustee may charge fees to Members and Receiving Spouses with respect to any action carried out in accordance with this rule 11. Fees may be charged at such times and in such manner as the Trustee determines including by deduction from the entitlements of Members or Receiving Spouses.
- (f) Notwithstanding anything in these Rules to the contrary:
  - (i) a Receiving Spouse cannot exercise any right, power, discretion or approval which he or she is not empowered to validly exercise at law;
  - (ii) the Trustee may accept and give effect to an application made by a Member under this rule 11 only if it relates to an interest that is:
    - (A) an accumulation interest (within the meaning of the SIS Regulations); or

- (B) a defined benefit interest that is not a defined benefit component (within the meaning of the SIS Regulations); and
- (C) neither subject to a Payment Split nor a Payment Flag.

## 12. Compliance with Family Law Requirements

- (a) Notwithstanding any other provision of these Rules the Trustee must comply with the Family Law Requirements.
- (b) Without limiting rule 12(a) the Trustee may take such action as it considers appropriate in order to:
  - (i) recognise a Payment Spilt or Payment Flag with respect to a Splittable Payment of a Member;
  - (ii) value a Member's interest in the LS Scheme for the purpose of the Family Law Requirements;
  - (iii) determine a Non-member Spouse's entitlement in respect of a Splittable Payment including adjustments to that entitlement;
  - (iv) provide information to Members and Non-member Spouses pursuant to the Family Law Requirements and the Relevant Law;
  - (v) give effect to any matter in connection with the LS Scheme so far as it is incidental to the Family Law Requirements.
- (c) Upon an amount becoming payable to a Non-member Spouse pursuant to the Family Law Requirements or the Trustee deciding to give effect to a Payment Split in accordance with rule 12(h) and in the circumstances permitted by the Relevant Law the Trustee may:
  - (i) transfer the Non-member Spouse's entitlement to an Approved Benefit Arrangement in accordance with the Relevant Law; or
  - (ii) if permitted by the Relevant Law – pay the Non-member Spouse's entitlement to the Non-member Spouse,

following which the Non-member Spouse will cease to have any entitlement under the LS Scheme with respect to the amount transferred or paid.
- (d) In the circumstances permitted by the Family Law Requirements and the Relevant Law the Trustee may:
  - (i) upon the request of a Non-member Spouse - determine to permit a Non-member Spouse to become a Division 1 or Division 2 (as applicable) Member;
  - (ii) if the Non-member Spouse does not provide instructions for transfer, payment or allotment of the Non-member Spouse's entitlement in such form, and within such reasonable time, as is prescribed by the Trustee– determine to treat the Non-member Spouse as if the Non-member Spouse had applied to become a Division 1 or Division 2 (as applicable) Member; and
  - (iii) if a Non-member Spouse becomes a Division 1 or Division 2 (as applicable) Member or is already a Division 1 or Division 2 (as applicable) Member – allocate

the Non-member Spouse's entitlement to the Member's Superannuation Account,

following which the Non-member Spouse will cease to have any entitlement as a Non-member Spouse with respect to the amount allocated.

- (e) If the Trustee pays, transfers or allocates a Non-member Spouse's entitlement to or for the benefit of the Non-member Spouse in accordance with this rule 12, the Trustee must make a corresponding reduction in the entitlement of the Member to whom the Splittable Payment would have been made but for the Payment Split, which adjustment may, if rule 12(h) applies, be made in whole or in part pursuant to the operation of a Family Law Offset Account.
- (f) To the extent permitted by the Family Law Requirements the Trustee may charge fees to Members and Non-member Spouses with respect to any action carried out in connection with this rule 12. Fees may be charged at such times and in such manner as the Trustee determines including by deduction from the entitlements of Members and Non-member Spouses.
- (g) Notwithstanding anything in these Rules to the contrary:
  - (i) the rights and benefits of Non-member Spouses are subject to the Family Law Requirements and the Relevant Law;
  - (ii) a Non-member Spouse cannot exercise any right, power, discretion or approval which he or she is not empowered to validly exercise at law;
  - (iii) the Trustee must not give effect to a request made by or on behalf of a Non-member Spouse to transfer or pay an amount to or for the benefit of the Non-member Spouse or to create a separate interest for the Non-member Spouse if the Non-member Spouse's request relates to an entitlement under a Payment Split that is in respect of a Member's Defined Benefit Interest whilst such interest remains in the Growth Phase unless the Trustee has determined, independently of such a request, to give effect to such Payment Split pursuant to rule 12(h).
- (h) The Trustee may, in its absolute discretion, give effect to a Payment Split in respect of a Member's Defined Benefit Interest whilst such interest remains in the Growth Phase by transferring, allocating or paying an amount for the benefit of the Non-member Spouse in accordance with either rule 12(c) or 12(d).
- (i) If the Trustee exercises its discretion to give effect to a Payment Split under rule 12(h), the Trustee may establish a Family Law Offset Account in respect of the Member. Notwithstanding any provision of these Rules other than rule 12(m), if a Family Law Offset Account is established in respect of a Member the Trustee may reduce the benefits otherwise payable to the Member from the LS Fund by an amount not exceeding the debit balance of the Family Law Offset Account.
- (j) The Trustee must record the following amounts in the Family Law Offset Account:
  - (i) an amount equal to the Non-member Spouse's entitlement paid, allocated or transferred to or for the benefit of the Non-member Spouse in accordance with this rule 12, or such lesser amount determined by the Trustee having regard to the reductions made pursuant to rule 12(e);
  - (ii) any fees charged to the Member in accordance with this rule 12;

- (iii) any amounts transferred to the Member's Family Law Offset Account pursuant to rule 12(l);
  - (iv) any amount deducted from a benefit payable to or in respect of the Member pursuant to rule 12(i);
  - (v) any other amounts which the Trustee considers should be taken into account in respect of the Family Law Offset Account.
- (k) If a debit balance remains in a Member's Family Law Offset Account once all benefits from the LS Scheme have been paid to the Member, the Member remains liable to the Trustee for such amount, which the Trustee may recover from the Member as a debt due to the LS Scheme.
- (l) Upon the request of a Member in a form prescribed by the Trustee and subject to such terms and conditions as the Trustee may determine, the Trustee may transfer an amount from the Member's Superannuation Account to that Member's Family Law Offset Account for the purpose of reducing the balance of the Family Law Offset Account.
- (m) Rule 12(i) does not operate to the extent that it reduces a benefit in a way that would have caused the amendment pursuant to which rule 12(i) was first introduced to breach clause 10.3 of the Former LS Trust Deed.
- (n) The balance of each Family Law Offset Account will vary from time to time in accordance with movements in the value of Units allocated to that Family Law Offset Account which have not been cancelled.

#### **PART 4 – RESERVE ACCOUNT**

##### **13. Members' Reserve Account**

[Deleted]

#### **PART 5 – ADDITIONAL OPTIONS**

##### **14. Spouse Contributions by Non-Members**

[Deleted]

##### **15. Withdrawal of Benefits in the LS Scheme**

[Deleted]

#### **PART 6 – INVESTMENT OPTIONS**

##### **16. Investment Portfolios**

[Deleted]

##### **17. New Investment Portfolios**

[Deleted]

**18. Change of name of Investment Portfolio**

[Deleted]

**19. Restructuring any Investment Portfolio**

[Deleted]

**20. Liability to pay Members**

[Deleted]

**21. Valuation of Investment Portfolios**

[Deleted]

**22. Unit Value**

[Deleted]

**23. Choice of Investment Portfolios and issue of Units**

[Deleted]

**24. Cancellation of Units**

[Deleted]

**25. Switching**

[Deleted]

**PART 7 – SUPERANNUATION SURCHARGE****26. Superannuation Contributions Tax**

- (a) If the Commissioner makes an assessment (including an amended assessment) of taxation payable on surchargeable contributions held by the Trustee in respect of a Member, the Trustee may adjust the benefits otherwise payable in respect of the Member to take account of the amount of taxation payable by the Trustee.
- (b) The adjustment to a Member's benefits may be made using any method which the Trustee considers appropriate. The Trustee may change the method used for adjustment of a Member's benefits at any time and, if the Trustee considers it appropriate, the change may apply retrospectively.
- (c) Without limiting paragraphs (a) or (b) of this rule 26, the Trustee may adjust a Member's benefits by:
  - (i) establishing an account in respect of the Member known as a "Surcharge Payment Account";
  - (ii) debiting the Surcharge Payment Account with any taxation payable by the Trustee on the Member's surchargeable contributions and crediting the Surcharge

Payment Account with any refund of taxation received by the Trustee in respect of the Member's surchargeable contributions;

- (iii) varying the balance of the Surcharge Payment Account with movements in the value of Units notionally allocated by the Trustee in respect of the balance of the Surcharge Payment Account which have not been cancelled (or for any period before 1 October 2001 with interest at the Declared Rate);
  - (iv) reducing the benefits otherwise payable to the Member from the LS Fund by the amount of the debit balance of the Surcharge Payment Account.
- (d) The Trustee may accept payments made to the LS Fund by or for a Member for the purpose of reducing the balance in the Member's Surcharge Payment Account or otherwise funding the taxation payable in respect of the Member's surchargeable contributions. The Trustee may specify the manner and form in which it will accept payments made under this rule 26(d). The Trustee shall adjust the benefits otherwise payable to the Member from the LS Scheme in such manner as it considers is appropriate to take account of any payments made by or for the Member under this rule 26(d).
- (e) The Trustee is not required to object (or assist a Member in objecting) to an assessment of taxation made by the Commissioner.
- (f) For the purpose of this rule 26:
- (i) "taxation" includes:
    - (A) an advance instalment of taxation; and
    - (B) any interest or penalty payable to the Commonwealth;
  - (ii) unless otherwise defined in these Rules, all words and phrases shall have the same meanings as apply to them under the Superannuation Contributions Tax (Assessment and Collection) Act 1997 (Commonwealth).
- (g) This rule 26 applies notwithstanding any other provision of these Rules.

## **SUB-DIVISION C - INDUSTRY**

### **PART 1 – APPLICATION OF SUB-DIVISION C**

#### **1. Application**

This Sub-Division C of these Rules applies to and in respect of all Members of the LS Scheme.

#### **2. Interpretation**

- (a) A reference to a Member in this Sub-Division C is a reference to an LS Restructured Member.
- (b) A reference to these Rules in this Sub-Division C is, unless expressed to the contrary, a reference to these Rules set out in Sub-Divisions C, A and B.
- (c) A reference to a specific rule under this Sub-Division C is, unless expressed to the contrary, a reference to a rule under this Sub-Division C.

### **PART 2 – MEMBERSHIP**

#### **3. Admission to Membership**

- (aa) The Industry Sub-Division is closed to new Members on and from 1 July 2013.
- (a) [Deleted]
- (b) [Deleted]
- (c) [Deleted]
- (d) [Deleted]
- (e) [Deleted]
- (f) [Deleted]
- (g) If the Trustee makes a determination to permit a Member to make Salarylink Contributions pursuant to paragraph (c)(ii) of the definition of “Eligible Salarylink Member” in the LS Glossary, the Trustee may in its absolute discretion impose conditions and restrictions to the rights, benefits and entitlements that such Member would otherwise have as a Member making Salarylink Contributions. A Member’s rights, benefits and entitlements under the Deed are to be read subject to any conditions and restrictions imposed by the Trustee under this rule 3(g).

#### **4. Provision of Information**

[Deleted]

#### **5. Old Benefit Members and Transferred Members**

- (a) Old Benefit Members and Transferred Members are taken to be Members of this LS Scheme from the date which they ceased to be Members of the Previous Plan.
- (b) [Deleted]



(c) [Deleted]

### **PART 3 – CONTRIBUTIONS AND BENEFITS – GENERAL PROVISIONS**

#### **6. Permanent Part-time Members**

If a Member engages in permanent part-time employment during any period of the Member's membership of the LS Scheme the following provisions shall apply:

- (a) the contributions payable by the Member and the Council shall be determined according to the Salary being paid to the Member;
- (b) for the purpose of determining any benefit payable in respect of a Member at any time in accordance with these Rules:
  - (i) Final Average Salary and, in the case of a Transferred Member, Previous Plan Final Salary shall be calculated using the Salaries which the Member would have received had the Member been employed full-time; and
  - (ii) the number of Years of Membership shall be calculated by including only a fraction of a year in respect of each Year of Membership during which the Member was employed part-time for some part of the year, the fraction being the ratio which the time worked during the year bears to the time which would have been worked had the Member been employed full-time;
  - (iii) if applicable, if a Member is in permanent part-time employment at the date of the Member's death or Date of Disablement, in determining the number of complete days between the Member's date of cessation of Service due to death or Total and Permanent Disablement (as the case may be) and the Member's 65th birthday only a fraction of a complete day in respect of each day shall be counted, the fraction being the ratio which the time worked at the date of death or Date of Disablement bears to the time which would have been worked had the Member been employed full-time.

#### **7. Leave Without Pay**

If a Member is in the Service of a Council but is on leave for a period from the Council without receiving remuneration from the Council then, subject to rule 8, the following provisions shall apply:

- (a) where the Member is on leave and in receipt of a Total and Temporary Disablement Benefit pursuant to rule 42, or is otherwise on leave on the grounds of illness:
  - (i) the Member shall be taken to be continuing in Service on the same terms and conditions as applied to the Member immediately prior to commencing such leave;
  - (ii) the Member shall be taken to be receiving a Salary during that period equal to the Member's Salary immediately prior to commencing such leave;
  - (iii) the Member shall not be required to contribute during the period of leave and if the Member does not contribute to the LS Fund, the Council shall not be required to contribute to the LS Fund in respect of the Member pursuant to rule 23(a)(i)(A) during that period;

- (iv) the Member shall be taken for the period of leave to have continued contributions to the LS Fund at the same Member's Salarylink Contribution Rate as applied to the Member immediately prior to commencing such leave;
  - (v) no contributions shall be paid into the LS Fund by or in respect of the Member during the period of leave; and
  - (vi) subject to the conditions set out in this paragraph 7(a), benefits shall be determined in respect of the Member as if the Member continued in Service and was not on such leave that are attributable to an accumulation interest;
- (b) where paragraph 7(a) does not apply:
- (i) where the Member and the Council have agreed with the Trustee to continue to contribute in respect of the Member during the period of leave:
    - (A) the Council shall advise the Trustee of the intended period of leave;
    - (B) the Member shall be taken to be continuing in Service on the same terms and conditions as applied to the Member immediately prior to commencing such leave;
    - (C) the Member shall be taken to be receiving a Salary during that period equal to the Member's Salary immediately prior to commencing such leave; and
    - (D) subject to the conditions set out in this sub-paragraph (i) of rule 7(b), contributions shall continue to be made by the Member and the Council and benefits shall be determined in respect of the Member as if the Member continued in Service and was not on such leave,

subject to the terms and conditions of such agreement between the Member, the Council and the Trustee;
  - (ii) if sub-paragraph (i) of rule 7(b) does not apply:
    - (A) the Council shall advise the Trustee of the intended period of leave;
    - (B) no contributions shall be payable to the LS Fund by or in respect of the Member during the period of leave;
    - (C) no contributions shall be credited, or taken to have been credited, to the Superannuation Account in respect of the period of leave unless, with the approval of the Trustee and in a manner determined by the Trustee, contributions are actually paid into the Fund by or in respect of the Member during the period of leave;
    - (D) if the Member dies, is Totally and Permanently Disabled or the Trustee determines that a TMC exists in relation to the Member the benefit payable shall be determined as if on the date of death, Date of Disablement or date of determination that a TMC exists the Member was not on such leave, subject to this sub- paragraph (ii) of rule 7(b) and to the following conditions:
      - (I) if the Member was making Salarylink Contributions immediately prior to commencing such leave, the Member shall be taken for the period of such leave to have been in receipt of a Salary equal to the

Member's Salary immediately prior to commencing such leave and to have continued contributions to the LS Fund at the same rate as applied to the Member immediately prior to commencing such leave;

- (II) [Deleted]
- (E) for the purpose of determining any other benefit payable at any time in accordance with these Rules:
  - (I) the period of leave shall not be counted in calculating the number of Years of Membership or Years of Service; and
  - (II) Final Average Salary and, in the case of a Transferred Member or an Old Benefit Member, Previous Plan Final Salary shall be calculated ignoring the period of Service during which the Member was on such leave.

## 8. Workers Compensation and Sickness and Accident Cover

If a South Australian Member is absent from active work with a Council and is in receipt of regular income payments under either:

- (a) the *Workers Rehabilitation and Compensation Act 1986*; or
- (b) a sickness and accident insurance policy held by the Council for the benefit of its employees,

and those payments represent at least 80 per cent of the Member's Salary determined by reference to the Salary for the same employment position the Member held immediately before ceasing active work, or if the Member's Salary was determined pursuant to an individual contract of employment, determined by reference to the Salary set out in that individual contract of employment:

- (c) the Member is deemed to be receiving a Salary during that period equal to the Member's Salary determined by reference to the Salary for the same employment position the Member held immediately before ceasing active work,
- (d) or if the Member's Salary was determined pursuant to an individual contract of employment, determined by reference to the Salary set out in that individual contract of employment;
- (e) contributions by the Council must continue in respect of the Member as if the Member continued in Service and was not absent from active work; and
- (f) for Members who were making Salarylink Contributions at the relevant date, contributions by the Member must continue at the same Member's Salarylink Contribution Rate that applied to the Member immediately before ceasing active work.

## 9. Salary Reductions

- (a) If the Salary being paid to a Member is reduced then:
  - (i) if the Member and the Council so agree and advise the Trustee accordingly - the Member's Salary for the purposes of these Rules shall be deemed to be the Salary

which would have been payable to the Member from time to time had the reduction not occurred; or

- (ii) if the Salary reduction is not treated in accordance with paragraph (a) of this rule 9 the Salary for the purposes of these Rules shall be the reduced Salary payable to the Member and the amount of any benefit which is payable in respect of the Member at any time and which is based on Final Average Salary or Final Salary and, in the case of a Transferred Member, Previous Plan Final Salary may be increased to such amount as the Trustee, after considering the advice of the Actuary, determines to be equitable having regard to the amount by which the Member's Salary was reduced and the Member's Salary history.

- (b) This rule 9 applies only to a Member who is entitled to Salarylink Benefits.

## **10. Salary Increases – Salary Packaging**

- (a) If a Member's Salary would, but for this paragraph 10(a), be taken to increase without there being a corresponding increase in the overall remuneration paid by the Council to the Member (including all allowances paid to the Member) the Member's Salary for the purposes of these Rules shall be deemed to be the Salary which would have been payable to the Member from time to time had the increase not occurred.
- (b) Notwithstanding paragraph 10(a) an increase in a Member's Salary may be applied for the purposes of these Rules if the Member or the Council agree with the Trustee to make additional payments to the LS Scheme of such amounts and at such times as the Trustee, after considering the advice of the Actuary, determines are equitable having regard to the amount by which the Member's benefits have increased.
- (c) The Trustee must apply any additional payments made to the LS Scheme pursuant to paragraph 10(b) in funding the increased benefits resulting from the increased Member's Salary. The Trustee must not otherwise increase the benefits payable to the Member as a consequence of any additional payments made to the LS Scheme pursuant to paragraph 10(b).
- (d) This rule 10 shall not apply to increases in a Member's Salary which accrued before 1 January 1998.
- (e) This rule 10 applies only to a Member who is entitled to Salarylink Benefits.

## **11. Salary Increases – Member Directed**

- (a) This rule 11 applies to a Member who is entitled to Salarylink Benefits.
- (b) If, in the opinion of the Trustee, a Council listed under paragraph 3 of Schedule I is directly or indirectly owned wholly or partly by a Member (or relatives of a Member) such Member's Salary for the purpose of determining Final Average Salary or Final Salary is:
  - (i) for Members of the LS Fund to whom rule 11(b) is applicable as at 14 October 2000 - the Member's Salary on 1 November 2000;
  - (ii) for other Members - the Salary determined at the commencement of the Member's membership;

and the Member's Salary for the purposes of determining Final Average Salary or Final Salary must not be increased without first obtaining the Trustee's approval.

## 12. Final Salary and Final Average Salary Definitions

- (a) If a Member's benefit is reduced solely as a consequence of changes to the definitions of Final Salary or Final Average Salary that took effect on 1 March 2002, the Member's Final Salary or Final Average Salary (as the case may be) must be calculated as if the Member had become entitled to a benefit before 1 March 2002 by applying the former definitions of Final Salary and Final Average Salary to the Member's Annual Review Salaries.
- (b) The Trustee may report to a Member, including by issuing benefit quotations and annual benefit statements, by using an estimated figure for the Member's Final Average Salary or Final Salary based on the Members' Annual Review Salaries notwithstanding that it may differ to the Member's annual Salary. The Trustee is not required to collect current annual Salary information for a Member from a Council unless and until a Member has become entitled to payment of his or her benefit from the LS Scheme.

## 13. Restrictions on Payments During Service

- (a) Subject to the following provisions of this rule 13 and to rules 16 and 42 of this Sub-Division C, no payment shall be made from the LS Fund to or in respect of a Member while that Member is in the Service of a Council.
- (b) The Trustee may out of the LS Fund:
  - (i) refund to a Member who is in the Service of a Council the amount of any contributions overpaid by that Member;
  - (ii) pay to a Member who is in the Service of a Council and who with the approval of the Council is on leave (without receiving remuneration on the grounds of illness) such amount as the Trustee considers necessary for the purpose of relieving hardship of the Member or the Member's Dependents,

PROVIDED THAT,

- (iii) the total amount of such payments shall not exceed the amount of the benefit that Member would have received if the Member's Service had been terminated on the grounds of Ill Health on the date such leave commenced; and
- (iv) the amount of the benefit which may become payable in respect of the Member in accordance with these Rules shall be reduced by the total amount of any payments made to the Member in accordance with this rule 13 together with interest on those payments, if the Trustee so determines, at a rate or rates specified by the Trustee to 30 September 2001 and thereafter according to movements in the value of Units notionally allocated by the Trustee in respect of the payments in such manner as is determined by the Trustee.
- (c) [Deleted]
- (d) The Trustee may make payments to a Member who is in the Service of a Council if the payments relate to either an Account Based Transition to Retirement Pension or to a

Non-commutable Allocated Pension being paid in accordance with rule 8 of Sub-Division B.

#### **14. Minimum SG Benefit**

Notwithstanding anything expressed or implied to the contrary in these Rules, the benefit payable to or in respect of a Member pursuant to these Rules when taken into account with any other benefit provided for or in respect of the Member from any other Benefit Division or Sub-plan of the Fund or superannuation fund to which the Council contributes or has contributed in respect of the Member shall not be less than the benefit determined by the Trustee on the advice of the Actuary as being sufficient to satisfy the Council's obligations under the Guarantee Act.

#### **15. Members moving between Councils – continuation of Salarylink Benefits**

- (a) If a Member's Service with a Council is terminated and within a period of four weeks (or such longer period as the Trustee may approve) the Member recommences employment with either the same Council or another Council then the Member may within two months after such termination of Service (or such longer period as the Trustee may approve) make a written request to the Trustee for the following provisions of rule 15(b) to apply. Each Member that was an Employee of the trustee of the LS Scheme on 30 June 2012 and who become an Employee of Statewide Financial Management Services Limited on 1 July 2012 will be deemed to have made a written request for the provisions of rule 15(b) to apply unless they notify the Trustee in writing within the period referred to in this rule 15(a) that they do not want those provisions to apply. Each Member that was an Employee of the trustee of the LS Scheme on 30 June 2012 and who become an Employee of Statewide Financial Management Services Limited on 1 July 2012 and who then became an Employee of Statewide Superannuation Pty Ltd on 1 July 2016 will be deemed to have made a written request for the provisions of rule 15(b) to apply unless they notify the Trustee in writing within the period referred to in this rule 15(a) that they do not want those provisions to apply.
- (b) If the Trustee accepts a Member's request made or deemed to have been made under paragraph 15(a) the following provisions apply:
  - (i) the Member is deemed to have remained a Member throughout the period when the Member was not employed by a Council except that no contributions are required in respect of that period and that period shall not be counted for the purpose of determining any benefit payable at any time in accordance with these Rules;
  - (ii) the Member's Service is deemed not to have ceased and is treated as being continuous;
  - (iii) for the purpose of calculating Final Average Salary and, in the case of a Transferred Member, Previous Plan Final Salary at any time the period when the Member was not employed by a Council is ignored;
  - (iv) the Member must repay to the Trustee upon recommencing employment with a Council the full amount of any benefit which the Member received from the LS Fund as a result of the termination of Service.

## 16. Natural Resources Management Act 2004

- (a) This rule 16 applies to provide Members with rights in addition to the rights of a Member under rule 15.
- (b) A Member who:
  - (i) is an employee of a Prescribed Body (a transferring employee); and
  - (ii) leaves his or her employment with a Prescribed Body and within 3 months of having done so commences employment as a member of the staff of a Regional NRM Board,
 

may before the expiration of such 3 month period, elect by notice in writing to the chief executive or other senior officer of the Regional NRM Board to remain a Member of the LS Scheme for so long as the Member retains continuity of employment with a Regional NRM Board or a Council.
- (c) A Regional NRM Board must immediately after receiving notice of an election by a Member under rule 16(b) provide a copy to the Trustee.
- (d) If a Member makes an election under rule 16(b) the following provisions apply:
  - (i) no new admission to membership is required for the Member pursuant to rule 3;
  - (ii) the Member is deemed to have remained a Member throughout the period when the Member was not employed by the Prescribed Body or the Regional NRM Board except that no contributions are required in respect of that period and that period shall not be counted for the purpose of determining any benefit payable at any time in accordance with these Rules;
  - (iii) the Member's Service is deemed not to have ceased and is treated as being continuous;
  - (iv) for the purpose of calculating Final Average Salary and, in the case of a Transferred Member, Previous Plan Final Salary at any time the period when the Member was not employed by the Prescribed Body or the Regional NRM Board is ignored;
  - (v) the Member must repay to the Trustee upon recommencing employment with the Regional NRM Board the full amount of any benefit which the Member received from the LS Fund as a result of the termination of Service with the Prescribed Body.
- (e) If a Member who is eligible to make an election under rule 16(b) does not make an election then the Member will be taken to remain in Service and will remain a Member of the LS Scheme through to the expiration of the three month period. In such case, upon expiration of the three month period the Member will be taken to have resigned from Service and the Trustee must:
  - (i) if the Member is at least 55 years of age and not more than 65 years of age, following receipt of a written authority from the Member within one month of the expiration of the three month period – pay or transfer to the Triple S Scheme in respect of the Member a benefit equal to:
    - (A) [Deleted]

(B) the Accrued Salarylink Benefit,

determined as if the Member had resigned from Service at the expiration of the three month period; or

(ii) if the Member is less than 55 years of age and following receipt of a written authority from the Member within one month of the expiration of the three month period – pay or transfer to the Triple S Scheme in respect of the Member a benefit equal to:

(A) [Deleted]

(B) the Basic Super Benefit,

determined as if the Member had resigned from Service at the expiration of the three month period; or

(iii) if the Member is less than 55 years and following receipt of a written election by the Member to take a deferred benefit pursuant to rule 56 within one month of the expiration of the three month period – provide the Member with a benefit equal to:

(A) [Deleted]

(B) the Retirement Super Benefit,

determined as if the Member had resigned from Service at the expiration of the three month period; or

(iv) failing receipt of any authority or election by the Member under sub-paragraphs (i), (ii) or (iii) of this rule 16(e) within one month of the expiration of the three month period – retain the Member's benefit in the Fund pursuant to rule 58 as if the Member had resigned from Service at the expiration of the three month period.

## **17. Retaining Salarylink Benefits on moving between Councils – South Australia to Northern Territory**

If a Member who is an Employee of a South Australian Council transfers to an NT Municipal Council the Member shall elect one of the following:

- (a) to retain the benefit entitlements that the Member would have received had the Member remained in the employ of the South Australian Council; or
- (b) to receive the following:
  - (i) in respect of membership during the period for which the Member was employed by the South Australian Council, the accrued benefit entitlements as at the date of termination of Service with the South Australian Council, plus
  - (ii) the benefit entitlements for Service with the NT Municipal Council,
 and both of those benefit entitlements will have the Previous Plan Vesting Percentage.



## 18. Continued Employment with a Prescribed Body

- (a) Where:
- (i) the employment of a person who is a Member is terminated and the person, within four weeks (or such longer period as the Trustee approves) of that termination, commences employment with:
    - (A) a Prescribed Body; or
    - (B) if the terminated employment was with a Prescribed Body, a Council; or
  - (ii) the rights and liabilities of a person (being a Member) under the contract of employment between the person and the person's employer (being a Council) are transferred to another Council as a result of an amalgamation, merger, reconstruction or arrangement:
    - (A) an Old Benefit Member may elect to remain an Old Benefit Member, or if the person is under the age of 65, elect to become a Transferred Member; or
    - (B) a Transferred Member or a Member (other than a Transferred Member or an Old Benefit Member) may elect to remain a Transferred Member or a Member (other than a Transferred Member or an Old Benefit Member), as the case requires.
- (b) An election under paragraph (a) of this rule 18 must be in writing and must be lodged with the Trustee within four weeks (or such longer period as the Trustee approves), after the commencement of the employment described in sub-paragraph 18(a)(ii).
- (c) If an election under paragraph (a) of this rule 18 is made:
- (i) the person will be regarded as having remained a Member throughout any period between the termination of employment and the commencement of new employment as described in paragraph (a) of this rule;
  - (ii) no contributions will be payable in respect of that period;
  - (iii) that period will not be considered for the purpose of determining any benefit payable under these Rules;
  - (iv) the Service of the person will be regarded as continuous;
  - (v) the person must repay to the Trustee the full amount of any benefit which the Member received from the LS Fund as a result of the termination of Service; and
  - (vi) in relation to a person who commences employment with a Prescribed Body, these Rules (other than rules 68 to 75 inclusive, and 3 and 4) apply as if that body were a Council.
- (d) In this rule 18 "Prescribed Body" means:
- (i) ETSA Corporation;
  - (ii) the Local Government Relations Unit in the Department of Housing and Urban Development,

and any successor of these bodies.

## 19. Change of Employment Status

If the terms of employment of a Member who is a permanent Employee are varied, during a period when the Member is making Salarylink Contributions, such that the Member becomes a Casual Employee (without ceasing employment with the relevant Council):

- (a) the Member will be taken to have ceased Service for the purpose of determining the Member's benefit entitlement under rule 36 or rule 43 (as the case may be) (but not for any other purpose) but any benefit that the Member becomes entitled to pursuant to rule 34 or rule 41 will not be payable from the LS Fund to the Member solely as a result of the change in the terms of employment;
- (b) the amount of any benefits to which the Member becomes entitled pursuant to rule 36, rule 43(a)(ii)(A) or 43(a)(ii)(B)(1), (2) and (3) will be credited to the Member's Superannuation Account;
- (c) if the Member elects to take a Retirement Super Benefit, the benefit referred to under rule 43(a)(ii)(B)(4) will be payable to the Member in accordance with rule 56;
- (d) the amount of any benefits to which the Member becomes entitled pursuant to rule 43(a)(iii)(A) will be credited to the Member's Superannuation Account;
- (e) if the Member elects to take a deferred benefit under rule 41(a)(iii)(B), the benefit referred to under rule 43(a)(iii)(B) will become payable in accordance with rule 56 (until the Member reaches age 55) and rule 58 (after the Member attains age 55), as the case may be.

## PART 4 – RULES FOR COUNCILS

### 20. Approved Employers

- (a) An employer may apply in writing to the Trustee to participate in Sub-Division C as an Approved Employer. The Trustee may permit an employer to participate in Sub-Division C as an Approved Employer on terms and conditions specified by the Trustee. Notwithstanding any terms and conditions which the Trustee may have specified and subject to the Amendment Act, an Approved Employer must cease to participate in Sub-Division C as an Approved Employer upon the earliest of:
  - (i) the Approved Employer giving one month's written notice to the Trustee that it wishes to cease participation in Sub-Division C;
  - (ii) the Trustee giving one month's written notice to the Approved Employer that the Approved Employer's participation in Sub-Division C is to cease;
  - (iii) the Approved Employer ceasing to have any Employees who are Members;
  - (iv) if the Approved Employer is a corporation, the Approved Employer becoming an externally-administered body corporate (within the meaning of section 9 of the Corporations Act);
  - (v) if the Approved Employer is a natural person, upon the Approved Employer's dying or being found to be of unsound mind or becoming an insolvent under administration (within the meaning of section 9 of the Corporations Act);

- (vi) if the Approved Employer is a partnership, the partnership dissolving.
- (b) [Deleted]
- (c) [Deleted]
- (d) [Deleted]
- (e) The Trustee may admit any local government body referred to in Part B of Schedule III of these Rules of Sub-Division C that it deems appropriate to participate in Sub-Division C as an NT Shire Council from such date and on such terms and conditions as it determines.
- (f) Subject to the Amendment Act, an NT Shire Council will cease to participate in Sub-Division C upon:
  - (i) the NT Shire Council giving one month's written notice to the Trustee that it wishes to cease participation in Sub-Division C;
  - (ii) the Trustee giving one month's written notice to the NT Shire Council that the NT Shire Council's participation in Sub-Division C is to cease;
  - (iii) the NT Shire Council ceasing to have any Employees who are Northern Territory Members;
  - (iv) the NT Shire Council becoming insolvent;
  - (v) the NT Shire Council being wound up or dissolved.
- (g) Every Council is bound to comply with the provisions of the Deed and the Amendment Act.

## **21. [Deleted]**

## **22. Information to the Trustee or the Insurer**

Each Council shall supply:

- (a) to the Trustee, in a manner specified by the Trustee, such information regarding the age, Salary and Service of the Employees of that Council as the Trustee may require for the purposes of the LS Scheme; and
- (b) to the Trustee or to the Insurer, as directed by the Trustee and in a manner specified by the Trustee, such information regarding the age, Salary, Service and health of Members of the LS Scheme as the Trustee or the Insurer may require from time to time to enable the Trustee to determine whether any limitation in accordance with rule 51 should be placed on the death or disablement benefit provided in respect of any Member and the extent of any such limitation.

## **23. Contributions by Councils**

- (a) Subject to the following provisions of this rule, each Council shall contribute to the LS Fund in respect of each pay period an amount equal to:
  - (i) in respect of any of its Employees who are making Salarylink Contributions:

- (A) a minimum contribution of 3% of the Member's Salary (which is to be credited to the Member's Superannuation Account); plus
- (B) a contribution at such rate determined by the Trustee from time to time on the advice of the Actuary (which is not credited to the Member's Superannuation Account);
- (ii) [Deleted]
- (iii) [Deleted]
- (b) A Council may make contributions in addition to any other amount required by this rule 23 including contributions which the Trustee requires to be paid by the Council under rule 7 of this Sub-Division C.
- (c) The Trustee may accept contributions other than in cash including, contributions by way of voucher arising as a result of superannuation guarantee shortfall under the Guarantee Act.
- (d) [Deleted]
- (e) [Deleted]
- (f) [Deleted]
- (g) [Deleted]
- (h) Notwithstanding any other provision of this rule, an NT Municipal Council is not required to contribute in respect of an Employee who is in receipt of workers compensation and for whom contributions would not be required to be made to avoid a shortfall under the Guarantee Act and the Trustee must adjust the relevant Member's benefits accordingly. This rule 23(h) does not apply in respect of any period before 29 December 2001.

#### **24. Contributions in respect of Transferred Members and Old Benefit Members**

- (a) Notwithstanding rule 23(a) a South Australian Council shall, from the date of transfer of the members of its Previous Plan to the LS Scheme until the beginning of the first pay period commencing after 30 June 1986, pay to the LS Fund in respect of each pay period an amount no smaller than the total amount that it was paying to the LS Fund and to its Previous Plan immediately prior to the transfer.
- (b) A South Australian Council may during the period from the date of transfer of the members of its Previous Plan to the LS Scheme until the beginning of the first pay period commencing after 30 June 1986, pay to the LS Fund such further contributions as the Council and the Trustee agree.
- (c) The Trustee shall obtain the advice of the Actuary as to whether any adjustment should be made to the contributions payable by each Council so as to provide for the benefits payable in respect of Transferred Members and Old Benefit Members employed by that Council at the date they transferred to the LS Scheme, having regard to the funds of the Council's Previous Plan transferred to the LS Fund and in respect of South Australian Councils any amounts paid or to be paid by the Council by virtue of paragraphs (a) and (b) of this rule 24 in excess of the contributions otherwise payable in terms of rule 24(a).

- (d) After considering the advice of the Actuary, obtained in accordance with paragraph (c) of this rule, the Trustee may determine that the contributions payable:
  - (i) by a South Australian Council in terms of rule 23(a) - in respect of each pay period commencing after 30 June 1986, shall, during a number of years specified by the Trustee, be increased or decreased, as the Trustee determines, by an amount specified by the Trustee in respect of the Council;
  - (ii) by an NT Municipal Council in terms of rule 23(a) - be increased or decreased, as the Trustee determines, by an amount specified by the Trustee in respect of the Council.
- (e) The Trustee may, after considering the advice of the Actuary, vary or revoke a determination made in respect of any Council under paragraph (d) of this rule 24.

## **25. Council Contributions prior to 1 April 2001**

[Deleted]

## **26. Payment of Contributions**

- (a) Each Council shall deduct from the Salaries paid to its Employees who are Members of the LS Scheme the contributions payable by those Members in accordance with these Rules.
- (b) Each Council shall promptly pay to the Trustee, or as directed by it:
  - (i) all contributions deducted from the Salaries of Members; and
  - (ii) all contributions payable by the Council in accordance with these Rules,

in any event a Council must pay these contributions to the Trustee before the end of the 28-day period beginning immediately after the end of the month in which the deduction was made or the relevant pay period ended (as the case may be).
- (c) Where a Council fails to pay the contributions referred to in paragraph 26(b) within the time specified the Trustee may require the Council to pay penalty interest on the outstanding contributions at the rate of 24 per cent per annum calculated on a daily basis.
- (d) Any contributions (including any interest imposed under paragraph 26(c)) which become due and payable shall be a debt due to the Trustee and payable to the Trustee in accordance with paragraph 26(b).
- (e) The Trustee may sue for and recover the debt from a Council in any Court of competent jurisdiction.
- (f) Rules 26(d) and 26(e) only apply in respect of contributions which become due and payable after 14 December 2000.

## **PART 5 – MEMBER CONTRIBUTIONS**

### **27. Marketlink Contributions**

[Deleted]

## 28. Salarylink Contributions

- (a) If permitted by the Relevant Law, a Member who is employed by a Salarylink Employer may at any time before the Salarylink Closure Date elect to make or not to make Salarylink Contributions to the LS Fund. From the Salarylink Closure Date only a Member who is an Eligible Salarylink Member may elect to make Salarylink Contributions to the LS Fund. Other Members cannot make Salarylink Contributions to the LS Fund.
- (b) Notwithstanding paragraph 27(a), the following Members are not eligible to make Salarylink Contributions:
  - (i) a Casual Employee;
  - (ii) a Council Elected Member.
- (c) [Deleted]
- (d) Salarylink Contributions may only be made at any one of the following rates of the Member's Salary: 1%, 2%, 3%, 4%, 5%, 6%, 7%, 8%, 9% or 10%.
- (e) If a Member was making Salarylink Contributions to the LS Fund at the rate of 2.5% of the Member's Salary immediately before 1 April 2001, the Member may continue contributions at that rate until the Member first ceases or varies their Salarylink Contributions to the LS Fund.

## 29. Contributions by CCASP Members

[Deleted]

## 30. General Conditions for Contributions

- (a) While a Member remains in active employment with a Council he or she may:
  - (i) elect to make contributions or cease to make contributions;
  - (ii) elect to change the rate at which the Member makes contributions to the LS Fund provided that:
    - (A) [Deleted]; and
    - (B) for Salarylink Contributions the substituted rate is within the rates prescribed under rule 28.
- (b) In order to make an election under this rule, the Member must:
  - (i) notify the Trustee in writing in a manner and form determined by the Trustee;
  - (ii) where an increase in Salarylink Contributions is sought, provide such evidence of health as is required by the Trustee pursuant to which the Member's death and/or disablement benefits may be adjusted in accordance with rule 51.
- (c) A Member's election to commence, cease or vary their contributions will take effect as soon as the Trustee is able to implement the change.

- (d) If following an invitation from the Trustee for Members to commence, cease or vary their contributions, a Member has not responded or has not made any election the Member will be taken to:
  - (i) in the case where the Member was not at the time making contributions to the LS Fund - have elected to not make contributions to the LS Fund;
  - (ii) in the case where the Member was making contributions to the LS Fund - have elected to continue to make contributions to the LS Fund on the same basis and same rate as the Member was contributing on the relevant election date.
- (e) A Member's Salarylink Contributions must cease upon the earliest of the following events:
  - (i) the Member ceases to be employed by a Council; or
  - (ii) the Member attains 65 years of age; or
  - (iii) the Relevant Law requires the Member to cease contributions.
- (f) A Member's contributions to the LS Scheme must be classified as Salarylink Contributions.
- (g) [Deleted]

### **31. Transitional Arrangements**

- (a) Notwithstanding the other provisions of this rule, in respect of a Member who has made or is making contributions to the LS Fund:
  - (i) who is also a Transferred Member, until the beginning of the first pay period commencing after the Member is accepted by the Trustee as a Transferred Member, the Member shall contribute to the LS Fund at the same rate as the Member was contributing to the Previous Plan on the Date of Transfer or would have been contributing to the Previous Plan had it been in operation on the Date of Transfer; or
  - (ii) [Deleted]
- (b) For the period from 1 April 2001 until the time that the Member has made an election to commence, cease or vary their contributions with effect from a date on or after 1 April 2001:
  - (i) in the case where the Member was not making contributions immediately prior to 1 April 2001 – the Member will be taken to have elected to not make contributions to the LS Fund;
  - (ii) in the case where the Member was making contributions to the LS Fund immediately prior to 1 April 2001 – the Member will be taken to have elected to continue to make contributions to the LS Fund on the same basis and same rate as the Member was contributing.

### **32. Salary Sacrifice Contributions**

- (a) The Trustee may agree with a Council to:

- (i) release a Member from paying all or any part of the Member's contributions to the LS Fund which that Member has elected to contribute; and
  - (ii) attach conditions to that release.
- (b) If, pursuant to paragraph 32(a), a Member is released from his or her obligation to contribute to the LS Fund the Trustee may deem those contributions to have been paid to the LS Fund by the Member for any purpose under these Rules. Prior to making such a determination the Trustee may require the Council to make additional contributions to the LS Fund which the Trustee considers are necessary or desirable to ensure that the financial stability of the LS Fund is not affected by the determination.
- (c) If the Trustee is liable to pay taxation on any contributions paid by a Council pursuant to paragraph 32(b), then the Trustee may adjust the contributions that are deemed to have been paid by a Member or benefits otherwise payable in respect of that Member to take account of the amount of any such taxation payable by the Trustee.

### **33. Contributions from Non-council Employers**

[Deleted]

### **34. Member's Credit**

[Deleted]

### **35. Transfer Account**

- (a) There shall be paid into and maintained in the LS Fund on behalf of members of the Previous Plan of the Alice Springs Council an account known as "the Transfer Account".
- (b) There shall be paid to the credit of the Transfer Account:
  - (i) the Previous Plan Accumulated Contributions determined by the Trustee under rule 69; and
  - (ii) in respect of any period before 1 October 2001 - interest at the Declared Rate.
- (c) The balance of the Transfer Account shall vary from time to time in accordance with movements in the value of Units allocated to the Transfer Account which have not been cancelled.

## **PART 6 – BENEFITS SECTION**

### **36. Normal Retirement Benefit**

If a Member retires or is Retrenched from Service during the period between the Member's 55th and 65th birthdays (both inclusive) there shall be payable a benefit equal to the sum of:

- (a) [Deleted]
- (b) the Accrued Salarylink Benefit (where applicable) being an amount equal to the Member's Scheme Benefit Percentage (including any Bonus Multiple) of the Member's Final Average Salary, where:



- (i) the Member's Scheme Benefit Percentage (excluding any Bonus Multiple) is obtained by multiplying each of the benefit percentages shown in the following table by the number of Years of Membership as a Member during which Salarylink Contributions were paid at the Member's Salarylink Contribution Rate shown opposite the benefit percentage in the table and taking the sum of the products of these multiplications:

<b>Benefit Percentage</b>	<b>Member's Salarylink Contribution Rate</b>
10.2% after 1 April 2001	1%
11.4% after 1 April 2001	2%
12.0%	2.5%
12.6%	3%
13.8%	4%
15.0%	5%
16.1%, and after 2 July 1994, 16.2%	6%
17.2%, and after 2 July 1994, 17.4%	7%
18.2%, and after 2 July 1994, 18.6%	8%
19.2%, and after 2 July 1994, 19.8%	9%
20.2%, and after 2 July 1994, 21.0%	10%

- (ii) if the Member is a Transferred Member, the following additional amounts:
- (A) the Member's Previous Plan Accrued Percentage of the Member's Previous Plan Final Salary; and
- (B) if there is a period of time between 1 July 1984 and the date the Member is accepted by the Trustee as a Transferred Member, an amount equal to the product of:
- (1) the fraction of a year from 1 July 1984 until the date the Member is accepted by the Trustee as a Transferred Member; and
  - (2) the benefit percentage shown opposite the Member's Salarylink Contribution Rate during that period in the above table, interpolating or extrapolating linearly, as the case may require, to obtain the benefit percentage where that contribution rate is not listed in the table;
- (iii) [Deleted]
- (c) in the case of a member of the Previous Plan of Alice Springs Council, an Additional Transfer Value.

### **37. Late Retirement Benefit**

- (a) If a Member remains in Service after the Member's 65th birthday there shall be a benefit calculated in accordance with rule 36 as if the Member had retired on the Member's 65th birthday.
- (b) The benefit calculated under rule 37(a) shall be transferred to the Member's Superannuation Account.

### 38. Ill Health Benefit

If a Member's Service terminates before the Member's 50th birthday on the grounds of Ill Health and the Trustee is satisfied that it is reasonable for Service to be terminated on these grounds and the Member is not taken to be Totally and Permanently Disabled there shall be payable a benefit equal to the sum of:

- (a) [Deleted]
- (b) the Accrued Salarylink Benefit (where applicable) determined as if the Member had retired on the date of termination of Service, counting only Years of Membership to that date;
- (c) in the case of a Member of the Previous Plan of the Alice Springs Council, an Additional Transfer Value.

### 39. Ill Health Retirement Benefit

If on or after 1 July 1994 a Member's Service terminates after the Member's 50th birthday and before the Member's 65th birthday on the grounds of Ill Health and the Trustee is satisfied that it is reasonable for Service to be terminated on these grounds and the Member is:

- (a) not taken to be Totally and Permanently Disabled; and
- (b) not entitled to a benefit under rule 46,

there shall be payable a benefit equal to the sum of:

- (c) [Deleted]
- (d) the Salarylink Benefit (where applicable) being an amount equal to:
  - (i) the Member's Accrued Salarylink Benefit determined as if the Member had retired on the date of termination of Service, counting only Years of Membership to that date;
  - (ii) plus half of the Future Scheme Benefit Percentage of the Member's Final Salary as at the date of cessation of Service;
- (e) in the case of a Member of the Previous Plan of the Alice Springs Council, an Additional Transfer Value.

### 40. Death Benefit

- (a) If the Member's Service terminates on or before the Member's 65th birthday as a result of death there shall be a benefit payable equal to the sum of:
  - (i) [Deleted]
  - (ii) the Accrued Salarylink Benefit (where applicable) being as at the date of death determined by using the Member's Final Salary as at the date of death;
  - (iii) the insured benefit payable equal to any one or more of the following amounts (as applicable to the Member):
    - (A) [Deleted]

- (B) the Salarylink Insurance Benefit being the amount equal to the Future Scheme Benefit Percentage of the Member's Final Salary as at the date of death;
- (C) [Deleted]; and
- (D) [Deleted];
- (iv) in the case of a Member of the Previous Plan of the Alice Springs Council, an Additional Transfer Value.
- (b) If in accordance with rule 51 a limitation has been placed on the amount of the death benefit in respect of the Member the amount of the benefit payable pursuant to this rule 40 shall be reduced in accordance with that limitation.

#### **41. Total and Permanent Disablement Benefit**

- (a) If the Member's Service terminates on or before the Member's 65th birthday as a result of Member's Total and Permanent Disablement and rule 41(b) does not apply to the Member there shall be a benefit payable equal to the sum of:
  - (i) [Deleted]
  - (ii) the Accrued Salarylink Benefit (where applicable) as at the date of termination of Service determined by using the Member's Final Salary as at the date of cessation of Service;
  - (iii) the insured benefit payable equal to any one or more of the following amounts (as applicable to the Member):
    - (A) [Deleted]
    - (B) the Salarylink Insurance Benefit being the amount equal to the Future Scheme Benefit Percentage of the Member's Final Salary as at the date of cessation of Service; and
    - (C) [Deleted]; and
    - (D) [Deleted]
  - (iv) in the case of a Member of the Previous Plan of the Alice Springs Council, an Additional Transfer Value.
- (b) If a Member becomes Totally and Permanently Disabled before the Member's 65th birthday and immediately before the Member's Date of Disablement the Member was either a Casual Employee or a Council Elected Member there shall be a benefit payable equal to the sum of:
  - (i) [Deleted];
  - (ii) the Accrued Salarylink Benefit (where applicable) being as at the Date of Disablement determined by using the Member's Final Salary as at the Date of Disablement; and
  - (iii) [Deleted]
  - (iv) [Deleted]

- (v) in the case of a Member of the Previous Plan of the Alice Springs Council, an Additional Transfer Value.
- (c) If in accordance with rule 51 a limitation has been placed on the amount of the Total and Permanent Disablement benefit in respect of the Member the amount of the benefit payable pursuant to this rule 41 shall be reduced in accordance with that limitation.

#### **42. Total and Temporary Disablement Benefit**

- (a) During any period for which a Member is Totally and Temporarily Disabled there shall be a fortnightly benefit payable equal to the sum of:
  - (i) any one of the following amounts (as applicable to the Member):
    - (A) [Deleted]
    - (B) [Deleted]
    - (C) if at the date of Total and Temporary Disablement the Member has in place a Salarylink Insurance Benefit – one-twenty-sixth of 75 per cent of the Member's Final Salary,
  - (ii) [Deleted]

for such period as the Member remains Totally and Temporarily Disabled, but in any event not exceeding the earliest of the following:

  - (iii) 52 fortnights (or such greater period as the Trustee may, for special reasons, allow) from the satisfaction of the waiting period under the definition of Totally and Temporarily Disabled;
  - (iv) the Member's 65th birthday;
  - (v) the Member's death.
- (b) Where a Member is receiving a benefit under this rule, the Insurer or the Trustee may at any time require the Member to attend for a medical examination by a medical practitioner for the purpose of obtaining certification that the Member continues to be Totally and Temporarily Disabled.
- (c) Where a Member is entitled to compensation under the Workers Rehabilitation and Compensation Act or under any corresponding legislation, any benefit payable under this rule 42 shall be reduced by the amount of such compensation. If a Member commutes or surrenders the Member's entitlement to such compensation the Member's benefit will be reduced under this paragraph as if the commutation or surrender had not occurred.
- (d) The amount of the benefit payable under this rule 42 will be reduced by the amount of any insurance proceeds paid under a contract of insurance to the Member as a consequence of the Member's injury or illness for which the Total and Temporary Disability Benefit is also payable.
- (e) Where a Member is entitled to receive a benefit under this rule 42 in respect of any period during which the Member is determined to be Totally and Temporarily Disabled the benefit otherwise payable under this rule 42 is reduced by the wages or salary or

similar payments received by the Member in respect of his or her employment for the same period.

- (f) If, in accordance with rule 51, a limitation has been placed on the amount of Total and Temporary Disablement Benefit in respect of the Member, the amount of the benefit payable pursuant to this rule 42 shall be reduced in accordance with that limitation.

#### 43. Termination of Service Benefit

- (a) If a Member's Service is terminated before the Member's 55th birthday in circumstances in which no other benefit is payable under this Part 6 of Sub- Division C, there shall be payable a benefit equal to the sum of:

- (i) [Deleted]
- (ii) the Salarylink Benefit (where applicable) being an amount equal to the amount under either paragraph (A) or (B) below (as selected by the Member):

- (A) the Basic Super Benefit being the sum of:

- (1) twice the total of the Member's Basic Contributions; and
- (2) the amount of any Additional Contributions; and
- (3) any Transfer Multiple Amount,

and if the Basic Super Benefit is less than the Present Day Super Benefit, then the Basic Super Benefit will be taken to be an amount equal to the Present Day Super Benefit; and

- (B) the Retirement Super Benefit being the sum of:

- (1) the Member's Basic Contributions; and
- (2) the amount of any Additional Contributions made by or on behalf of the Member; and
- (3) [Deleted]

- (4) the Member's Accrued Salarylink Benefit less the sum of the amounts determined under sub-paragraphs (1) and (2) above, which amount will be preserved in the LS Fund as a deferred benefit in accordance with rule 56(b) and from the date the Member ceased Service it shall be varied on 30 June in each year and on the date upon which it is payable (including the Member's 55th birthday):

- by the CPI Factor plus 2% or if the CPI Factor is negative, by that rate or such greater rate of interest (including a nil rate or a negative rate) as the Trustee may in its absolute discretion determine; and
- to take into account any bonus allocated under rule 61,

and if a variation is to be made in respect of a period which is less than one year, the variation shall be adjusted to reflect the proportion which that period bears to one year;

- (iii) in the case of a member of the Previous Plan of Alice Springs Council, an amount equal to either (as selected by the Member):
  - (A) twice the balance of the Member's Transfer Account; or
  - (B) a deferred benefit equal to an Additional Transfer Value adjusted on 30 June and on the date on which the benefit is payable in accordance with rule 56(b) (including on the member's 55th birthday) by the CPI Factor plus 2% or if the CPI Factor is negative by such greater rate of interest (including a nil rate or a negative rate) as the Trustee may in its absolute discretion determine, and if a variation is to be made in respect of a period which is less than one year, the variation shall be adjusted to reflect the proportion which that period bears to one year.

#### **44. Minimum Guaranteed Benefits**

- (a) If a benefit becomes payable in respect of an MGB Member pursuant to any of rules 36 (Normal Retirement Benefit), 39 (Ill Health Retirement Benefit), 40 (Death Benefit), 41 (Total and Permanent Disablement Benefit) or 46 (Terminal Medical Condition Benefit) and such benefit is less than the Minimum Benefit, then the Trustee must pay the MGB Member the Minimum Benefit in lieu of the benefit which is otherwise payable under these rules.
- (b) If an MGB Member remains in Service after the Member's 65th birthday and the benefit calculated in accordance with rule 37(a) is less than the Minimum Benefit determined on the Member's 65th birthday, then the Minimum Benefit shall apply in lieu of the benefit otherwise calculated under rule 37(a) to be transferred to the Member's Superannuation Account in accordance with rule 37(b).
- (c) For the purposes of this rule 44 the "Minimum Benefit" is an amount equal to the total of:
  - (i) [Deleted]
  - (ii) the benefit the MGB Member would have been entitled to had the MGB Member been eligible and elected to receive a Basic Super Benefit as at the relevant date.
- (d) For the purpose of this rule 44 an "MGB Member" is a Member who would have, if the Member had ceased Service upon the Member attaining age 55 years, received a benefit pursuant to rule 36 which would have been less than the benefit the Member would have been entitled to have received had the Member been eligible and elected to receive a Basic Super Benefit upon ceasing Service at age 55 years.

#### **45. Benefits for CCASP Members**

[Deleted]

#### **46. Terminal Medical Condition Benefits**

- (a) Subject to the remaining provisions of this rule 46 and notwithstanding any other provisions of these Rules, if:
  - (i) a Member requests assessment under this rule 46; and

- (ii) the Trustee is satisfied that a TMC exists in relation to that Member,
- the Trustee may, in its absolute discretion and subject to such terms and conditions as the Trustee considers appropriate, pay to or in respect of the Member a benefit equal to the benefit that would have been payable (subject to any limitations under any applicable Policy) in respect of the Member under these Rules if the Member had died on the date that the Trustee determines that a TMC exists in relation to the Member.
- (b) A Member who has become entitled to payment of a benefit under rule 46(a) may elect to retain all or part of such benefit in the Fund pursuant to rule 58.
- (c) Once a Member has become entitled to a benefit under rule 46(a), the Member will have no entitlement to any other benefits under this Sub-Division C unless the Member has an entitlement to a benefit on Total and Temporary Disablement under rule 42(a) or a benefit under rule 58 or a pension benefit under rule 8 of Sub-Division B.
- (d) If any limitation under any applicable Policy operates to restrict the amount payable to a Member under rule 46(a) to a maximum limit, a benefit will remain payable upon the Member's subsequent death or Total and Permanent Disablement on terms set out in rule 40 (in the case of death) or rule 41 (in the case of Total and Permanent Disablement) (as the case may be), but limited only to the remaining amount of any insurance proceeds paid to the Trustee under such Policy as a result of the Member's death or Total and Permanent Disablement.

## **PART 7 – INSURED BENEFITS**

### **47. Marketlink Insurance Benefit**

[Deleted]

### **48. Marketlink Insurance Benefit with Income Protection**

[Deleted]

### **49. Salarylink Insurance Benefit**

- (a) While a Member is making Salarylink Contributions to the LS Fund, and for so long as the Member is making Salarylink Contributions to the LS Fund, the Member will be taken to have in place a Salarylink Insurance Benefit.
- (b) If a Member:
- (i) does not make Salarylink Contributions to the LS Fund within 6 months of first becoming eligible to do so; or
  - (ii) re-commences active Service with a Council after taking a period of leave without pay approved by the Council where the Member had been making Salarylink Contributions immediately prior to commencing leave without pay, but did not have an insured death and Total and Permanent Disablement Benefit during such period of leave,

then the Trustee may refuse to approve a Salarylink Insurance Benefit for the Member or may impose such limitations and conditions on the benefit as it considers appropriate having regard to the state of the Member's health, any factors which may increase the

Member's risk of death, Total and Permanent Disablement or Total and Temporary Disablement whilst in Service.

## 50. Additional Voluntary Cover

[Deleted]

## 51. Limitation of Death, TMC and Disablement Benefits

(a) Each Member shall:

- (i) at any time upon request by the Trustee or the Insurer; and
- (ii) upon applying for, or otherwise becoming entitled to, insurance cover in respect of death, TMC or disablement that exceeds any limit prescribed by the Trustee from time to time,

supply to the Trustee or the Insurer such evidence and information regarding the state of the Member's health or predisposition to disablement, death or terminal illness as the Trustee or the Insurer (with the approval of the Trustee) may from time to time require.

(b) In respect of a Member who is required to supply information under rule 51(a), until the Trustee and the Insurer are satisfied as to the soundness of health of a Member and any other circumstances of the Member that may lead to the Member's predisposition to disablement, death or terminal illness the amount of death, disablement or TMC benefit in respect of that Member may be limited in a manner which the Trustee considers to be equitable and the Trustee shall advise the Member accordingly.

(c) Where the Trustee or the Insurer has made a decision upon the basis of evidence provided by a Member as to the state of the Member's health or predisposition to disablement, death or terminal illness and the Trustee or the Insurer is satisfied:

- (i) that the person failed to reveal a material matter within the Member's knowledge relating to the Member's state of health or predisposition to disablement, death or terminal illness; and
- (ii) that had the Trustee or the Insurer known of the matter the Trustee or the Insurer would not have made the decision referred to above,

the Trustee or the Insurer (with the approval of the Trustee) may rescind that the Trustee may in its absolute discretion impose a maximum limit decision and may adjust the benefits payable under these Rules accordingly.

(d) Notwithstanding any other provision of these Rules:

- (i) the Trustee may in its absolute discretion impose a maximum limit on all or part of the amount of the insured benefits payable to or in respect of Members in the event of Total and Permanent Disablement, Total and Temporary Disablement, death and a TMC existing;
- (ii) the Trustee may amend any maximum limit set from time to time;
- (iii) if:



- (A) a benefit becomes payable to or in respect of a Member as a result of the Member's Total and Permanent Disablement, Total and Temporary Disablement, death or a TMC existing in relation to the Member; and
- (B) the amount of the insured benefits payable under:
  - (1) rule 40 or rule 41(a)(iii) (as the case may be);
  - (2) rule 41(b);
  - (3) rule 42; or
  - (4) rule 46;
  - (5) [Deleted];

exceeds any maximum limit set by the Trustee at the relevant time, the insured benefit payable to or in respect of the Member is the amount of the maximum limit;

- (iv) the Trustee may in its absolute discretion determine that a Member, or a category of Members, is not entitled to any or all of the benefits referred to in this Part 7 or rule 46 if the total balance of the Member's Superannuation Account for a Member is not at least equal to a minimum amount in respect of a period where such amount and period are prescribed by the Trustee from time to time as being reasonably necessary to meet the cost of providing insured benefits from the LS Scheme for the Member;
- (v) once a Member has become entitled to a benefit under rule 46, that Member is no longer entitled to any benefits referred to in this Part 7 other than pursuant to rule 58 and other than any remaining insurance proceeds that may be payable under rule 42(a) or rule 46(d).

## 52. Adjustment to Insured Benefits

If a Member:

- (a) re-commences Salarylink Contributions; or
- (b) ceases Salarylink Contributions but remains in Service,
- (c) [Deleted]

where the level of benefits covered by insurance would but for the operation of this rule 52 be affected by such event, then the Trustee may in its absolute discretion:

- (d) in the case where the level of benefits covered by insurance would otherwise increase as a consequence of the event – limit the level of such benefits payable to the Member; and
- (e) in the case where the level of benefits covered by insurance would otherwise be reduced as a consequence of the event – increase the level of such benefits payable to the Member,

in such manner and subject to such terms and conditions as the Trustee may determine.

**53. Retained Insurance Benefit**

[Deleted]

**54. External Insurance**

- (a) The Trustee may arrange one or more Policies for the purpose of insuring all or part of any or all of the benefits referred to under this Part 7 or under rule 46.
- (b) For the avoidance of doubt, the Trustee may determine that a Policy applies to particular Members or to particular categories of Members and such Members will be known as Externally Insured Members with respect to the kinds of benefits that the Policy covers.
- (c) An Externally Insured Member is only entitled to a benefit referred to under this Part 7 if and to the extent that the Trustee receives the proceeds of the Policy in respect of that benefit from the Insurer. The Trustee must accordingly adjust the death, TMC or disablement benefits otherwise specified as being payable under this Deed in respect of an Externally Insured Member.
- (d) This rule 54 applies notwithstanding any other provision of these Rules other than rule 55.

**55. Transitional Protection**

- (a) In respect of an Externally Insured Member who was a Member of the LS Scheme prior to 1 April 2009:
  - (i) rule 54 does not apply to reduce the Member's benefits;
  - (ii) the definitions of "Totally and Permanently Disabled" and "Totally and Temporarily Disabled" as set out in paragraph (a) of each of those definitions in Sub-Division E are taken not to apply to the Member; and
  - (iii) rule 51(d)(iv) does not apply to reduce the Member's benefits,

in respect of and to the extent that prior to 1 April 2009 such Member already had a right to an accrued benefit (if any) under Part 7 of this Sub-Division C or under rule 46 of the "Industry Division" rules in the Former LS Trust Deed and the application of rule 54 or the definitions referred to under paragraph (ii) above would result in a reduction of such accrued benefit.
- (b) In respect of a Member who was a Member of the LS Scheme prior to 6 April 2010 on which the amending deed that amended the Former LS Trust Deed to insert rule 55(b) of the "Industry Division" rules in the Former LS Trust Deed was executed (Execution Date), the amendments made to the Former LS Trust Deed with effect on and from 1 April 2010 (and now reflected in these Rules) do not apply to reduce the Member's benefits to the extent that prior to the Execution Date such Member already had a right to an accrued benefit (if any) under Part 7 or rule 46 of the "Industry Division" rules in the Former LS Trust Deed and the application of such amendments would result in a reduction of such accrued benefit.

- (c) For the purpose of this rule 55 the term “accrued benefit” shall be given the same meaning as is applied to that term for the purpose of regulation 13.16 of the SIS Regulations and clause 10.3.1 of the Former LS Trust Deed.

## **PART 8 – ADDITIONAL BENEFITS AND OPTIONS**

### **56. Deferred Benefit Option**

- (a) A Member’s election to receive a deferred benefit pursuant to rules 43 and 56(c) shall be made by completing a form prescribed by the Trustee.
- (b) Subject to rule 56(e), a deferred benefit shall be payable on the Member’s death or upon the Member attaining 55 years of age (in which case the payment of the deferred benefit will be subject to any preservation requirements under the Relevant Law) or on the Member’s earlier retirement on the grounds of Ill Health or Total and Permanent Disablement subject to satisfactory proof (to the extent applicable) of:

- (i) death;
- (ii) Ill Health or Total and Permanent Disablement,

being given to the Trustee.

For the purposes of this rule 56(b):

- (A) a Member will be taken to be suffering Ill Health if the Member is suffering from a continuous or recurring injury or illness which the Trustee considers in its absolute discretion would prevent the Member from performing his or her normal duties of employment (whether or not that Member is currently employed) and has led to the Member’s retirement from the workforce;
- (B) a Member will be taken to be Totally and Permanently Disabled if the Trustee determines that the Member satisfies the definition of “permanent incapacity” under the SIS Regulations.
- (c) Where a Member is regularly, but not permanently, employed on a full-time or part time basis, the Member may, with the approval of the Trustee, on the termination of each period of employment elect to take a deferred benefit in accordance with these Rules in respect of that period of employment and this provision shall apply to a Member even if the Member has not been a Member of this LS Scheme or, in the case of a Transferred Member the Previous Plan for more than one year.
- (d) [Deleted]
- (e) A Member who elected to receive a deferred benefit under the former Part IX of the Rules in place prior to 1 April 2001 (known as the Accumulation Benefits Section) may at any time from 1 April 2001 request the Trustee to pay their deferred benefit from the LS Scheme as if it had become payable under rule 56(b).
- (f) For the avoidance of doubt, if a Member has elected to receive a deferred benefit pursuant to this rule 56, such deferred benefit is not payable to or in respect of the Member otherwise than in the circumstances set out in this rule 56. Accordingly, the Trustee must not treat any part of a deferred benefit as forming all or any part of a withdrawal benefit for the purpose of the Relevant Law.

(g) [Deleted]

## 57. Option to convert deferred benefits

- (a) A Member who has elected before 1 July 1999 to receive a deferred benefit under either former rules 59(b)(ii) or 60(c)(vii) then in place was eligible to elect on or before 30 September 1999 to convert the deferred benefit to a benefit which is immediately payable. The converted benefit will continue to be subject to any preservation requirements under the Relevant Law.
- (b) An election made to convert a deferred benefit had to be made in writing before 30 September 1999 in a manner and form approved by the Trustee.
- (c) The converted benefit was equal to an amount determined by the Actuary to represent the present value of the Member's deferred benefit remaining in the LS Fund. In determining the amount of the converted benefit the Actuary must have had regard to:
- (i) the present value of the benefit on 1 July 1999;
  - (ii) any amounts which the Member has withdrawn or transferred out of the LS Fund;
  - (iii) costs, expenses and taxes apportionable to the Member's benefit.

## 58. Retention of Benefits in the LS Scheme

- (a) This rule 58 shall apply to:
- (i) a Member upon his or her Service ceasing for any reason (other than death);
  - (ii) a Member who becomes entitled to payment of a deferred benefit under rule 56; or
  - (iii) a Member who is entitled to a benefit under rule 46, who satisfies either:
    - (A) the Election Conditions – which are satisfied when the Member elects under paragraph (b) of this rule 58 to retain in the Fund all or any part of the Member's benefit which has become payable to the Member; or
    - (B) the Default Conditions – which are satisfied when:
      - (1) if:
        - the Member does not request payment of the Member's benefit upon it becoming payable within such period as the Trustee prescribes; or
        - the payment of the Member's benefit is subject to any preservation requirements under the Relevant Law, such that it cannot be paid to the Member; and
      - (2) the Trustee has not transferred the Member's benefit out of the LS Fund to an Approved Benefit Arrangement after applying such policies and procedures as the Trustee determines in its absolute discretion from time to time.

Pending the satisfaction by a Member of either the Election Conditions or the Default Conditions, for the purpose of providing a Member with insured benefits the Trustee may treat the Member as having satisfied the Default Conditions. This rule 58 shall cease to apply to a Member upon all benefits which are payable to the Member from the LS Fund being paid to or in respect of the Member or transferred to Division 1 or Division 2 (as applicable) or an Approved Benefit Arrangement.

- (b) In order to satisfy the Election Conditions an election must be made by completing a form, and lodging it with the Trustee within a period of time, prescribed by the Trustee or via an approved online process. If a Member fails to complete the prescribed form or fails to lodge it with the Trustee within the prescribed period or the approved online process the Member will not be taken to have satisfied the Election Conditions.
- (c) [Deleted]
- (ca) [Deleted]
- (d) Without limiting clauses 8.1(b) of the Deed, the Trustee shall transfer and credit to the Superannuation Account of a Member to whom this rule 58 applies the following:
  - (i) any benefit which the Member has elected to retain in the Fund;
  - (ii) any benefit of a Member in respect of which the Member has satisfied the Default Conditions;
  - (iii) [Deleted]
  - (iv) [Deleted]

and shall debit the following:

  - (v) such amounts which the Trustee considers should be reasonably attributed to the account representing any tax or governmental impost which is or may become payable in connection with the LS Fund and the costs of and incidental to the administration, investment and management of the LS Fund;
  - (vi) [Deleted]
- (e) A Member to whom this rule 58 applies immediately after ceasing Service will, if that Member had insurance cover under the LS Scheme at the time of ceasing Service (and unless the Member ceased Service after 31 October 2007 due to Total and Permanent Disablement, Ill Health or a TMC existing in relation to the Member pursuant to which the Member received a benefit under rule 46) be entitled to insurance cover from, and subject to the terms and conditions applicable to, Division 1 or Division 2 (as applicable). On transfer of benefits to a Member's Superannuation Account pursuant to this rule 58, that Member will be taken to have:
  - (i) an insured death, Total and Permanent Disablement and TMC benefit for an amount determined under the Policy obtained by the Trustee for that purpose; and
  - (ii) in the case of a Member to whom if the Member had in place a Salarylink Insurance Benefit immediately prior to ceasing Service – an insured Total and Temporary Disablement Benefit for a fortnightly benefit payment equal to one-

twenty sixth of an amount which would have been payable on the date the Member ceased Service had the Member become Totally and Temporarily Disabled on that date rounded up to the nearest available multiple of units.

- (ea) [Deleted]
- (f) [Deleted]
- (g) [Deleted]
- (h) [Deleted]

## 59. Bonus Multiple

- (a) (i) A Member shall only be entitled to 1994 Bonus Multiple if:
  - (A) the Member was in Service on 2 July 1994; and
  - (B) the Member was a Member to whom the former Part VIII of the Rules (then covering defined benefit members) applied on 2 July 1994.
- (ii) A 1994 Bonus Multiple is equal to 10% of the sum of the Member's Scheme Benefit Percentage (determined as at 2 July 1994) and the Member's Previous Plan Accrued Percentage.
- (b) (i) A Member shall only be entitled to a 1997 Bonus Multiple if:
  - (A) the Member was in Service on 10 March 1997; and
  - (B) the Member was a Member to whom the former Part VIII of the Rules (then covering defined benefit members) applied on 10 March 1997.
- (ii) A 1997 Bonus Multiple is equal to 16.25% of the sum of the Member's Scheme Benefit Percentage (determined as at the 1997 Bonus Date) and the Member's Previous Plan Accrued Percentage. For the purpose of this paragraph "1997 Bonus Date" means:
  - (A) in respect of a Member who ceased Service after 10 March 1997 and prior to 1 July 1997 - the date of cessation of Service; or
  - (B) in any other case - 1 July 1997.
- (c) "Scheme Benefit Percentage" in this rule 59 does not include any benefit percentage accrued in respect of Years of Membership for which a Member was an "Old Benefit Member".

## 60. 2000 Bonus Multiple

- (a) A Member shall only be entitled to a 2000 Bonus Multiple if:
  - (i) the Member was in Service on 13 March 2000; and
  - (ii) the Member was a Member to whom the former Part VIII of the Rules (then covering defined benefit members) applied on 13 March 2000.
- (b) A 2000 Bonus Multiple is equal to:

- (i) for Members aged 65 years or more on 30 June 1999 – the product of:
  - (A) a fraction of the 2000 Vested Bonus Percentage determined by the number of days after 30 June 1996 up to the Member's 65th birthday (so that for Member's over 65 years on or before 30 June 1996 the number of days will be nil) divided by 1095; and
  - (B) the sum of the Member's Scheme Benefit Percentage (determined as at the 2000 Bonus Date) and the Member's Previous Plan Accrued Percentage.
- (ii) for all other Members - the 2000 Vested Bonus Percentage of the sum of the Member's Scheme Benefit Percentage (determined as at the 2000 Bonus Date) and the Member's Previous Plan Accrued Percentage.

#### **61. 2000 Bonus for Deferred Members**

- (a) A Member who on or before 13 March 2000:
  - (i) had ceased Service and elected to receive a deferred benefit under either former rule 59(b)(ii) or rule 60(b) of the Rules which were then in place;
  - (ii) had not converted the benefit under rule 57; and
  - (iii) had not attained age 55 years,

is entitled to an additional amount equal to the 2000 Vested Bonus Percentage of the component of their deferred benefit held in the LS Fund which is determined under former rule 59(b)(ii)(D) or rule 60(b)(iv) (as the case may be) of the Rules that were in place as at the 2000 Bonus Date.

- (b) A Member who before 13 March 2000:
  - (i) had ceased Service and elected to receive a deferred benefit under either former rule 59(b)(ii) or rule 60(b) of the Rules which were then in place;
  - (ii) had not converted the benefit under rule 57; and
  - (iii) had attained age 55 years within three years prior to 30 June 1999,

is entitled to an additional amount equal to the product of:

- (A) a percentage rate determined by the number of days from 30 June 1996 up to the Member's 55th birthday divided by 1095; and
- (B) the 2000 Vested Bonus Percentage of the component of the Member's deferred benefit held in the LS Fund which is determined under former rule 59(b)(ii)(D) or rule 60(b)(iv) (as the case may be) of the Rules that were in place as at the 2000 Bonus Date.

#### **62. 2000 Bonus for members of the Previous Plan of Alice Springs Council**

- (a) This rule 62 applies only to Members:
  - (i) who were formerly members of the Previous Plan of Alice Springs Council; and

- (ii) who were in Service on 13 March 2000.
- (b) For the purpose of determining the Additional Transfer Value component of any benefit under Part 6, an additional amount is added to the Previous Plan Accrued Percentage equal to the product of:
  - (i) the 2000 Vested Bonus Percentage; and
  - (ii) the Previous Plan Accrued Percentage (determined as at the 2000 Bonus Date).

## **PART 9 – COUNCIL ELECTED MEMBERS**

### **63. Membership**

- (a) From 1 July 2013 the LS Scheme is closed to all new Members, including Council Elected Members.
- (b) [Deleted]

### **64. Contributions**

[Deleted]

### **65. Member's Credit**

[Deleted]

### **66. Benefits**

[Deleted]

### **67. Application of these Rules to Council Elected Members**

[Deleted]

## **PART 10 – HISTORICAL ARRANGEMENTS**

### **68. Closure of Previous Plan to New Entrants**

Each Council shall do all things necessary (consistent with its obligations under its Previous Plan) to close its Previous Plan to new entrants from 1 July 1984 (or in the case of Northern Territory Councils from the Date of Transfer) or as soon as possible thereafter. For the purpose of this Rule, "Northern Territory Council" has the same meaning that was applied to it in these Rules immediately prior to 1 July 2008.

### **69. Transfer of Members and Funds of Previous Plans**

- (a) Each Council shall do all things necessary (consistent with its obligations under its Previous Plan) to arrange for the transfer, at a date specified by the Trustee, of the members of its Previous Plan to this LS Scheme.
- (b) Each Council shall do all things necessary (consistent with its obligations under its Previous Plan) to arrange for the transfer of the funds of its Previous Plan to the LS Fund on a date or dates and in a manner acceptable to the Trustee.



- (c) The Trustee shall accept as a Member of the LS Scheme any Employee who is a member of a Previous Plan and in respect of whom arrangements acceptable to the Trustee have been made in accordance with paragraphs (a) and (b) of this rule 69 and such acceptance shall take effect from the date on which that Employee ceases to be a member of the Previous Plan

## 70. Transfer from CCASP

[Deleted]

## 71. Advice to Members of Previous Plans

The Trustee shall advise each Member who was a member of a Previous Plan of the following matters in respect of the Member's membership of and entitlements from the Previous Plan up to 30 June 1984 (or in respect of Northern Territory Members up to the Date of Transfer):

- (a) 'Previous Plan Accrued Percentage' being:
- (i) in respect of South Australian Members - the percentage of Salary to which the Trustee considers, upon the advice of the Actuary, the Member's retirement benefits under the Member's Previous Plan have accrued up to 30 June 1984; and
  - (ii) in respect of Northern Territory Members who participated in the Alice Springs Council Previous Plan - the percentage of Salary to which the Trustee considers, upon the advice of the Actuary, the Member's retirement benefits under the Member's Previous Plan have accrued up to the Date of Transfer;
- (b) 'Previous Plan Accumulated Contributions' being:
- (i) in respect of a South Australian Member - the amount which the Trustee considers, upon the advice of the Actuary, would have been paid to the Member from the Member's Previous Plan if the Member had received a resignation benefit on 30 June 1984, less an amount equal to that portion of that resignation benefit which would have arisen from the vesting of Council contributions to the Member's Previous Plan; and
  - (ii) in respect of a Northern Territory Member - the amount which the Trustee considers, upon the advice of the Actuary, would have been paid to the Member from the Member's Previous Plan if the Member had received a resignation benefit on the Date of Transfer, less an amount equal to that portion of that resignation benefit which would have arisen from the vesting of Council contributions to the Member's Previous Plan;
- (c) 'Previous Plan Vesting Percentage' being:
- (i) in respect of South Australian Members - the percentage increase necessary to increase the Previous Plan Accumulated Contributions to the amount which would have been paid to the Member from the Member's Previous Plan if the Member had received a resignation benefit on 30 June 1984; and
  - (ii) in respect of Northern Territory Members - the percentage increase necessary to increase the Previous Plan Accumulated Contributions to the amount which would have been paid to the Member from the Member's Previous Plan if the Member had received a resignation benefit on the Date of Transfer;

- (iii) in respect of South Australian Members and Northern Territory Members who participated in the Alice Springs Council Previous Plan or the Darwin Council Previous Plan the method to be used by the Trustee to calculate the Member's Previous Plan Final Salary, being a method which the Trustee chooses, upon the advice of the Actuary, to produce a Salary which will approximate the salary which would have been used under the Member's Previous Plan in the calculation of benefits on retirement.

## **72. Election to become a Transferred Member**

- (a) An Employee who:
  - (i) has been transferred from a Previous Plan to the LS Scheme;
  - (ii) is engaged in either full-time or permanent part-time employment; and
  - (iii) is under age 65,

may elect to transfer to the benefits provided by the LS Scheme by completing a form prescribed by the Trustee and providing such evidence of the Member's age and health as is required by the Trustee.
- (b) Upon being satisfied that the election conforms to the requirements of these Rules, the Trustee shall accept the Employee as a Transferred Member.
- (c) In respect of a South Australian Member:
  - (i) an election may not be made under paragraph (a) after 30 June 1990 or such later date as the Trustee may determine; and
  - (ii) the Trustee may make a determination under sub-paragraph (i) before or after 30 June 1990, and may, notwithstanding having made a declaration under that sub-paragraph, make a further declaration or declarations (whether before or after the expiration of an earlier declaration).
- (d) (i) Subject to this rule 72(d), the Trustee may offer an additional benefit to an Old Benefit Member on the condition that the Old Benefit Member elects to transfer to the benefits provided by the LS Scheme. The Trustee is under no obligation to offer, or to consider whether to offer, an additional benefit to an Old Benefit Member.
- (ii) If the Trustee determines to make an offer to an Old Benefit Member under this rule 72(d) it must ensure that the additional benefit:
  - (A) is designed to encourage the Old Benefit Member to transfer to the benefits provided by the LS Scheme having regard to a comparison of the benefits provided to the Employee under the Previous Plan and the benefits to be provided by the LS Scheme; and
  - (B) does not adversely affect the financial position of the LS Fund.

The Trustee may impose such other terms and conditions on the offer as it considers appropriate.

- (iii) If an Old Benefit Member becomes a Transferred Member following an offer made under this rule 72(d), the additional benefit will be payable to the

Transferred Member subject to the terms and conditions of the offer and notwithstanding any other provision of these Rules.

### **73. Old Benefit Members**

A person who has been transferred from a Previous Plan to the LS Scheme and who has not elected to transfer to the benefits provided by the LS Scheme shall be treated by the Trustee as an Old Benefit Member.

### **74. Supplementary Death and Disablement Cover**

If a member of a Previous Plan employed by a South Australian Council dies or becomes Totally and Permanently Disabled:

- (a) after 30 June 1984 and before the date specified by the Trustee in respect of the Member's Previous Plan in accordance with rule 69(a); or
- (b) after becoming a Member of the LS Scheme and where:
  - (i) no election has been made by the Member, before the expiration of the time specified by the Trustee in accordance with rule 72(a); or
  - (ii) an election has been made by the Member, before the Member has been accepted as a Transferred Member,

there shall be payable from the LS Fund, in addition to any other benefit payable from the LS Fund and any benefits payable from the Previous Plan, a benefit of such amount as may be necessary to make the total of the benefits payable from the LS Fund and from the Previous Plan at least equal to the death or disablement benefit that would have been payable from the LS Fund had the Member become a Transferred Member on 1 July 1984 and contributed to the LS Fund from that date at the same rate as the Member contributed to the Previous Plan or the LS Fund from that date PROVIDED THAT where the rate of the Member's contribution from 1 July 1984 was not one of the rates listed in the table in rule 36 the benefit percentage used to determine the benefit that would have been payable had the Member become a Transferred Member on 1 July 1984 shall be calculated by interpolating or extrapolating linearly from the figures shown in the table in rule 36.

### **75. Actuarial Modification**

Where this LS Scheme first applies to a Council after 30 June 1984, the Trustee, after considering the advice of the Actuary, may modify in such manner as it considers appropriate any of these Rules relating to the transfer of members and funds from that Council's Previous Plan to the LS Scheme and the benefits arising from membership of that Previous Plan.

## **PART 11 – RULES FOR OLD BENEFIT MEMBERS**

### **76. Contributions and Benefits for Old Benefit Members**

- (a) Notwithstanding anything else contained in these Rules, but subject to this rule 76 and to rule 26 of Sub-Division B, an Old Benefit Member shall, while the Member remains in the Service of the Council which employed the Member on 30 June 1984 (or in respect of a Northern Territory Member on the Date of Transfer), pay contributions to and be

entitled to receive benefits from the LS Fund in accordance with the provisions of the Member's Previous Plan and, in the case of an Old Benefit Member who is employed by a South Australian Council and who pursuant to the provisions of the Member's Previous Plan contributes at a rate of 1 per cent, a benefit of 5 per cent of the Member's Final Average Salary for each Year of Membership occurring after 1 July 1988.

- (b) (i) [Deleted]
- (b) (ii) [Deleted]
- (c) In this rule 76, 'Final Average Salary' in relation to an Old Benefit Member, means the Member's Final Average Salary determined in accordance with the provisions of the Member's Previous Plan.
- (d) Notwithstanding the provisions of an Old Benefit Member's Previous Plan where the interest to be credited to the Member's contributions is less than movements in the value of Units in an Investment Portfolio (being an Investment Portfolio determined by the Trustee from time to time to apply for the purposes of this sub-rule) allocated by the Trustee in respect of the Member's contributions which have not been cancelled then such movements in the value of Units allocated shall be allocated (and in respect of any period prior to 1 October 2001, where the interest to be credited to the Member's contributions is less than the Declared Rate then the interest credited will be at the Declared Rate).
- (e) (i) The Trustee may agree with a Council to:
  - (A) release an Old Benefit Member employed by the Council from paying all or any part of the Member's contributions to the LS Fund; and
  - (B) attach conditions to that release.
- (e) (ii) If, pursuant to sub-paragraph (i), an Old Benefit Member is released from his or her obligation to contribute to the LS Fund, the Trustee may deem those contributions to have been paid to the LS Fund by the Member for any purpose under these Rules. Prior to making such a determination the Trustee may require the Council to make additional contributions to the LS Fund which the Trustee considers are necessary or desirable to ensure that the financial stability of the LS Fund is not affected by the determination.
- (f) (i) [Deleted]
- (f) (ii) [Deleted]
- (g) (i) An Old Benefit Member who ceases Service and who has available to him a deferred style benefit under the provisions of the Member's Previous Plan, may elect to receive as an alternative an amount equal to the sum of:
  - (A) an amount which the Actuary determines as at the date of termination of Service to represent the present value of the deferred style benefit; and
  - (B) [Deleted].

Rule 76(g)(ii) does not apply to an Old Benefit Member to whom this rule 76(g)(i) applies.

- (ii) An Old Benefit Member who ceases Service prior to age 55 may elect, as an alternative to any benefit otherwise payable from the LS Fund, to receive either:
  - (A) the sum of:
    - (1) an amount calculated in accordance with the provisions of rule 76(a) as if the Member had retired at age 65 on the date of termination of Service, counting only periods of membership, Service and Salary to the date of actual termination, provided that where the Relevant Law requires this amount to be preserved, then it will be preserved in the LS Fund as a deferred benefit and from the date the Member ceased Service it shall be varied on the Annual Review Date each year and on the date it is payable on such basis as the Trustee determines; and
    - (2) [Deleted]; or
  - (B) an amount equal to the sum of:
    - (1) an amount which the Actuary determines as at the date of termination of Service to represent the present value of the benefit calculated under sub-paragraph (A)(1) above; and
    - (2) [Deleted].
- (h) (i) This rule 76(h) shall not apply to an Old Benefit Member who has available to him an ill health style benefit under the provisions of the Member's Previous Plan.
- (ii) An Old Benefit Member who ceases Service on the grounds of Ill Health, and who is not entitled to a disablement benefit, shall be paid, as an alternative to any benefit otherwise payable from the LS Fund, a benefit equal to the sum of:
  - (A) an amount calculated in accordance with rule 76(a) as if the Member had retired at age 65 on the date of termination of Service, counting only periods of membership and Service and Salary to the date of actual termination; and
  - (B) [Deleted].
- (i) (i) This rule 76(i) shall not apply to an Old Benefit Member who has available to him an early retirement benefit upon attaining age 55 under the provisions of the Member's Previous Plan.
- (ii) An Old Benefit Member who ceases Service on or after age 55, shall be paid, as an alternative to any benefit otherwise payable from the LS Fund, a benefit equal to the sum of:
  - (A) an amount calculated in accordance with rule 76(a) as if the Member had retired at age 65 on the date of termination of Service, counting only periods of membership and Service and Salary to the date of actual termination; and
  - (B) [Deleted]
- (j) The facilities available to Members under Part 3 (other than rules 15 and 17) and Part 8 (other than these Rules relating to bonus multiples and bonuses) are available to Old

Benefit Members on the same basis as these facilities are available to other Members of the LS Scheme.

## **77. Old Benefit Members Moving Between Councils**

- (a) In the event that an Old Benefit Member's Service with the Council which employed the Member on 30 June 1984 (or in respect of a Northern Territory Member on the Date of Transfer) terminates and within a period of four weeks, or such longer period as the Trustee may approve upon the Member's request, the Member recommences full-time or permanent part-time employment with either the same Council or another Council, the Member may, if the Member is under age 65, elect to become a Transferred Member by completing a form prescribed by the Trustee and providing such evidence of the Member's age and health as is required by the Trustee.
- (b) Upon being satisfied that the election conforms to the requirements of these Rules and that the Old Benefit Member either has instructed the Trustee to retain or has repaid to the Trustee upon recommencing employment the full amount of any benefit for which the Member is eligible as a result of the termination of the Member's Service the Trustee shall accept the Member as a Transferred Member as from the day the Member recommences employment.
- (c) The benefits payable in respect of such a Transferred Member shall be determined in the same manner as for any other Transferred Member except that:
  - (i) in calculating Previous Plan Accrued Percentage, Previous Plan Accumulated Contributions and Previous Plan Vesting Percentage the date of the Member's termination of Service with the Council which employed the Member on 30 June 1984 (or in respect of a Northern Territory Member, on the Date of Transfer) shall be used instead of 30 June 1984 (or in respect of a Northern Territory Member, the Date of Transfer); and
  - (ii) in calculating the Member's benefits the date of the Member's acceptance as a Transferred Member shall be used instead of 1 July 1984 (or in respect of a Northern Territory Member, instead of the Date of Transfer).
- (d) In respect of such a Transferred Member:
  - (i) the Member shall be deemed to have remained a Member throughout the period when the Member was not employed by a Council except that no contributions are required in respect of that period and that period shall not be counted for the purpose of determining any benefit payable at any time in accordance with these Rules;
  - (ii) the Member's Service shall be deemed not to have ceased and shall be treated as being continuous; and
  - (iii) for the purpose of calculating the Member's Final Average Salary and the Member's Previous Plan Final Salary at any time the period when the Member was not employed by a Council shall be ignored.

## **78. Bonus Allocation for Old Benefit Members**

- (a) If following an actuarial investigation of the LS Fund the Actuary determines there is a surplus of assets over the value of total retirement benefits after taking into account

both past and future benefit accruals for Old Benefit Members, the Trustee may determine to allocate an additional benefit to Old Benefit Members.

- (b) Nothing in this rule 78 is to be construed so as to require the Trustee to:
  - (i) undertake an actuarial valuation of the LS Fund which would not have otherwise taken place; or
  - (ii) require the Actuary to conduct the valuation on any specified basis or subject to any assumptions or methods which would be more likely to give rise to finding a surplus for Old Benefit Members than another basis, set of assumptions or method.
- (c) Any additional benefit granted by the Trustee under this rule 78 is at the absolute discretion of the Trustee as to its determination, application and manner of payment.

## LS Scheme – Schedule I

Sub-Division C of the LS Scheme applies to:

1. Councils as defined in the 1999 Act;
2. subsidiaries constituted under the 1999 Act; and
3. the following authorities or bodies;

### **Salarylink Employers**

- A. Adelaide Hills Region Waste Management Authority
- B. Central Local Government Region of South Australia
- C. Fleurieu Regional Waste Authority
- D. LGCS Pty Ltd (trading as ecouncils com)
- E. Local Government Association of South Australia
- F. Local Government Finance Authority of South Australia
- G. Maxima Training Group Incorporated
- H. Public and Environmental Health Council and any committees constituted under the *Public and Environmental Health Act 1987*
- I. Department of Environment and Natural Resources
- J. East Waste
- K. Eastern Health Authority Inc
- L. Hills and Fleurieu Landscape Board
- M. Limestone Coast Landscape Board
- N. Murraylands and Riverland Landscape Board
- O. Northern and Yorke Landscape Board
- P. Regional Development Australia Far North



## LS Scheme – Schedule II

The class of officers or employees to which Sub-Division C of this LS Scheme applies is:

Officers or employees of:

2. any Council as defined in the 1999 Act;
3. any subsidiary constituted under the 1999 Act;
4. any authority or body listed in Schedule I or Schedule III; or
5. [Deleted]
6. any Approved Employer.

## **LS Scheme – Schedule III**

Sub-Division C of the LS Scheme applies to the following authorities or bodies:

### **PART A**

- A. A local government body established under the Local Government Act 1993 of the Northern Territory of Australia.
- B. Local Government Association of the Northern Territory Inc.

### **PART B**

- C. Barkly Shire Council
- D. Central Desert Shire Council
- E. East Arnhem Shire Council
- F. MacDonnell Shire Council
- G. Roper Gulf Shire Council
- H. Tiwi islands Shire Council
- I. Victoria Daly Shire Council
- J. West Arnhem Shire Council

**LS Scheme – Schedule IV**

[Deleted]

**LS Scheme – Schedule V**

**CCASP Plan Rules**

[Deleted]

**Sub-division D – Personal**

[Deleted]

## Sub-division E – LS Glossary

### 1. Interpretation

In these Rules, unless the contrary intention appears or the context otherwise requires:

- 1.1 headings do not affect interpretation;
- 1.2 singular includes plural and plural includes singular;
- 1.3 words of one gender include any gender;
- 1.4 reference to legislation includes:
  - 1.4.1 any amendment to it, any legislation substituted for it, and any statute, regulation, rule or by-law made under it;
  - 1.4.2 a code or standard made, approved or adopted under it;
  - 1.4.3 any other instrument of a legislative character made or in force under it;
- 1.5 a provision must be read down to the extent necessary to be valid. If it cannot be read down to that extent, it must be severed;
- 1.6 another grammatical form of a defined expression has a corresponding meaning;
- 1.7 if an LS Restructured Member is absent from active employment (whether with or without the approval of the Council) and is notified in writing by the Council that it wishes the Member to return to active employment and the Member fails to return to active employment within the period (not being less than 30 days) specified in that notice, the Trustee may deem the Member to have left the Service of the Employer as at the date of the notice;
- 1.8 the Trustee may determine for the purpose of these Rules that a person is in the permanent full-time or part-time employment of a Council notwithstanding that the person is employed or engaged on a fixed term contract or a contract for the provision of specified services; and
- 1.9 subject to rule 19 of Sub-Division C, if the terms of employment of a permanent Employee are varied such that the Employee becomes a Casual Employee (without ceasing employment with the relevant Council) that Employee will not be taken to have ceased Service for the purposes of these Rules.

### 2. Glossary

In these Rules, unless the contrary intention appears or the context otherwise requires, the following words and phrases have the meanings set out below:

**1934 Act** means the *Local Government Act 1934* (South Australia).

**1999 Act** means the *Local Government Act 1999* (South Australia).

**2000 Bonus Date** means:

- (a) in respect of a Member who ceased Service after 13 March 2000 and before 1 July 2000 – the date of cessation of Service; and
- (b) in any other case – 1 July 2000.

**1994 Bonus Multiple** means the 1994 Bonus Multiple calculated under rule 59 of Sub-Division C.

**1997 Bonus Multiple** means the 1997 Bonus Multiple calculated under rule 59 of Sub-Division C.

**2000 Bonus Multiple** means the 2000 Bonus Multiple calculated under rule 60 of Sub-Division C.

**2000 Vested Bonus Percentage** means:

- (a) in respect of a Member who is eligible for the 2000 Bonus Multiple under rule 60 of Sub-Division C - a percentage which does not exceed 22.2% and is determined as follows:
  - (i) for any benefit calculated in respect of cessation of Service on or after 13 March 2000 and before 1 July 2001 – 7.4%;
  - (ii) for any benefit calculated in respect of cessation of Service on or after 1 July 2001 and before 1 July 2002 – 14.8%;
  - (iii) for any benefit calculated in respect of cessation of Service on or after 1 July 2002 – 22.2%;

or where the amount is less than 22.2% such greater amount as the Trustee may in its absolute discretion determine not exceeding 22.2%;

- (b) in respect of a Member to whom rule 6161 of Sub-Division C applies - a percentage which does not exceed 22.2% and is determined as follows:
  - (i) for any benefit calculated in respect of a deferred benefit becoming payable under rule 56 of Sub-Division C on or after 13 March 2000 and before 1 July 2001 – 7.4%;
  - (ii) for any benefit calculated in respect of a deferred benefit becoming payable under rule 56 of Sub-Division C on or after 1 July 2001 and before 1 July 2002 – 14.8%;
  - (iii) for any benefit calculated in respect of a deferred benefit becoming payable under rule 56 of Sub-Division C on or after 1 July 2002 – 22.2%; or
  - (iv) for any benefit calculated in respect of a deferred benefit becoming payable under rule 56 of Sub-Division C on or after 1 July 2000 for a Member who has attained age 55 years – 22.2%;

or where the amount is less than 22.2% such greater amount as the Trustee may in its absolute discretion determine not exceeding 22.2%;

- (c) in respect of a Member to whom rule 62 of Sub-Division C applies - a percentage which does not exceed 110% and is determined as follows:

- (i) for any benefit calculated in respect of cessation of Service on or after 13 March 2000 and before 1 July 2001 – 36.66%;
- (ii) for any benefit calculated in respect of cessation of Service on or after 1 July 2001 and before 1 July 2002 – 73.33%;
- (iii) for any benefit calculated in respect of cessation of Service on or after 1 July 2002 – 110%,

or where the amount is less than 110% such greater amount as the Trustee may in its absolute discretion determine not exceeding 110%.

**Account Based Pension** means a pension payable from the LS Scheme which:

- (a) does not permit the capital supporting the pension to be added to by way of contribution or rollover after the pension has commenced;
- (b) meets the standards of regulation 1.06(9A)(a) of the SIS Regulations; and
- (c) meets the standards of regulation 1.07D of the SIS Regulations.

**Account Based Transition to Retirement Pension** means a pension payable from the LS Scheme which:

- (a) in respect of a Member who is not permitted under Relevant Law to receive an Account Based Pension - satisfies the criteria for a “transition to retirement income stream” as that term is used under the SIS Regulations; or
- (b) in respect of a Member who is permitted under Relevant Law to receive an Account Based Pension - satisfies the requirement for an Account Based Pension.

**Accrued Benefit Entitlement** means in relation to a Member who transfers from a South Australian Council to an NT Municipal Council in accordance with rule 17 of Sub-Division C:

- (a) the monetary value of the Previous Plan Accrued Percentage; and
- (b) accrued accumulations as determined by the Trustee.

**Accrued Salarylink Benefit** means in respect of a Member who has ceased Service or attained age 65 an amount calculated as the Accrued Salarylink Benefit under rule 36 of Sub-Division C counting only Years of Membership to the earlier of the date of actual termination of Service or the Member attaining age 65 (as applicable).

**Actuary** means a person who is a Fellow of the Institute of Actuaries of Australia appointed by the Trustee to act in respect of the LS Scheme.

**Additional Contributions** means in respect of a Member contributions (excluding any tax payable on those contributions) which are:

- (a) Salarylink Contributions made by or on behalf of the Member in excess of 5% of the Member’s Salary; or
- (b) made by or on behalf of the Member to the Previous Plan from 1 July 1984 in excess of 5% of the Member’s Salary and are being paid towards the accrual of a Scheme Benefit Percentage,



accumulated with compound interest at the rate of 5% per annum from 1 July 1984 to 1 January 1990 and at the Declared Rate to 30 September 2001 and thereafter with movements in the value of Units notionally allocated by the Trustee in respect of the Additional Contributions which have not been cancelled.

**Additional Transfer Value** means in respect of a Member an amount equal to the greater of:

- (a) an amount equal to twice the balance of the Member's Transfer Account; and
- (b) an amount equal to the product of the Member's Previous Plan Accrued Percentage (including any bonus under rule 61 of Sub-Division C) and the Member's Final Average Salary.

**Allocated Pension** means a pension that satisfies the standards set out in regulation 1.06(4) of the SIS Regulations.

**Allot** has the same meaning as the term is given under the SIS Regulations.

**Annual Review Date** means each 1 July after 1 July 1984.

**Amendment Act** means the *Local Government (Superannuation Scheme) Amendment Act 2008* (South Australia).

**Annual Review Salary** in relation to a Member means the annual Salary as at 1 July each year up to and including 1 July 1992 and as at 31 March each year thereafter.

**Approved Employer** means an employer whose participation in Sub-Division C of the LS Scheme has been approved by the Trustee under rule 20 of Sub-Division C and who has not ceased to participate in Sub-Division C.

**ASU** means the Australian Municipal, Administrative, Clerical and Services Union.

**AWU** means the Amalgamated AWU (SA) State Union.

**Basic Contributions** means in respect of a Member an amount equal to the following:

- (a) contributions (excluding any tax payable on those contributions) which are:
  - (i) Salarylink Contributions made by or on behalf of the Member; and
  - (ii) if the Member is also a Transferred Member, the Member's Previous Plan Accumulated Contributions and any contributions made by or on behalf of the Member to the Previous Plan from 1 July 1984,

accumulated with compound interest at the rate of 5% per annum from 1 July 1984 to 1 January 1990 and at the Declared Rate to 30 September 2001 and thereafter with movements in the value of Units notionally allocated by the Trustee in respect of those contributions which have not been cancelled,

less:

- (b) any Additional Contributions.

**Basic Super Benefit** means the amount described as the Basic Super Benefit under rule 43 of Sub-Division C.

**Board** means the Local Government Superannuation Board established under the 1934 Act and continued as a body established to administer the Scheme under the 1999 Act and dissolved pursuant to the Amendment Act.

**Bonus Multiple** means the 1994 Bonus Multiple, the 1997 Bonus Multiple and the 2000 Bonus Multiple.

**Casual Employee** means any Employee who is employed on a casual basis and who is paid by the Council more than \$450 per month or such other amount which would cause the Council to make contributions in respect of the Employee in order that it is not liable for a shortfall under the Guarantee Act.

**Commencement Day** means a day specified by the Treasurer by notice in the Gazette pursuant to clause 3(2) of Schedule 1 of the Amendment Act.

**Commissioner** means the Federal Commissioner of Taxation.

**Community Council** means a Council named as a community council under Schedule III of Sub-Division C, the Nepabunna Community Council and the Davenport Community Council.

**Consumer Price Index** means the Consumer Price Index (All Groups) for Adelaide published by the Commonwealth Statistician under the Census and Statistics Act, 1905 of the Commonwealth of Australia as amended, re-enacted or substituted from time to time.

**Corporations Act** means the *Corporations Act 2001* (Commonwealth).

**Council** means a council as defined in the 1999 Act and any authority or body listed in Schedule I to these Rules, any NT Municipal Council, any NT Shire Council and an Approved Employer and in relation to any Member of the Local Super Sub-plan means the council, authority or body or Approved Employer by which that Member is for the time being employed. A council as defined in the 1999 Act includes a subsidiary constituted under the 1999 Act.

**Council Elected Member** means a person who holds office as a member of a Council.

**CPI Factor** means the annual percentage variation of the Consumer Price Index for the twelve month period to 31 March which shall apply to all calculations for which the CPI Factor is used for the period from 30 June of that year up to, but not including, 30 June of the following year.

**Date of Disablement** means in respect of a Member the date from which the Insurer (or the Trustee where there is no Insurer) after consideration of medical evidence that is satisfactory to it and subject to the approval of the Trustee, determines that:

- (a) in the case of Total and Permanent Disablement –
  - (i) if the Member was in the employment of a Council immediately before the relevant injury or illness – the Member first ceased active employment with a Council as a consequence of an injury or illness in respect of which the Member is later found (having satisfied the waiting period) for the purposes of the Rules to be Totally and Permanently Disabled; or
  - (ii) in any other case – the Member first became ill or injured in respect of which illness or injury the Member is later found for the purposes of these Rules to be Totally and Permanently Disabled;

- (b) in the case of Total and Temporary Disablement –
- (i) if the Member was in the employment of a Council immediately before the relevant injury or illness – the Member first ceased active employment with a Council as a consequence of an injury or illness in respect of which the Member is later found (having satisfied the waiting period) for the purposes of these Rules to be Totally and Temporarily Disabled; or
  - (ii) in any other case – the Member first became ill or injured in respect of which illness or injury the Member is later found for the purposes of these Rules to be Totally and Temporarily Disabled.

For the avoidance of doubt cessation of active employment requires only that a Member not be in attendance at their place of employment and does not require a Member to have terminated their contract of employment.

**Date of Transfer** means:

- (a) in relation to a Northern Territory Member who was employed by a Northern Territory Council (other than Alice Springs Council) on 1 May 1990 - 1 May 1990;
- (b) in relation to a Northern Territory Member who was employed by Alice Springs Council on 1 June 1990 - 1 June 1990; and
- (c) in relation to a South Australian Member who was employed by a South Australian Council on 1 July 1984 – 1 July 1984.

For the purpose of this definition “Northern Territory Council” has the same meaning that was applied to it in the Rules immediately prior to 1 July 2008.

**Declared Rate** means the rate of interest declared by the Trustee from time to time in respect of any period prior to 1 October 2001 pursuant to the rules of the LS Scheme in place prior to that time.

**Deed** means the deed establishing the Fund dated 8 February 1988 incorporating all amendments made to the original deed and all schedules and appendices.

**Default Conditions** has the meaning set out under rule 58(a)(iii)(B) of the Sub-Division C.

**Defined Benefit Interest** has the meaning given to it in regulation 1.03AA of the SIS Regulations.

**Election Conditions** has the meaning set out under rule 58(a)(iii)(A) of Sub-Division C.

**Eligible Salarylink Member** means a Member who:

- (a) is employed by a Salarylink Employer;
- (b) is permitted by the Relevant Law to make Salarylink Contributions to the LS Fund; and
- (c) either:
  - (i) before the Salarylink Closure Date has either:
    - (A) made a Salarylink Contribution to the LS Fund; or

- (B) completed an election to make Salarylink Contributions, with the approval of a Salarylink Employer, in accordance with rule 30(b) of Sub-Division C; or
- (ii) the Trustee in its absolute discretion has determined to permit to make Salarylink Contributions to the LS Fund following receipt by the Trustee of written approval from the Member's Salarylink Employer and the LGA.

**Employee** means any person:

- (a) who is employed by a Council;
- (b) who is of a class specified in Schedule II; and
- (c) for whom a Council may make contributions under the Relevant Law.

**Employee Associations** means the ASU and the AWU.

**Execution Date** has the meaning given to that term in rule 55(b) of Sub-Division C.

**Externally Insured** means in respect of a Member where the Trustee has arranged for a Policy to cover the Member or a category of Members to which the Member belongs pursuant to rule 54 of Sub-Division C.

**Externally Insured Member** has the meaning given to that term under rule 54 of Sub-Division C.

**Family Law Act** means the *Family Law Act 1975* (Commonwealth) as amended, re-enacted or substituted from time to time.

**Family Law Offset Account** means an account maintained in respect of a Member under rules 12(i) and 12(j) of Sub-Division B.

**Family Law Regulations** means the Family Law (Superannuation) Regulations 2001 as amended or substituted from time to time.

**Family Law Requirements** means Part VIII B of the Family Law Act and the Family Law Regulations.

**Final Average Salary** means:

- (a) in respect of a Member who ceased Service on or after 1 March 2002:
  - (i) in the case of a Member who has been a Member of the LS Scheme for at least three years – the period-weighted average annual Salary of the Member over the three years immediately preceding the Member's cessation of Service; and
  - (ii) in the case of a Member who has not been a Member of the LS Scheme for at least three years – the period-weighted average annual Salary of the Member over the period for which the Member has been a Member of the LS Scheme;
- (b) in respect of a Member who ceased Service before 1 March 2002 - the average of the Annual Review Salaries as at each of the three previous Annual Review Dates but in relation to a Member in respect of whom there are less than three Annual Review Salaries, Final Average Salary shall be the average of the Member's Annual Review Salaries since becoming a Member except that where there is no Annual Review Salary

in relation to a Member, Final Average Salary will be the Salary at the commencement of the Member's membership.

**Final Salary** means:

- (a) in respect of a Member who ceased Service or became entitled to a Total and Temporary Disability benefit payment in respect of a period on or after 1 March 2002:
  - (i) in the case of a Member's Total and Temporary Disablement – the Member's annual Salary as at the date each benefit payment is made; and
  - (ii) in the case of a Member ceasing Service for any other reason (including death) – the Member's annual Salary as at the date of the Member's cessation of Service; and
- (b) in respect of a Member who ceased Service or became entitled to a Total and Temporary Disability benefit payment in respect of the period before 1 March 2002 – the Member's Annual Review Salary as at the Annual Review Date immediately before the Member's death or disablement except that where there is no Annual Review Salary in relation to a Member, Final Salary is the Member's Salary at the date of death or disablement (as the case may be).

**Former LS Trust Deed** means the trust deed prepared under clause 3 of Schedule 1 to the Amendment Act (as amended from time to time), which governed the LS Scheme prior to 1 July 2012.

**Former Fund** means the fund known as the Statewide Superannuation Trust established by deed dated 1 May 1986 as varied from time to time.

**Fund** means the fund known as the Hostplus Superannuation Fund established by the Deed as varied from time to time.

**Future Scheme Benefit Percentage** means:

- (a) in the case of a Member whom:
  - (i) on 31 December 2004 had a Member's Salarylink Contribution Rate of at least 6%; and
  - (ii) since 31 December 2004 the Member's Salarylink Contribution Rate has neither increased nor decreased,

that part of the Member's Scheme Benefit Percentage which would accrue in respect of the period following the Member's date of cessation of Service assuming that the Member continued in Service until age 65 years contributing for that entire period at the same Member's Salarylink Contribution Rate as the Member was contributing on 31 December 2004;

- (b) in the case of any other Member, that part of the Member's Scheme Benefit Percentage which would accrue in respect of the period following the Member's date of cessation of Service assuming that the Member continued in Service until age 65 years with a relevant benefit percentage of 15% for each deemed Year of Membership during that entire period.

**Growth Phase** has the meaning given to it in regulation 1.03AB of the SIS Regulations.

**Ill Health** has the meaning such that a Member will be taken to be suffering from Ill Health if a determination has been made in respect of that Member by the Insurer and approved by the Trustee (or where there is no Insurer, by the Trustee alone) that:

- (a) the Member is suffering from a continuing or recurring injury or illness which precludes the Member from carrying out the Member's normal duties;
- (b) there is no other suitable position available for the Member with the Council with whom he or she is currently employed;
- (c) the Member is not Totally and Permanently Disabled or Totally and Temporarily Disabled.

**Income Protection Unit** means a unit of insurance cover relating to benefits payable upon a Member's Total and Temporary Disablement expressed as a dollar amount per annum determined by the Trustee after having regard to the level of cover available from the Insurer and subject to a minimum dollar amount per annum set by the Trustee from time to time.

**LGA** means the Local Government Association of South Australia.

**Life Time Pension** means a pension which satisfies the pension standards set out under regulation 1.06(2) of the SIS Regulations.

**LS Fund** means the assets and monies held by the Trustee in accordance with these Rules, which are identified as the LS Fund pursuant to rule 3 of Sub-Division A.

**LS Restructured Member** means a Member who is a Restructured Salarylink Member, a Restructured Old Benefit Member or a Restructured Deferred Benefit Member.

**LS Scheme** means the Local Government Superannuation Scheme commenced on 15 May 1984 under the 1934 Act and continued under the 1999 Act and the Amendment Act, which is continued and maintained with effect from 1 July 2012 as a Sub-plan of the Former Fund and with effect from 29 April 2022 as a Sub-plan under these Rules and is also known as "Local Super".

**Member** means a person who has been accepted by the Trustee for membership of the LS Scheme and who participates in the LS Scheme in accordance with these Rules.

**Member's Salarylink Contribution Rate** means the rate at which Salarylink Contributions are made by or on behalf of the Member pursuant to rule 28 of Sub-Division C.

**Non-commutable Allocated Pension** has the same meaning as the term is given under the SIS Regulations.

**Non-member Spouse** means a person who meets the definition of "non-member spouse" in the Family Law Act.

**Northern Territory Member** means a Member who is employed by either an NT Municipal Council or an NT Shire Council.

**NT Municipal Council** means any local government body, authority or association that:

- (a) was participating in the LS Scheme as a "Northern Territory Council" as at 30 June 2008;
- (b) is referred to in Part A of Schedule III of Sub-Division C; and

(c) has not ceased to participate in Sub-Division C.

**NT Shire Council** means any local government body whose participation in Sub-Division C has been approved by the Trustee under rule 20 of Sub-Division C and who has not ceased to participate in Sub-Division C.

**Old Benefit Member** means a Member who was a member of a Previous Plan and who has not elected to transfer to the benefits provided by this LS Scheme.

**Payment Flag** means a “payment flag” as defined in the Family Law Act.

**Payment Split** has the meaning as defined in the Family Law Act.

**Permanent Part-time Employment** means employment where:

- (a) the hours worked are less than the standard hours of full time employment; and
- (b) the remuneration is in exact proportion to the remuneration payable for full time employment in the same category of employment.

**Person** means a natural person, a body corporate, a partnership or any other group or association of persons.

**Policy** means an insurance policy issued by an Insurer to the Trustee to cover the death, TMC and/or disablement of one or more Members.

**Prescribed Body** means for the purposes of rule 16 of Sub-Division C:

- (a) a control board established under Part 2 Division 2 of the *Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986*; or
- (b) a soil conservation board established under Part 3 Division 3 of the *Soil Conservation and Land Care Act 1989*; or
- (c) a catchment water management board established under Part 6 Division 3 of the *Water Resources Act 1997*; or
- (d) a water resources planning committee established under Part 6 Division 4 of the *Water Resources Act 1997*.

**Present Day Super Benefit** means the Member’s Accrued Salarylink Benefit discounted for the period from the Member’s 55th birthday to the date of termination of Service by an amount determined by the Actuary so that the resulting amount represents the present value of the benefit.

**Previous Plan** means:

- (a) (i) in relation to a South Australian Council, any superannuation plan in which the Council participated on 30 June 1984; and
- (ii) in relation to a Northern Territory Council means any superannuation plan in which the Council participated immediately before the Date of Transfer;
- (b) (i) in relation to a South Australian Member, the superannuation plan operated by a Council or a group of Councils of which plan the Member was a member on 30 June 1984; and

- (ii) in relation to a Northern Territory Member, the superannuation plan operated by a Council of which the Member was a member immediately before the Date of Transfer,

For the purpose of this definition “Northern Territory Council” has the same meaning that was applied to it in the rules governing the LS Scheme immediately prior to 1 July 2008.

**Previous Plan Accrued Percentage** means:

- (a) in relation to a South Australian Member who was a Transferred Member on 31 December 1989 - the percentage of Salary advised to that Member by the Trustee pursuant to rule 71 of Sub-Division C;
- (b) in relation to a South Australian Member who is accepted as a Transferred Member on or after 1 January 1990 - the percentage of Salary to which the Trustee considers, upon the advice of the Actuary, the Member’s retirement benefits under the provisions of the Member’s Previous Plan have accrued up to the date on which the Member is accepted as a Transferred Member;
- (c) in relation to a Member who was a member of the Alice Springs Council Previous Plan the percentage of Salary determined by the Trustee in pursuance of rule 71 of Sub-Division C; and
- (d) in relation to a South Australian Member who has transferred to a Northern Territory Council, a percentage of Salary determined by the Trustee.

For the purpose of this definition “Northern Territory Council” has the same meaning that was applied to it in the Rules immediately prior to 1 July 2008.

**Previous Plan Accumulated Contributions** means:

- (a) in relation to a South Australian Member who was a Transferred Member on 31 December 1989 - the amount advised to that Member by the Trustee pursuant to rule 71 of Sub-Division C;
- (b) in relation to a South Australian Member who is accepted as a Transferred Member on or after 1 January 1990 - the amount which the Trustee considers, on the advice of the Actuary, would have been paid to the Member from the provisions of the Member’s Previous Plan if the Member had received a resignation benefit on the date on which the Member is accepted as a Transferred Member, less an amount equal to that portion of the resignation benefit which would have arisen from the vesting of Council contributions under the provisions of the Member’s Previous Plan; and
- (c) in relation to a Northern Territory Member who was a member of a Previous Plan the amount determined by the Trustee pursuant to rule 71 of Sub-Division C.

**Previous Plan Final Salary** means:

- (a) in relation to a South Australian Member who was a Transferred Member on 31 December 1989 - the salary calculated using the method advised to the Member by the Trustee pursuant to rule 71 of Sub-Division C;
- (b) in relation to a South Australian Member who is accepted as a Transferred Member on or after 1 January 1990 - the salary calculated in accordance with a method chosen by the Trustee, on the advice of the Actuary, to produce a salary which will approximate



the salary which would have been used under the provisions of the Member's Previous Plan in the calculation of benefits on retirement; and

- (c) in relation to a Northern Territory Member who was a member of a Previous Plan the salary calculated using the method determined by the Trustee pursuant to rule 71 of Sub-Division C.

**Previous Plan Vesting Percentage** means:

- (a) in relation to a South Australian Member who was a Transferred Member on 31 December 1989 - the percentage increase advised to the Member by the Trustee pursuant to rule 71 of Sub-Division C;
- (b) in relation to a South Australian Member who is accepted as a Transferred Member on or after 1 January 1990 - the percentage increase necessary to increase the Member's Previous Plan Accumulated Contributions to the amount which would have been paid to the Member under the provisions of the Member's Previous Plan if the Member had received a resignation benefit on the date on which the Member is accepted as a Transferred Member;
- (c) in relation to a Northern Territory Member who was a member of a Previous Plan the percentage increase determined by the Trustee pursuant to rule 71 of Sub-Division C; and
- (d) in relation to a South Australian Member who has transferred to a Northern Territory Council, the percentage increase determined by the Trustee pursuant to rule 71 of Sub-Division C.

For the purpose of this definition "Northern Territory Council" has the same meaning that was applied to it in the rules governing the LS Scheme immediately prior to 1 July 2008.

**Receiving Spouse** is the Spouse of a Member whose application under rule 11 of Sub-Division B has been accepted by the Trustee.

**Regional NRM Board** has the same meaning as is given to the phrase under the *Natural Resources Management Act 2004 (SA)*.

**Restructure Date** means 1 July 2013.

**Restructured Deferred Benefit Member** means a Member who, as at the Restructure Date, was entitled presently or prospectively entitled to a benefit under rule 56 of Sub-Division C who had not reached age 55 and in respect of whom the entire accumulation component of the Member's benefit (excluding amounts that are varied or indexed by reference to movements in the consumer price index under these Rules) has been transferred to former Division 1, Division 2 and/or Division 3 of the Former Fund's trust deed on or about 1 July 2013.

**Restructured Old Benefit Member** means an Old Benefit Member in respect of whom the entire balance of the Member's Credit pursuant to former Division 9 of the Former Fund's trust deed in place on the Restructure Date was transferred to former Division 1, Division 2 and/or Division 3 of the Former Fund's trust deed pursuant to former clause 45 of Section 1 of the Former Fund's trust deed in place on the Restructure Date.

**Restructured Salarylink Member** means a Member who, as at the Restructure Date, was presently or prospectively entitled to Salarylink Benefits and in respect of whom the entire

balance of the Member's Credit pursuant to former Division 9 of the Former Fund's trust deed in place on the Restructure Date was transferred to former Division 1, Division 2 and/or Division 3 of the Former Fund's trust deed pursuant to former clause 45 of Section 1 of the Former Fund's trust deed in place on the Restructure Date.

**Retirement Super Benefit** means in respect of a Member the amount described as the Retirement Super Benefit under rule 43 of Sub-Division C.

**Retrenchment** means in respect of a Member the termination by the Council of the employment of a Member for all or any of the following reasons:

- (a) that the work for which the Member was engaged has been completed or that the Member's position has ceased to exist, other than:
  - (i) as a result of the expiration of a contract pursuant to which the Member was engaged for a specified term; or
  - (ii) as a result of the completion of a contract pursuant to which the Member was engaged for the provision of specified services;
- (b) that the amount of work has diminished and has rendered a reduction necessary or expedient in the number of employees;
- (c) that the termination of the employment of the Member is the result of reorganisation or rearrangement of staff for policy reasons;
- (d) that the termination is as a consequence of the Member accepting a redundancy package offered by the Council,

and such termination is not due to the Member's inefficiency or inability to perform the duties for which the Member was engaged or which had been allotted to the Member subsequently.

**Rules** means these Sub-plan Rules governing the Local Super Sub-plan as amended from time to time and:

- (a) where a reference is made to Rules at any time before the Commencement Day such reference refers to the rules made by the Board pursuant to the 1934 Act and the 1999 Act (as the case may be); and
- (b) where a reference is made to the Rules at any time before 1 July 2012 such reference refers to the "Rules" within the meaning of the Former LS Trust Deed.

**Salary** in relation to a Member means, subject to rules 9, 10 and 11 of Sub-Division C, the Member's regular wages or salary from the Council, including any allowances paid as a regular and continuing part of the Member's wages or salary but excluding commission, sums paid for overtime or other special services, bonuses and allowances of a non-permanent nature PROVIDED THAT such allowances as may be prescribed by the Trustee to be included as part of Salary shall be included and such allowances as may be prescribed by the Trustee to be excluded from Salary shall be excluded.

**Salarylink Benefit** means a benefit which is determined by the rate of and period for which the Member has made Salarylink Contributions to Sub-Division C or is otherwise designated to be a Salarylink Benefit under these Rules.

**Salarylink Closure Date** means 24 November 2009;

**Salarylink Contributions** means in respect of a Member:

- (a) for the period commencing from 1 April 2001 – any contributions made to Sub- Division C by the Member or taken to be made by the Member in accordance with rule 28 of Sub-Division C;
- (b) for the period prior to 1 April 2001 – any contributions made to Sub-Division C by the Member or taken to be made by the Member at a rate pursuant to which the Member would be entitled to the accrual of a Scheme Benefit Percentage under these Rules in place immediately prior to 1 April 2001.

**Salarylink Employer** means:

- (a) a Council as defined under the 1999 Act or a subsidiary constituted under that Act and any of the other authorities or bodies listed as a Salarylink Employer under Schedule I;
- (b) an Approved Employer, to the extent that the Trustee determines (with the consent of the Approved Employer) that the Approved Employer will participate in the LS Scheme as a Salarylink Employer; and
- (c) Host-Plus Pty Limited (ACN 008 634 704) but only in respect of an Employee who was an employee of the trustee of the LS Scheme on 30 June 2012 and has made Salarylink Contributions to the LS Scheme.

**Salarylink Insurance Benefit** means in respect of a Member to whom rule 49(a) of Sub-Division C applies, that component of the benefit described as such which is payable on:

- (a) the Member's death in accordance with rule 40 of Sub-Division C (or correspondingly on a TMC existing in respect of the Member pursuant to rule 46 of Sub-Division C); or
- (b) the Member's Total and Permanent Disablement in accordance with rule 41 of Sub-Division C; or
- (c) the Member's Total and Temporary Disablement in accordance with rule 42 of Sub-Division C.

**Schedule** means a schedule to these Rules governing Sub-Division C.

**Scheme Benefit Percentage** means in respect of a Member the percentage defined in rule 36 of Sub-Division C plus any Bonus Multiple.

**Service** means:

- (a) in respect of permanent Employees - continuous service with one or more Councils on a full-time or permanent part-time basis; and
- (b) in respect of a person employed or engaged on a fixed term contract or a contract for the provision of specified services or on a casual basis – Service shall be construed by the Trustee in a manner consistent with the nature of the working relationship between the Council and the Member.

**SHASA** means the Superannuation Holding Accounts Special Account established under the *Small Superannuation Accounts Act 1995* (Commonwealth).

**South Australian Council** means an authority or body referred to in Schedule I of Sub-Division C.

**South Australian Member** means a Member who is employed by a South Australian Council.

**Splittable Contribution** has the same meaning as the term is given under the SIS Regulations.

**Splittable Payment** has the meaning as defined in the Family Law Act.

**Spouse of a Member** means:

- (a) for the purpose of any provision relating to the operation of rule 12 of Sub-Division B:
  - (i) the Member's husband, wife, widow or widower; and
  - (ii) any other person who meets the definition of "spouse" in section 90XD of the Family Law Act in relation to the Member; and
- (b) for any other purpose:
  - (i) the Member's husband, wife, widow or widower; and
  - (ii) any other person who is a spouse of the Member within the meaning of the SIS Act.

**Spouse Contributions-Splitting Amounts** means any amounts payable for the benefit of a Member as permitted by Division 6.7 of the SIS Regulations.

**Statewide Super Benefit Division** means the accumulation division of the Former Fund.

**Statewide Super Pension Benefit Division** means the pension division of the Former Fund.

**Superannuation Account** in respect of a Member means a Superannuation Account maintained for the Member under Division 1 or Division 2 (as applicable) and not forming part of this Sub-plan.

**Term Allocated Pension** means a pension which satisfies the pension standards set out under regulation 1.06(8) of the SIS Regulations.

**Term Pension** means a pension which satisfies the pension standards set out under regulation 1.06(7) of the SIS Regulations.

**TMC** means Terminal Medical Condition as defined under the Deed.

**Totally and Permanently Disabled** means:

- (a) in respect of a Member who is Externally Insured for Total and Permanent Disablement – the same meaning as is given to that term under the equivalent definition and relevant provisions of the Policy; and
- (b) in respect of other Members (other than for rule 56(b) of Sub-Division C) – a Member will be taken to be Totally and Permanently Disabled if:
  - (i) the Member satisfies the following conditions:
    - (A) in the case of a Member who was in the permanent full time or part-time employment of a Council immediately preceding the Date of Disablement – both of the following:

- (1) the Member has been absent from employment with the Council by which the Member is employed through injury or illness for six consecutive months or in special circumstances, such lesser period as the Trustee may approve (**waiting period**) or the Insurer (or if there is no Insurer, the Trustee) determines that the Member would have been absent from employment with the Council for the entire waiting period if the Member's Service with the Council had not
  - (2) the Insurer with the approval of the Trustee (or if there is no Insurer, the Trustee alone) has made a determination that the Member has become incapacitated to such an extent as to make it unlikely that the Member will ever be capable of engaging in work for reward in any occupation for which the Member is reasonably qualified by education, training or experience;
- (B) in the case of any other Member - any one of the following conditions (1), (2) or (3) is satisfied:
- (1) the Member suffers an illness or injury and becomes unable to perform at least two of the following activities of daily living without assistance from someone else:
    - Washing: the Member can wash themselves by some means;
    - Dressing: the Member can put clothing on or take clothing off;
    - Feeding: the Member can get food from a plate into their mouth;
    - Continence: the Member can control either their bowel or their bladder function;
    - Mobility: the Member can:
      - o get in and out of bed;
      - o get on or off a chair or toilet;
      - o move from place to place without using a wheelchair.
  - (2) the Member suffers an illness or injury and:
    - the illness or injury wholly prevents the Member from engaging in any home duties for at least six consecutive months; and
    - since the Member became ill or injured, the Member has been under the regular care and attention of a doctor for treatment of that illness or injury; and
    - in the opinion of the Insurer (or if there is no Insurer, the Trustee), the illness or injury means that the Member is unlikely ever to engage in all home duties;

where “home duties” includes but are not limited to cleaning the family home, shopping for food and household items, meal preparation and laundry services. Also, to be engaged in “home duties” the Member must be looking after dependent children (who must be aged 16 years or less, or in full time secondary education), or providing full time care for an invalid person(s) of the Member’s immediate family; or

- (3) the Trustee determines that the Member otherwise satisfies the definition of “permanent incapacity” under the SIS Regulations; and
- (ii) the Member has applied to the Trustee in writing for a Total and Permanent Disablement benefit:
  - (A) if the Member was in the employment of a Council immediately before the injury or illness - either:
    - (1) before the Member ceases to be in the Service of a Council; or
    - (2) within twelve consecutive months after the Member ceases to be in the Service of a Council, or such longer period as the Trustee allows;
  - (B) in any other case - within twelve months of the illness or injury or such longer period as the Trustee allows; and
- (iii) the Trustee determines that the Member satisfies the definition of “permanent incapacity” under the SIS Regulations; and
- (iv) in the case of a Member who was in the Service of a Council immediately before the injury or illness, the Date of Disablement has occurred before the Member ceased to be in the Service of a Council notwithstanding that the waiting period may not be completed until after the Member ceased to be in the Service of the Council.

For the purposes of this definition, a Member who is on leave without pay (being leave without pay that has been approved by the Trustee) will be regarded as having been absent from employment with the Council by which the Member is employed through injury or illness for six consecutive months if the Member suffers injury or illness which would have prevented the Member from working for six consecutive months if the Member had not been on leave without pay, and a Member will not be Totally and Permanently Disabled under (a) or (b) above unless the Trustee also determines that the Member satisfies the definition of “permanent incapacity” under the SIS Regulations.

**Totally and Temporarily Disabled** means:

- (a) in respect of a Member who is Externally Insured for Total and Temporary Disablement – the same meaning as is given to that term under the equivalent definitions and relevant provisions of the Policy; and
  - (b) in respect of other Members –
- a Member will be taken to be Totally and Temporarily Disabled if:

- (i) the Member has been absent from employment with the Council by which the Member is employed through illness or injury for 90 consecutive days from the Date of Disablement (waiting period); or
- (ii) a period of 90 consecutive days from the Date of Disablement has elapsed and the Trustee is satisfied that the Member should be taken to have satisfied the waiting period notwithstanding the occurrence during such period of one or more unsuccessful attempts by the Member to return to employment for rehabilitation or similar purposes pursuant to a recommendation by a medical or occupational health practitioner and with the agreement of the Council; or
- (iii) in the case of a Member who is not in permanent employment with a Council immediately before the Date of Disablement:
  - (A) the Trustee must be satisfied that the Member was working in gainful employment for an average of at least 15 hours per week over the six consecutive months immediately preceding the Date of Disablement; and
  - (B) a period of 90 consecutive days must have elapsed from the Date of Disablement and the Trustee must determine that the Member should be taken to have satisfied the waiting period on the basis that if the Member had been in the permanent employment of a Council the Member would have satisfied the waiting period; and
- (iv) the Insurer with the approval of the Trustee (or if there is no Insurer, the Trustee alone) has determined:
  - (A) in the case of a Member who was not in the permanent employment of a Council immediately before the Date of Disablement that the Member is temporarily unfit to perform work in the Member's usual occupation for at least 15 hours per week but would not be prepared to make a determination that the Member is Totally and Permanently Disabled; or
  - (B) in any other case, that the Member is temporarily unfit to perform the Member's usual occupation but would not be prepared to make a determination that the Member is Totally and Permanently Disabled.

If immediately following a period for which the Member has satisfied the definition of (iii) or (iv) above, the Member returns to employment where the Member is employed for a period:

- on lighter duties or lesser hours than the Member had been employed immediately prior to becoming Totally and Temporarily Disabled; and
- for the purpose of being rehabilitated back to the same employment position the Member held immediately before becoming Totally and Temporarily Disabled,

the Trustee may determine that for such period as the Member continues in employment on that basis the Member continues to satisfy the definition of Total and Temporary Disablement for the purpose of these Rules.

**Transfer Account** means in respect of a Member the account maintained as the Transfer Account under rule 35 of Sub-Division C.

**Transferred Member** means a Member who was a member of a Previous Plan and who elected to transfer to the benefits provided by this LS Scheme.

**Triple S Scheme** means the Southern State Superannuation Scheme established by the *Southern State Superannuation Act 1994 (SA)* repealed and replaced by the *Southern State Superannuation Act 2009 (SA)*.

**Years of Membership** in relation to a Member means the number of years during which the Member has been a Member of the LS Scheme with any period less than a year being calculated as a fraction of a year according to the number of complete days of membership in that period.



## Division 5 - CCASP SUB-PLAN

### DEFINITIONS AND INTERPRETATION

#### 1. Definitions

In these Sub-plan Rules, unless the contrary intention appears or the context requires otherwise the following terms have these meanings.

**Additional Resignation Benefit** means in respect of a CCASP Member:

- (a) 3.0% of Final Salary for each year of CCASP Sub-plan Membership during which CCA's Charge Percentage in respect of the CCASP Member was up to 6%;
- (b) 3.8% of Final Salary for each year of CCASP Sub-plan Membership during which CCA's Charge Percentage in respect of the CCASP Member was 7%;
- (c) 4.7% of Final Salary for each year of CCASP Sub-plan Membership during which CCA's Charge Percentage in respect of the CCASP Member was 8%; and
- (d) 5.5% of Final Salary for each year of CCASP Sub-plan Membership during which CCA's Charge Percentage in respect of the CCASP Member was 9% or greater.

**Additional Retirement Benefit** means:

- (a) in respect of a Level B Member, the sum of:
  - 1.1% of Final Average Salary for each year of CCASP Sub-plan Membership during which CCA's Charge Percentage in respect of the CCASP Member was 8%;
  - 2.1% of Final Average Salary for each year of CCASP Sub-plan Membership during which CCA's Charge Percentage in respect of the CCASP Member was 9%.
- (b) in respect of a Level A or C Member, nil.

**Beneficiary** means a CCASP Member or other person who is for the time being beneficially entitled to receive a benefit from the CCASP Sub-plan in accordance with these Rules and, where permitted by the requirements of the Relevant Law, may include a legal personal representative of a CCASP Member or a former CCASP Member to whom the Trustee determines to pay a benefit in accordance with the provisions of these Rules.

**CCA** means the Corporation of the City of Adelaide.

**CCASP Assets** means those assets of the Fund identified by the Trustee as attributable to the CCASP Sub-plan.

**CCASP Expenses** means the costs and expenses of and incidental to the establishment, operation, management, administration, investment and termination of the CCASP Sub-plan and shall include such proportion as the Trustee considers appropriate of the costs and expenses of the general operation, management, administration and investment of the Fund.

**CCASP Member** means a member of the CCASP Sub-plan and, for the avoidance of doubt, only refers to the Member in relation to their interest as a member of the CCASP Sub-plan and not to any Non-CCASP Interest.

**CCASP Membership** means in relation to a CCASP Member:

- (a) the most recent uninterrupted period of time calculated in years and complete months equal to that CCASP Member's period of continuous membership of the CCASP Sub-plan (including as a Sub-plan of the LS Scheme) and the Previous CCASP (including the Adelaide Corporation Superannuation Plan and the Adelaide Corporation Official's Superannuation Plan) but (unless CCA determines or approves otherwise) not including:
- (i) any such membership of those funds referred to above in (a) earlier than 40 years prior to the time at which CCASP Sub-plan Membership is being calculated;
  - (ii) any period when the CCASP Member is absent from active employment with CCA without pay or without the approval of CCA; or
  - (iii) any period after the CCASP Member has become entitled to receive all his Entitlement from the CCASP Sub-plan under these Rules; and
- (b) (in the event that the trustee of the Previous CCASP shall prior to 1 July 1990 have advised the CCASP Member that he or she shall be deemed to have been admitted to the Previous CCASP on some date earlier than the date when the CCASP Member became a member of the Previous CCASP pursuant to the trust deed of the Previous CCASP) the additional period between the date so advised and the date when the CCASP Member first became a member of the Previous CCASP;
- (c) (in the event that prior to 1 July 1990 an earlier date was agreed to between the CCASP Member and the trustee of the Previous CCASP as the CCASP Member's Superannuation Date for the purposes of the trust deed of the Previous CCASP and that such agreement was in writing or evidenced by writing or that the trustee of the Previous CCASP had advised the CCASP Member in writing that the said Superannuation Date was such earlier date as was agreed in writing between the CCASP Member and the trustee of the Previous CCASP) the additional period between the date so agreed or advised and the date when the CCASP Member first became a member of the Previous CCASP;
- (d) any additional period which CCA may determine or approve to be CCASP Sub- Plan Membership either generally or in any particular case and for the purpose of the whole of, or any particular provision of, these Rules.

**CCASP Sub-plan** means a Sub-plan of the Fund governed by these Rules and which was originally established as a Sub-plan of the Local Government Superannuation Scheme (**LS Scheme**) effective 1 June 2006 (following a successor fund transfer from the Previous CCASP) and continued as a Sub-plan of the LS Scheme under former Division 9 of the Former Fund's trust deed effective 1 July 2012.

**Charge Percentage** means the charge percentage applicable under the Guarantee Act prior to any reduction of the charge percentage pursuant to that Act.

**Consumer Price Index** means the Consumer Price Index (All Groups) for Adelaide published by the Commonwealth Statistician under the Census and Statistics Act, 1905 of the Commonwealth of Australia as amended or re-enacted from time to time or in the event that the Consumer Price Index (All Groups) for Adelaide ceases to be published, such other index as the Trustee deems appropriate.

**Continuous Service** in respect of a CCASP Member, means that period of time calculated in years and complete months equal to that CCASP Member's period of continuous employment by CCA PROVIDED THAT Continuous Service in excess of 40 years shall be disregarded. The decision of CCA as to the period of time for which a CCASP Member has been continuously

employed shall be final and conclusive and binding on the Trustee the CCASP Member and the CCASP Member's Dependents.

**Contributory CCASP Membership** means in respect of a CCASP Member any period of CCASP Sub-plan Membership during which the CCASP Member has contributed, or is taken to have contributed to any of the CCASP Sub-plan (including as a Sub-plan of the LS Scheme), the Previous CCASP, the Adelaide Corporation Superannuation Plan and the Adelaide Corporation Officials' Superannuation Plan.

**Deed** means the deed establishing the Fund dated 8 February 1988 incorporating all amendments made to the original deed and all schedules and appendices.

**Determination Date** means the date in respect of which the Excess is determined.

**Determination Date Members** means the CCASP Members who are participating in the CCASP Sub-plan as at the Determination Date.

**Employed CCASP Member** means a person who is for the time being a CCASP Member and an Employee.

**Employee** means a person who is for the time being employed by CCA (or an Employer (as defined in the trust deed governing the Previous CCASP) in the Previous CCASP) or deemed by CCA (either generally or in a particular case) to be employed and, in relation to CCA, means a person employed or deemed to be employed by CCA for the time being.

**Entitlement** means the amount of a Beneficiary's interest, entitlement or benefits in the CCASP Sub-plan, including the total value of assets, if any, allocated to, or attributable to, that Beneficiary in the CCASP Sub-plan and/or any other interest, entitlement or benefits of the Beneficiary in the CCASP Sub-plan (other than that part of the interest, entitlement, or benefits provided but not presently payable under insurance cover effected with an insurer in respect of risk only) subject in all cases to such adjustments as may be made pursuant to these Rules and not including any amount which has not at time of payment of the relevant benefit fully vested in accordance with these Rules in the relevant Beneficiary unless CCA determines that such an amount should be so included.

**Excess** means the amount certified in writing by the Actuary to be:

- (a) the market value of the CCASP Assets as at the Determination Date net of the estimated costs of realisation;

PLUS

- (b) the present value of expected contributions to be made by Determination Date Members after the Determination Date (based on estimated future Salary levels);

PLUS

- (c) the present value of expected CCA contributions to the CCASP Sub-plan after the Determination Date (based on estimated future Salary levels to the CCASP Sub-plan and taking into account any advice provided by the Actuary pursuant to rule 25);

LESS

- (d) the present value of expected future benefit payments in respect of Determination Date Members (based on estimated future Salary levels) arising from CCASP Membership and Continuous Service up to and including the Determination Date;

LESS

- (e) the present value of expected future benefit payments in respect of Determination Date Members (based on their estimated future Salary levels) arising from CCASP Membership and Continuous Service after the Determination Date;

LESS

- (f) the present value of expected CCASP Expenses and tax on contributions after the Determination Date.

**Final Average Salary** in respect of a CCASP Member, means an amount equal to the average of that CCASP Member's Final Salary and that CCASP Member's Salary 12 months prior to the CCASP Member's retirement date, except that in the case of a member of any previous superannuation fund sponsored by CCA (other than the Previous CCASP) it will be an amount equal to that CCASP Member's Final Salary.

**Final Salary** in respect of a CCASP Member, means the CCASP Member's Salary at the date on which the CCASP Member ceases to be an Employee.

**Former Fund** means the fund known as the Statewide Superannuation Trust established by deed dated 1 May 1986 as varied from time to time.

**Fund** means the fund known as the Hostplus Superannuation Fund established by the Deed as varied from time to time.

**Gainful Employment** means employment for earnings, including business income, bonuses, commissions, fees, gratuities, salary and wages and in the case of an Employed CCASP Member means employment with CCA and "Gainfully Employed" shall have a corresponding meaning.

**Level A Member** means a CCASP Member classified as "Level A" pursuant to rules 22 and 23.

**Level B Member** means a CCASP Member classified as "Level B" pursuant to rules 22 and 23.

**Level C Member** means a CCASP Member classified as "Level C" pursuant to rules 22 and 23.

**Member's Credit** in these Rules means the account maintained for the CCASP Member under rule 3 of these Rules.

**Net Earnings** means the income and other returns (whether positive or negative) of the CCASP Assets, determined by the Trustee.

**Net Earning Rate** in respect of a CCASP Member, shall be determined as follows:

On the last day of each Quarter of a year occurring in the period commencing on the date of establishment of a CCASP Member's Allocated Accumulation (as defined under the governing rules of the Previous CCASP) or such other benefit entitlement as determined by the Trustee and ending on the date of termination of service, the amount of such entitlement shall be varied by the percentage difference between:

- (a) the Consumer Price Index for the Quarter which immediately precedes the Quarter immediately preceding the Quarter in which the variation is made, and
- (b) the Consumer Price Index for the Quarter immediately preceding the Quarter in which the variation is made.

**Non-CCASP Interest** means a CCASP Member's interest in the Fund other than the CCASP Member's interest under these Rules as a member of the CCASP Sub-plan.

**Normal Retirement Date** in respect of a CCASP Member, means the CCASP Member's 65th birthday.

**Permanent Disablement** in relation to a CCASP Member:

- (a) has the same meaning as is given to those words, or what the Trustee considers to be the corresponding word or words, for the purposes of any policy of insurance effected or acquired by the Trustee pursuant to these Rules and under which insurance is or may become payable in the event of the disablement of any CCASP Member or group of CCASP Members or, where there is more than one policy in force, the policy specified by the Trustee for this purpose and any determination by the relevant insurer as to whether or not a CCASP Member is so disabled in terms of that policy is final and binding on all interested persons for the purposes of these Rules; or
- (b) if at the relevant time there is no such policy in force or in any other circumstances agreed between the Trustee and CCA, means disablement due to an illness or injury as a result of which:
  - (i) the CCASP Member has been continuously absent from all active employment for a period of at least six (6) months or any lesser period agreed between CCA and the Trustee from time to time either generally or in any particular case; and
  - (ii) in the opinion of the Trustee, after consideration of information and advice provided by CCA and any other information and advice which the Trustee may consider relevant, the CCASP Member is incapacitated to such an extent as to render the CCASP Member unlikely ever to engage in any Gainful Employment for which the CCASP Member is for the time being reasonably qualified by education, training or experience,

but, in any case, this definition is subject to the requirements of the Relevant Law and further does not include disablement the existence or continuation of which, in the opinion of the Trustee after consideration of any information and advice provided to the Trustee by CCA and any other information and advice which the Trustee may consider relevant, is attributable to a material extent to deliberate action or inaction by any person for the purpose of causing a benefit to become or to continue to be payable from the CCASP Sub-plan, including what the Trustee considers to be an unreasonable refusal by the CCASP Member concerned to submit to treatment, and "Permanently Disabled" has a corresponding meaning.

**Previous CCASP** means the Corporation of the City of Adelaide Superannuation Plan (SFN 157267) established by resolution of CCA and governed by a deed dated 30 June 1992 (as amended).

**Previous CCASP Members** means all members of the Previous CCASP immediately prior to 1 June 2006.

**Quarter** means in relation to a year any of the following periods:

- (a) the period from 1 January to 31 March;
- (b) the period from 1 April to 30 June;
- (c) the period from 1 July to 30 September;
- (d) the period from 1 October to 31 December.

**Restructured CCASP Member** means a CCASP Member in respect of whom the entire balance of the CCASP Member's accumulation interest under the CCASP Sub- Plan has been transferred to former Division 1, Division 2 and/or Division 3 of the Former Fund on or about 1 July 2013.

**Review Date** means the first day of July in each year or such other date as is agreed upon by the Trustee and the Employer.

**Rules** mean these Sub-plan Rules governing the CCASP Sub-plan, as amended from time to time;

**Salary** means in respect of a CCASP Member at any time the annual rate of the CCASP Member's remuneration then being received from CCA, but does not include commission, and unless otherwise determined by CCA in its absolute discretion shall exclude any remuneration by way of overtime, bonuses or allowances of a special or ex-gratia nature, save that where a CCASP Member is normally engaged on piece- work or normally receives all or part of his remuneration by way of commission or bonuses, his annual rate of remuneration shall be deemed to be such amount as is agreed upon in writing by the Trustee and that CCASP Member **PROVIDED THAT** if a CCASP Member's annual rate of remuneration is reduced, such reduction shall be ignored in calculating the CCASP Member's salary, unless otherwise agreed upon in writing between the Trustee and that CCASP Member AND PROVIDED FURTHER that in any particular case Salary may at the discretion of CCA be such other amount as may be agreed in writing between the CCASP Member and CCA for the purpose of determining the benefits payable to or in respect of the CCASP Member pursuant to the Rules.

**Statewide Super Benefit Division** means the accumulation division of the Former Fund.

**Tax** means any government impost (including a tax or duty) which is or might become payable in connection with or relating to the CCASP Sub-plan, the payment or transfer of money or property to or from the CCASP Sub-plan, these Rules or to anything done or which may be done under these Rules.

## 2. Interpretation and General

- (a) Any capitalised terms used in these Sub-Rules that are not defined under rule 1 shall have the meaning given to those terms in the Glossary to the Deed, unless the context otherwise requires.
- (b) Where in these Rules reference is made to benefits being calculated for each year of CCASP Sub-plan Membership, the benefits shall be calculated on a pro rata basis according to the number of years and completed months (or completed months, if less than one year) of CCASP Sub-plan Membership, in the event that the relevant period of CCASP Sub-plan Membership is not one or more whole years.

- (c) Where in these Rules reference is made to:
- (i) accrued benefits: a reference to the accrued benefits or Entitlements of, or benefits or Entitlements that have accrued to Beneficiaries as at a certain time shall refer to benefits or Entitlements payable from the Sub- Plan to the CCASP Member if the CCASP Member of his own volition ceased to be Gainfully Employed at the relevant time in accordance with the CCASP Sub-plan Rules but excluding any Excess or Overpaid Contributions.
  - (ii) superannuation benefits: a reference to a benefit or a superannuation benefit means any superannuation benefit, pension, annuity, retirement benefit, life insurance or death allowance or any benefit of like nature and a reference to a superannuation fund means a scheme or arrangement which provides any or all of the aforesaid benefits.
- (d) Notwithstanding any other provisions within these Rules, a CCASP Member:
- (i) shall not be required to make contributions and shall not be entitled to make contributions to the Fund unless such contributions are provided for or referred to within these Rules;
  - (ii) shall not be entitled to any benefits other than those provided for or referred to within these Rules.
- (e) The CCASP Assets shall:
- (i) be separately identifiable within the Fund;
  - (ii) only be held and dealt with by the Trustee in accordance with these Rules; and
  - (iii) not be applied or used for the benefit of any Member (unless that Member is a Beneficiary as defined in these Rules) other than a CCASP Member.
- (f) The CCASP Assets shall be invested separately to the other assets of the Fund and the Trustee may act on a report produced by the Actuary in respect of the CCASP Sub-plan as it thinks fit and without consultation, in accordance with these Rules.
- (g) CCASP Members must make such contributions to the CCASP Sub-plan as are specified in these Rules.
- (h) A Restructured CCASP Member:
- (i) remains presently or prospectively (as the case may be) entitled to defined benefits under these Rules; and
  - (ii) where applicable, is entitled to any insured benefits effected by the Trustee to provide continuation of cover and in accordance with former rule 2.18 of former Sub-Division A of former Division 9 of the Former Fund's trust deed (subject to and in accordance with that rule),
- (in each case subject to and in accordance with the provisions of these Rules) but shall cease to have any rights to any accumulation benefit entitlements under these Rules.

## GENERAL PROVISIONS

### 3. Member's Credit (Special Benefit Account)

- (a) There shall be paid into and maintained in the CCASP Sub-plan on behalf of every CCASP Member a Member's Credit determined in accordance with this rule 3.
- (b) There shall be paid to the Member's Credit the following amounts to be accounted for as the "Special Benefit Account":
  - (i) the balance of the CCASP Member's "Special Benefit Account" in the Previous CCASP immediately before 1 June 2006;
  - (ii) in respect of any period before 1 July 2008, an amount which reflects the variation of the amounts referred to in (i) and (ii) by the Net Earnings Rate or such other amount as may from time to time be determined by the Trustee;
- (c) There shall be deducted from the amount standing to the credit of the Member's Credit such amount as the Trustee considers to reasonably represent:
  - (i) the amount of any transfers made pursuant to rule 44;
  - (ii) any other amount that the Trustee considers should be deducted from the Member's Credit.
- (d) The balance of each Member's Credit shall vary from time to time in accordance with movements in the value of Units allocated to that Member's Credit which have not been cancelled.
- (e) Rules 3(a), (b), (c) and (d) do not apply to the extent that the amounts referred to in this rule 3 have been transferred or otherwise paid to the Member's Superannuation Account in Division 1 or Division 2 (as applicable).

#### **4. Surcharge Account**

The Trustee may maintain a "Surcharge Payment Account" in respect of a CCASP Member in the same manner as such account is maintained for Members of the Local Super Sub-plan.

#### **5. Additional contributions**

[Deleted]

#### **6. Cessation of payment**

Unless otherwise specified in these Rules or with the approval of the Trustee, no contributions are payable by or in respect of a CCASP Member after the earliest of the date the CCASP Member attains the age of 65 years, the date the CCASP Member has continuously contributed for 40 complete years, the date the CCASP Member ceases to be Gainfully Employed and the date the CCASP Member becomes entitled to receive all the CCASP Member's Entitlement from the CCASP Sub-plan.

#### **7. Part-time Gainful Employment, absence or non-eligibility**

Subject to rule 8 and to the requirements of the Relevant Law:

- (a) CCA to determine conditions: subject to the agreement of the Trustee, CCA may determine conditions in relation to contributions payable and benefits to be provided in respect of a CCASP Member during and in respect of any period when in the opinion of



CCA, the CCASP Member is Gainfully Employed in other than a full-time capacity, the CCASP Member is temporarily not Gainfully Employed or the CCASP Member remains Gainfully Employed but is no longer permitted to contribute under the Relevant Law;

- (b) Notice to Trustee: CCA must give the Trustee written notice of each determination under this rule 7, which, subject to the agreement of the Trustee, is binding on all interested persons without the need to amend the Rules and which may be varied, revoked or replaced by subsequent agreement between CCA and the Trustee; and
- (c) Effective date: unless otherwise agreed between the Trustee and CCA, any determination by CCA under this rule 7 takes effect on the later of the date notice of that determination is received by the Trustee and the effective date (if any) specified in the notice.

## **8. Control by Trustee**

Before, or in the course of, giving effect to a determination by CCA under rule 7, the Trustee may:

- (a) Undertaking: require an undertaking from CCA that it will contribute to the CCASP Sub-plan additional amounts or rates of contributions which the Trustee may consider necessary in order to secure any additional or improved benefit or pay any additional cost; and
- (b) Conditions: generally impose any conditions which the Trustee may consider necessary in order to comply with the Relevant Law or any other law,

and, if such an undertaking is not given by CCA or is not fulfilled to the satisfaction of the Trustee, or any other condition imposed by the Trustee under this rule 8 is not satisfied, the Trustee may refuse to give effect to or to continue to give effect to the determination to which that undertaking or condition relates.

## **9. Temporary cessation of Gainful Employment**

If a CCASP Member ceases to be Gainfully Employed in circumstances in which it is reasonable to expect that the CCASP Member will become Gainfully Employed again within a reasonable time, the Trustee in its absolute discretion may determine (having regard to the requirements of the Relevant Law) to continue the CCASP Member's membership of the CCASP Sub-plan subject to the requirements of the Relevant Law and to further conditions agreed between the Trustee, the CCASP Member and CCA.

## **10. Payment of Benefits**

- (a) Subject to paragraph (b) and to rules 37 and 49, any benefits payable under these Rules shall be payable in accordance with clause 13 of the Deed (as the case may be).
- (b) Subject to the Relevant Law, the agreement of the Trustee and to any conditions imposed by the Trustee, a Beneficiary may elect that all or part of a benefit to which that person is entitled is to be replaced by a benefit payable in another manner or form, in other circumstances or at another time.
- (c) [Deleted]

## **TERMINATION**

## 11. Closure of CCASP Sub-plan

### (a) CCA's determination to close CCASP Sub-plan:

CCA may determine to close the CCASP Sub-plan with effect on and from a specified date and, in that event:

- (i) **No further contributions:** no further contributions will be accepted from any person into the CCASP Sub-plan; and
- (ii) **Continued administration:** the Trustee must continue to administer and apply the CCASP Sub-plan in accordance with these Rules until all benefits which could become payable under these Rules have been paid, provided or otherwise applied, and all of the monies and CCASP Assets have been dealt with, in accordance with rule 11(c),

and the CCASP Sub-plan will then be deemed to have terminated.

### (b) Termination in other circumstances: The Trustee may determine to terminate the CCASP Sub-plan in one of the following circumstances:

- (i) **Inadequate funds:** the Trustee after receiving any advice from the Actuary and, having consulted CCA, is of the opinion, having regard to the payments being made and expected to be made to the CCASP Sub- Plan and the actual and expected property identifiable as property of the CCASP Sub-plan, that the CCASP Sub-plan is inadequate to provide for the actual and potential liabilities of the CCASP Sub-plan;
- (ii) **Restraints imposed by law:** restraints (financial or otherwise) have been imposed by law which the Trustee considers unreasonably restrict its powers of investment under the Rules or prejudice the financial viability of the CCASP Sub-plan;
- (iii) **Taxation basis:** the basis of taxation of the CCASP Sub-plan is materially altered in the opinion of the Trustee; or
- (iv) **Members' interest:** the interests of the CCASP Members would be in the opinion of the Trustee be furthered thereby.

### (c) Application of CCASP Sub-plan: Upon the termination of the CCASP Sub- Plan in accordance with rule 11(a) or 11(b), the Trustee shall take the following action in relation to the CCASP Sub-plan:

- (i) **Notice:** notify all CCASP Members and CCA in writing of the termination of the CCASP Sub-plan;
- (ii) **Convert assets:** convert the CCASP Assets to cash or property (or both) which are capable of distribution to Beneficiaries;
- (iii) **Discharge debts:** discharge all debts (including any Tax) owing by or in respect of the CCASP Sub-plan;
- (iv) **Establish reserves:** set aside amounts which the Trustee considers appropriate as a provision or reserve for any actual or contingent, or present or future liabilities

of the CCASP Sub-plan and any action taken pursuant to this rule 11 or any holding or dealing with any of the amounts referred to in this rule 11; and

- (v) **Pay out assets:** subject to the Relevant Law, pay the cash or property then remaining as CCASP Assets as benefits to or in respect of Beneficiaries as directed by CCA and otherwise as provided hereunder in accordance with the sequence and priority set out in the following rules to the extent that the amount of the said cash or property permits:
- (A) **first**, in securing a minimum benefit for or for the benefit of each CCASP Member equal to the total of the contributions which have been made (or are deemed under these Rules to have been made) by each CCASP Member (but not by CCA on behalf of the CCASP Member and excluding any amounts that formed part of a Restructured CCASP Member's accumulation interest transferred out of the Sub-plan on or about 1 July 2013);
  - (B) **secondly**, in securing for or for the benefit of each Beneficiary, the benefits of the Beneficiary which are subject to vesting under the Relevant Law or are otherwise vested in the Beneficiary pursuant to the terms of these Rules;
  - (C) **thirdly**, in securing for or for the benefit of each Beneficiary, the benefit to which he was absolutely entitled or was then in receipt of as at the date of the termination of the CCASP Sub-plan;
  - (D) **fourthly**, in securing for or for the benefit of each CCASP Member who had, as at the date of termination of the CCASP Sub-plan, a contingent right to benefits, the benefit to which he would have been entitled had he of his own volition ceased Gainful Employment on the date of termination in accordance with these Rules; and
  - (E) **fifthly**, in distributing the balance (if any) of the CCASP Assets to CCA or as CCA directs (if permitted by the Relevant Law but, if not so permitted, in such other manner as the Trustee determines).

## AMENDMENT

### 12. Amendment

- (a) No amendment to the Deed may operate so as to impose a liability on the CCA in connection with the CCASP Sub-plan unless the CCA has given its prior written consent to that amendment.
- (b) No amendment to the Deed (including for the avoidance of doubt these Rules) may operate so as to:
  - (i) substantially prejudicially vary or affect any benefits under the CCASP Sub-plan in respect of a CCASP Member admitted to the CCASP Sub-plan prior to the date of such amendment; or
  - (ii) alter the obligations of a CCASP Member pursuant to these Rules in relation to making contributions,

without the CCASP Member's consent in writing.

- (c) A certificate from the Actuary that an amendment does not substantially prejudice, vary or affect any benefits under the CCASP Sub-plan in respect of a CCASP Member shall for the purposes of rule 12(b) be conclusive evidence of the facts and conclusions stated in such certificate.

### **13. Application of Amendment Provisions**

For the avoidance of doubt, any amendments to these Rules must be made in accordance with clause 14 of the Deed and will take effect in accordance with that clause, subject to rule 12 of these Rules.

#### **EXCESS**

### **14. Valuations**

At least once a year the Trustee must, and at any other times determined by the Trustee, the Trustee may, cause the assets of the CCASP Sub-plan (other than an insurance policy to the extent that it provides insurance solely against risk) to be valued and:

- (a) the Trustee shall determine the amount of Net Earnings of the CCASP Sub- Plan which, in the opinion of the Trustee, it is appropriate to attribute to the Entitlements of CCASP Members (which may be attributed on a unitised basis); and
- (b) the Trustee may, and if requested by CCA shall direct the Actuary to investigate the financial position of the CCASP Sub-plan as to whether in the opinion of the Actuary as at the date at which such investigation is completed or other specified date ("effective date"):
  - (i) an Excess exists in the CCASP Sub-plan; and
  - (ii) any Overpaid Contributions exist in the CCASP Sub-plan,
 and shall report thereon as soon as practicable in writing to CCA and the Trustee.

### **15. Allocation of Excess**

If the report by the Actuary referred to in rule 14 reveals there to be an Excess as at the Determination Date, the Trustee may, with the consent of CCA, deal with all or part of the Excess in any one or more of the following ways (subject to the requirements of the Relevant Law):

- (a) to allocate any amount to or for the benefit of the CCASP Members;
- (b) to pay or allocate any amount to or for the benefit of CCA; and
- (c) to apply any amount in reduction or satisfaction of contributions otherwise payable in accordance with these Rules by CCA or the CCASP Members.

Any amount allocated to or for the benefit of a CCASP Member pursuant to this rule will be paid to the Member's Special Benefit Account.

### **16. Overpaid Contributions**

Where a CCASP Member or CCA makes contributions to the CCASP Sub-plan:

- (a) in an amount or at a rate determined by CCA in accordance with these Rules and where:
  - (i) CCA in making such determination has relied on the advice of the Actuary;
  - (ii) the advice of the Actuary was based on actuarial error or miscalculation with the result that the amount or rate of contribution it advised CCA could or should be paid to the CCASP Sub-plan exceeded the amount that was actually necessary to be paid to the CCASP Sub-plan in order to provide the benefits for the Beneficiaries of the CCASP Sub-plan as approved for in Schedule V; or
- (b) the contributions made by the CCASP Member or CCA to the CCASP Sub-plan are in excess of the amount of contributions permitted to be made to the CCASP Sub-plan in accordance with the applicable requirements of the Relevant Law,

then the excess amount of contributions referred to in (a)(i) or (a)(ii) (such excess referred to herein as "Overpaid Contributions"), shall be conditionally received and together with interest thereon calculated at such rate, whether positive or negative, as the Trustee shall determine but less any amount in respect of Tax determined by the Trustee shall be returned to the CCASP Member or CCA as relevant.

In this rule 16, "actuarial error or miscalculation" means a failure to properly apply standard actuarial practices and methods, such as:

- (c) mathematical errors;
- (d) failure to apply correct data;
- (e) failure to apply reasonable and generally accepted actuarial assumptions; and
- (f) failure to follow or apply standard and generally accepted actuarial methods.

## **17. Residual CCASP Assets**

If at any time there are no Beneficiaries and, in the opinion of the Trustee, all benefits which are payable from the CCASP Sub-plan, and all CCASP Sub-plan Expenses have been paid, then the proceeds of the residual CCASP Assets must be distributed as directed by CCA in any of the ways referred to in rule 15(b) and the CCASP Sub-Plan shall then terminate.

## **CESSATION OF CONTRIBUTIONS AND OF THE PLAN**

### **18. Notice of termination of contributions and other payments**

Without limiting any power vested in CCA under any other provision of these Rules to terminate, determine or redetermine the amount or rate of contributions of CCA, CCA may by written notice given to the Trustee and either generally or in respect of any Employees named or described in that notice or then or thereafter falling within a group or class of persons described in that notice:

- (a) terminate all or any payments of contributions in respect of the CCASP Sub-plan; or
- (b) modify or suspend all or any payments of contributions in respect of the CCASP Sub-plan to the extent specified in that notice either indefinitely or for the period specified,

and any notice given under this rule 18 takes effect on the date which is the later of the date that notice is received by the Trustee and the effective date (if any) specified in that notice

(but a notice does not affect liability of CCA in respect of payments due from CCA before the notice takes effect) unless the notice is revoked in accordance with rule 19 by the giver of the notice prior to the date the notice would otherwise take effect.

## 19. Revocation of notice or remedy of failure or inadequacy

Subject to any conditions imposed by the Trustee and to rule 20, CCA may revoke or modify a notice given or deemed to have been given by CCA pursuant to rule 18.

## 20. Adjustment of benefits and Entitlements

- (a) **Adjustment of benefits:** The Trustee, subject to paragraph (b), may adjust any benefit or Entitlement of a CCASP Member which is or may become payable to or in respect of any person whom the Trustee may consider is affected by the operation of rule 18.
- (b) **Benefits not to be increased:** Except with the approval of CCA, an adjustment made pursuant to paragraph (a) must not increase the amount of any benefit or Entitlement which, in the opinion of the Trustee, has accrued in respect of a person immediately prior to the effective date of that adjustment in respect of the period up to that date or improve the basis upon which benefits or Entitlements accrue during or in respect of any period after that date.

## 21. Distribution of the CCASP Sub-plan

Upon the occurrence of any of the following events:

- (a) a notice is given pursuant to rule 18; or
- (b) any amount payable by CCA to the CCASP Sub-plan remains unpaid for any reason for the period allowed by the Trustee for the payment of such amount,

then unless otherwise agreed between the Trustee and CCA, no contributions will be accepted from a CCASP Member or CCA where CCA has given the notice referred to in rule 18 in relation to the CCASP Sub-plan during the period referred to in rule 18(b) and the CCASP Sub-plan shall terminate and the Trustee shall take action and otherwise deal with the CCASP Sub-plan as described in rule 11(c).

## MEMBERSHIP

### 22. Membership

- (a) Each CCASP Member shall whilst a CCASP Member of the CCASP Sub-plan be a CCASP Member of one of the following Membership Categories of the CCASP Sub-plan:
  - Level A Employees who were immediately before 1 June 2006 classified as a Level A Member in the Previous CCASP or are, pursuant to rule 23, hereafter classified by CCA as a Level A Member.
  - Level B Employees who were immediately before 1 June 2006 classified as a Level B Member in the Previous CCASP or are, pursuant to rule 23, hereafter classified by CCA as a Level B Member.

Level C Employees who were immediately before 1 June 2006 classified as a Level C Member in the Previous CCASP or are, pursuant to rule 23, hereafter classified by CCA as a Level C Member.

- (b) A person ceases to be a CCASP Member in the event of that person's death or when the Entitlement of that person has been paid or transferred from the CCASP Sub-plan or has otherwise ceased or been terminated in accordance with these Rules, whichever occurs first.

### **23. Variation of Membership Levels**

- (a) CCA may by notice in writing given to the CCASP Member vary the Membership Category of the CCASP Member and the CCASP Member shall with effect from the effective date (if any) stipulated in such notice, or if no effective date is stipulated in such notice, with effect from the date of such notice become a CCASP Member in the level into which the CCASP Member has been classified PROVIDED ALWAYS that no such notice may be given if its effect will be to vary the Membership Category of a CCASP Member to a Membership Category in which the CCASP Member would be required to make higher contributions without the prior written consent of the CCASP Member.
- (b) Each CCASP Member may elect to transfer to any other Membership Category in the CCASP Sub-plan provided that:
- (i) no transfers can be made to Level C, and
  - (ii) the transfers can only be made on the five yearly Review Date anniversary of the CCASP Sub-plan (as if the CCASP Sub-plan commenced on 1 July 1983).

## **CONTRIBUTIONS**

### **24. Member Contributions**

- (a) In the case of a Level A Member - 5 per cent of the CCASP Member's Salary, or such other amount as the Trustee and the CCASP Member may agree from time to time in writing;
- (b) In the case of a Level B Member - 2 ½ per cent of the CCASP Member's Salary, or such other amount as the Trustee and the CCASP Member may agree from time to time in writing;
- (c) In the case of a Level C Member - 5 per cent of the CCASP Member's Salary, or such other amount as the Trustee and the CCASP Member may agree from time to time in writing.

Each CCASP Member shall arrange for CCA to make, where possible, deductions from his remuneration in respect of his contributions under the CCASP Sub-plan and for the amounts so deducted to be paid to the Trustee for the credit to an account maintained by the Trustee in respect of the CCASP Member. Where deductions are not made pursuant to the preceding rule hereof in respect of a CCASP Member's contributions, that CCASP Member shall pay his contributions under the CCASP Sub-plan to the Trustee for credit to an account maintained by the Trustee. Except as otherwise provided in these Rules, contributions by a CCASP Member shall continue until:

- (i) the CCASP Member ceases to be a CCASP Member; or

- (ii) the Normal Retirement Date in respect of the CCASP Member; or
  - (iii) the CCASP Member has continuously contributed for 40 complete years,
- whichever is the earlier,

PROVIDED THAT:

- (d) no CCASP Member shall be required to contribute in accordance with this rule 24 until such time as the Trustee and CCA determine after receiving advice from the Actuary; and
- (e) until a determination is made under paragraph (d) of this rule 24, each CCASP Member will be deemed to have continued to contribute to the CCASP Sub- Plan at the rate at which he or she was contributing to the Previous CCASP as at 30 June 1996.

## **25. Employer Contributions**

CCA shall contribute to the CCASP Sub-plan, in respect of each of its Employees who are CCASP Members, at such times and at such rates as are required in order to comply with the requirements of the Relevant Law, as determined from time to time by the Trustee after taking the advice of the Actuary.

## **26. Contributions – Employed CCASP Members**

- (a) **Deduction from salary:** Unless CCA (after consulting the Trustee) determines otherwise or the law does not so allow, the contributions (if any) payable by an Employed CCASP Member shall be deducted by CCA from each payment of or on account of the CCASP Member's net salary from CCA, and are payable by the CCASP Member and must be paid by CCA to the CCASP Sub-plan, in the manner and at the times set out in these Rules. Amounts so deducted by CCA in respect of an Employed CCASP Member are, pending payment to the CCASP Sub-plan, to be held upon trust by CCA for the benefit of the CCASP Sub-plan.
- (b) **Contributions not deducted:** Where contributions payable by an Employed CCASP Member are not deducted from the Employed CCASP Member's salary in accordance with paragraph (a), the Employed CCASP Member must pay the Employed CCASP Member's contributions to the CCASP Sub-plan in the manner determined by CCA with the approval of the Trustee as and when the Employed CCASP Member receives each payment of or on account of the Employed CCASP Member's remuneration.

## **27. Adjustment for non-payment of Employed CCASP Member's contributions**

Without limitation to rule 26(b) and to rule 28, if the contributions payable by an Employed CCASP Member are not paid to the CCASP Sub-plan as and when required, the Trustee may impose any conditions in respect of the Employed CCASP Member which the Trustee, after obtaining professional advice, considers appropriate.

## **28. Reduction, suspension or waiver**

CCA may, with the consent of the Trustee, for any period determined by CCA reduce, suspend or waive contributions otherwise payable by the Employed CCASP Member subject to any conditions determined by CCA and approved by the Employed CCASP Member concerned



from time to time. These conditions include conditions upon which contributions otherwise payable by the Employed CCASP Member, together with interest, must be made up by and in respect of the Employed CCASP Member and conditions as to how benefits to be provided in respect of the Employed CCASP Member must be adjusted to take account of a reduction, suspension or waiver.

## BENEFITS

### 29. Normal Retirement Benefit

Upon the voluntary or involuntary termination of a CCASP Member's employment with CCA on the CCASP Member's Normal Retirement Date or upon a CCASP Member reaching the Normal Retirement Date and remaining in employment with CCA the Trustee shall pay to, or at the discretion of, the CCASP Member or pursuant to rule 38 retain in the Fund for the CCASP Member as a deferred retirement benefit:

(a) the balance of the Member's Credit (if any);

PLUS

(aa) in the case of Level B Members, the CCASP Member's Additional Retirement Benefit;

PLUS

(b) in the case of all male Level A or B Members an amount equal to the sum of 1¼ per cent of the CCASP Member's Final Salary for each year of Continuous Service prior to 1 July 1980 that the CCASP Member has completed as an Employee prior to joining the Previous CCASP;

PLUS

(c) in the case of Level A or B Members an additional amount equal to the sum of 2½ per cent of the CCASP Member's Final Salary for each year of CCASP Membership to 30 June 1980;

PLUS

(d) in the case of a Level A Member an additional amount equal to the sum of:

(i) 6¼ per cent of the CCASP Member's Final Salary for each year of CCASP Membership from 1 July 1980 to 31 December 1982; plus

(ii) 15 per cent of the CCASP Member's Final Average Salary for each year of CCASP Membership from 1 January 1983;

PLUS

(e) in the case of a Level B Member an additional amount equal to the sum of:

(i) 6¼ per cent of the CCASP Member's Final Salary for each year of CCASP Membership from 1 July 1980 to 31 December 1982; plus

(ii) 7½ per cent of the CCASP Member's Final Average Salary for each year of CCASP Membership from 1 January 1983;

PLUS

- (f) in the case of a Level C Member, subject as hereinafter provided, 17 ½ per cent of the Member's Final Salary for each year of CCASP Membership PROVIDED THAT if the CCASP Member was not a member of the Adelaide Corporation Officials' Superannuation Fund on 31 July 1974 then the CCASP Member shall receive in respect of each year of CCASP Membership since 1 January 1983 17 ½ per cent of the CCASP Member's Final Salary, PLUS:
- (i) 17 ½ per cent of the CCASP Member's Final Salary for each year (if any) of CCASP Membership prior to 1 January 1983 as an Officer within the meaning of the trust deed (hereinafter in this paragraph (g) called "the Previous Deed") constituting the Adelaide Corporation Superannuation Plan or the Adelaide Corporation Officials' Superannuation Plan as amended and in force for the time being; plus
  - (ii) 6 ¼ per cent of the CCASP Member's Final Salary for each year (if any) of CCASP Membership during the period from 1 July 1980 to 31 December 1982 and 2 ½ per cent of the CCASP Member's Final Salary for each year (if any), of CCASP Membership prior to 1 July 1980 as an Employee within the meaning of the Previous Deed; plus
  - (iii) 1 ¼ per cent of the CCASP Member's Final Salary for each year (if any) of Continuous Service prior to 1 July 1980 that the CCASP Member has completed as an Employee within the meaning of the Previous Deed prior to joining the Previous CCASP.

### 30. Early Retirement Benefit

If a CCASP Member permanently retires from the employ of CCA after attaining 55 but less than 65 years of age then the Trustee shall pay to, or at the direction of the CCASP Member:

- (a) an amount equal to the amount that would have been payable had the CCASP Member retired at age 65 except for this purpose:
  - (i) the CCASP Member's CCASP Membership shall be taken to cease at the date of actual termination of Service;
  - (ii) the CCASP Member's Final Salary and Final Average Salary shall be determined at the date of actual termination of Service; and
  - (iii) the Additional Retirement Benefit (if any) shall be determined up to the date of actual termination of Service,

and if the CCASP Member is a Level A or B Member who became a CCASP Member on or after 1 January 1983 and retires on or after age 55 years and prior to 60 years, the benefit payable as determined by this paragraph (a) will be reduced by 2/365% for each day by which the date of the CCASP Member's retirement precedes the CCASP Member's 60th birthday; PLUS

- (b) the CCASP Member's Additional Retirement Benefit (if any).

### 31. Death Benefit

Subject to rule 42, upon the death of a CCASP Member on or prior to the CCASP Member's Normal Retirement Date the Trustee shall pay in accordance with clause 13 of the Deed, an amount that would be payable if the CCASP Member had remained in the Service of the

Employer until the CCASP Member's Normal Retirement Date and retired on that date, except that for this purpose of the CCASP Member's Final Salary at the date of death shall apply.

### **32. Permanent Disablement Benefit**

Subject to rule 42, upon the Permanent Disablement of a CCASP Member, the Trustee shall pay to, or for the benefit of that CCASP Member, the amount that would have been payable had the CCASP Member died on the date of his or her disablement.

### **33. Termination Benefit**

Upon the voluntary or involuntary termination of a CCASP Member's employment with CCA before the Normal Retirement Date in circumstances not otherwise provided for in these Rules the Trustee shall pay to, or at the direction of, the CCASP Member:

- (a) the balance of the Member's Credit (if any); PLUS
- (aa) the Additional Resignation Benefit (if any); PLUS
- (b) in the case of a Level A or B Member and amount equal to the sum of:
  - (i) 1 per cent of the CCASP Member's Final Salary for each year of Contributory CCASP Membership (with completed months counting as a fraction of a year) to 30 June 1980; plus
  - (ii) 2 ½ per cent of the CCASP Member's Final Salary for each year of Contributory CCASP Membership (with completed months counting as a fraction of a year) completed from 1 July 1980 to 31 December 1982;

PLUS

- (c) in the case of a Level A Member an amount equal to 5 per cent of the Member's Final Salary for each year of Contributory CCASP Membership (with completed months counting as a fraction of a year) completed from 1 January 1983;

PLUS

- (d) in the case of a Level B Member an amount equal to 2 ½ per cent of the CCASP Member's Final Salary for each year of Contributory CCASP Membership (with completed months counting as a fraction of a year) completed from 1 January 1983 to the date of leaving service;

PLUS

- (e) in the case of a Level C Member, subject as hereinafter provided, an amount equal to 5 per cent of the CCASP Member's Final Salary for each year of Contributory CCASP Membership PROVIDED ALWAYS THAT if the CCASP Member was a Member of the Adelaide Corporation Officials' Superannuation Fund on 31 July 1974 then the CCASP Member shall receive 4 per cent of his or her Final Salary for each year of Contributory CCASP Membership (with completed months counting as a fraction of a year) up to and including 31 July 1974 PLUS an amount equal to 5 per cent of the CCASP Member's Final Salary for each year of Contributory CCASP Membership (with completed months counting as a fraction of a year) from and including 1 August 1974;

PLUS

in the case of a CCASP Member who has completed eleven or more years of Contributory CCASP Membership, an additional percentage of that CCASP Member's benefit calculated pursuant to paragraphs (b), (c), (d), and (e) will be payable and determined in accordance with the following table on the basis of the number of completed years of Contributory CCASP Membership:

Contributory Membership	CCASP	Percentage	
		Levels A and B	Level C
11 years		10%	10%
12 years		20%	20%
13 years		30%	30%
14 years		40%	40%
15 years		50%	50%
16 years		60%	60%
17 years		70%	70%
18 years		80%	80%
19 years		90%	90%
20 years		100%	100%
21 years		100%	110%
22 years		100%	120%
23 years		100%	130%
24 years		100%	140%
25 years		100%	150%
26 years		100%	160%
27 years		100%	170%
28 years		100%	180%
29 years		100%	190%
30 years or more		100%	200%

### 34. Retrenchment Benefit

- (a) Upon the termination of a CCASP Member's employment by CCA due to Retrenchment before the Normal Retirement Date the Trustee shall pay to, or at the direction of, the CCASP Member, an amount equal to:
- (i) the lesser of:
    - (I) two times the benefit the CCASP Member would have received if he or she had on the day of such termination voluntarily resigned from employment with CCA excluding the balance of the Member's Credit (if any); and
    - (II) the benefit payable to the CCASP Member as if he or she had ceased employment with CCA on the CCASP Member's Normal Retirement Date but only counting CCASP Sub-plan Membership to the actual day of such termination of employment with CCA and applying the CCASP Member's Final Salary and Final Average Salary at the actual day of termination of employment with CCA excluding the balance of the Member's Credit (if any); plus
  - (ii) the balance of the Member's Credit (if any),

**PROVIDED THAT** if the CCASP Member is at least 55 years of age at the date of termination, the Trustee shall pay to the CCASP Member an amount determined in accordance with subparagraph (II) plus the balance of the Member's Credit.

- (b) For the purposes of this rule 34, Retrenchment in respect of a CCASP Member means the termination by CCA of the employment of a CCASP Member before the Normal Retirement Date for all or any of the following reasons:
- (i) that the CCASP Member's service is no longer necessary or the CCASP Member's position has ceased to exist;
  - (ii) that the work for which the CCASP Member was engaged is finished;
  - (iii) that the quantity of work has diminished and has rendered a reduction in the number of employees necessary or expedient; or
  - (iv) that the termination is as a result of re-organisation or re-arrangement of staff, and certified by CCA in a form acceptable to the Trustee not to have been due to the CCASP Member's inefficiency or inability to perform the duties for which the CCASP Member was engaged or which had been allotted to the CCASP Member subsequently. If CCA does not furnish the required certificate the CCASP Member shall be deemed to have been dismissed.

### 35. Special Termination Benefit

Upon the voluntary or involuntary termination of a CCASP Member's employment prior to the CCASP Member's 60th birthday on account of ill-health, if the Trustee is satisfied that it is reasonable for that CCASP Member's service to be terminated on these grounds and **PROVIDED THAT** no benefit is payable to that CCASP Member pursuant to rule 32, then the Trustee shall pay to, or at the direction of, the CCASP Member, the CCASP Member's then accrued benefit pursuant to rule 29 hereof, and CCASP Sub- Plan Membership will be counted to the date of termination of service.

### 36. Special Transfer Value

Upon the voluntary termination of a CCASP Member's employment prior to the CCASP Member's 55th birthday to take up employment with another employer established pursuant to the provisions of the Local Government Act 1934 of South Australia (as may from time to time be amended or re-enacted), the Trustee shall transfer from the CCASP Sub-plan to Division 1 or Division 2 (as applicable) for the credit of the CCASP Member's Non-CCASP Interest, the CCASP Member's then accrued benefit pursuant to rule 29, (with CCASP Sub-plan Membership counted to the date of termination of service) multiplied by a factor determined from the following table:

<b>CCASP Member's Age Last Birthday at date of Termination</b>	<b>Factor</b>
Less than 28	0.40
28	0.41
29	0.43
30	0.45
31	0.47
32	0.49
33	0.51
34	0.53
35	0.55
36	0.57
37	0.59
38	0.61
39	0.63
40	0.65
41	0.67
42	0.69
43	0.71
44	0.73
45	0.75

CCASP Member's Age Last Birthday at date of Termination	Factor
46	0.77
47	0.79
48	0.81
49	0.83
50	0.85
51	0.87
52	0.89
53	0.91
54	0.93

### 37. Preservation Option Benefit

- (a) A CCASP Member with five or more years of Contributory CCASP Sub-plan Membership and whose employment terminates with CCA prior to that CCASP Member's 55th birthday may elect on termination of service to remain a CCASP Member of the CCASP Sub-plan and receive a Preservation Option Benefit in lieu of any other benefit payable pursuant to these Rules **PROVIDED THAT** the Preservation Option Benefit shall be payable on the CCASP Member's death or retirement after age 55 or earlier retirement on the grounds of ill health subject to satisfactory proof of death or retirement being provided to the Trustee

**FURTHER PROVIDED THAT** in any event the benefit payable under this rule 37 is paid prior to the CCASP Member's Normal Retirement Date.

- (b) Subject to paragraph (c) hereof, the Preservation Option Benefit payable shall be determined as follows:
- (i) The amount of the Preservation Option Benefit as at the date of termination of service shall be the sum of:
- (1) the Varied Normal Retirement Benefit; and
  - (2) the balance of the Member's Credit as at the date of termination of service.
- (ii) On the last day of each Quarter occurring in the period commencing on the date of termination of service and ending on the date of payment of any benefit payable under this rule 37, the Varied Normal Retirement Benefit shall be varied by the percentage difference between:

- (1) the Consumer Price Index for the Quarter which immediately precedes the Quarter immediately preceding the Quarter in which the variation is made, and
  - (2) the Consumer Price Index for the Quarter immediately preceding the Quarter in which the variation is made.
- (iii) The amount referred to under subparagraph (b)(i)(2) shall be varied:
- (A) in respect of any period before 1 July 2008, by the Net Earning Rate or such other amount as may from time to time be determined by the Trustee; and
  - (B) in respect of any period on or after 1 July 2008 by movements in the value of Units allocated to that amount which have not been cancelled.
- (c) In the case of each CCASP Member where the payment of this Preservation Option Benefit is made prior to that CCASP Member's 55th birthday other than on the grounds of death or ill health, the Varied Normal Retirement Benefit, as varied pursuant to subparagraph (b)(ii) shall be reduced by 1/6 per cent for each complete month by which the date of payment precedes the CCASP Member's 55th birthday up to a maximum of 10% and up to a maximum of 1/12 per cent for each complete month by which the date of payment precedes the CCASP Member's 50th birthday.
- (d) In this rule 37, the "Varied Normal Retirement Benefit" in respect of a CCASP Member shall be an amount equal to:
- (i) the CCASP Member's Normal Retirement Benefit as determined pursuant to rule 29, with CCASP Membership counted to the date of termination of service, less
  - (ii) the balance of the CCASP Member's Credit at the date of termination of service.

### **38. Deferred Retirement Benefit**

Upon a CCASP Member reaching the Normal Retirement Date and remaining in employment with CCA, the CCASP Member may request the Trustee to retain in the Fund for the CCASP Member the benefit otherwise payable under rule 29 as a deferred retirement benefit. The deferred retirement benefit will be held for the CCASP Member in a Superannuation Account in Division 1 or Division 2 (as applicable) and the CCASP Member will then be dealt with as a Member of Division 1 or Division 2 (as applicable).

### **39. Overriding Increase in Benefits**

Notwithstanding any other provisions of these Rules a CCASP Member or Beneficiary shall be entitled in addition to all other benefits payable under these Rules, to the difference (if any) between the aggregate of:

- (a) the value of the contributions made by CCA in respect of the Beneficiary or relevant CCASP Member, calculated in accordance with the applicable requirements of the Relevant Law as if this rule 39 did not exist; and
- (b) the contributions paid or provided by or on behalf of CCA in respect of that Beneficiary or CCASP Member to any other superannuation fund (including another Benefit Division



of the Fund or Sub-plan) (or the value of such last mentioned contributions, as the case may be, as calculated in accordance with such requirements),

and the minimum CCA contributions required to be paid in respect of that Beneficiary or CCASP Member pursuant to such requirements, and that portion of the amount of contributions in respect of the relevant CCASP Member by CCA as may be required in order to comply with such requirements, or to avoid any adverse consequences or penalties arising from the Relevant Law, shall be vested in the CCASP Member and preserved in the manner so required.

#### **40. Guarantee Act**

Notwithstanding any other provisions of these Rules, the benefits payable to or in respect of a CCASP Member shall when taken into account with any other benefit provided for in respect of the Member from any other Benefit Division or Sub-plan or other superannuation fund to which CCA contributes or has contributed in respect of the Member shall not be less than the benefit determined by the Trustee on the advice of the Actuary as being sufficient to satisfy CCA's obligations under the Guarantee Act.

### **INSURANCE**

#### **41. Effecting Insurance**

- (a) The Trustee may (and must to the extent required by any provisions of these Rules) effect insurance in respect of any benefit or other amount which might become payable from the CCASP Sub-plan in relation to the death or Permanent Disablement of a CCASP Member.
- (b) The Trustee may pay out of the CCASP Sub-plan all premiums and other outgoings in respect of insurance and may vary, surrender, terminate, assign or otherwise modify or deal with a relevant policy or other arrangement as the Trustee thinks fit.

#### **42. Adjustments relating to insurance**

- (a) Any benefit or other amount which may become payable from the CCASP Sub-plan in respect of which the Trustee seeks to effect or effects insurance must be reduced to the extent to which:
  - (i) for any reason the insurer fails to provide insurance on the insurer's standard terms (including for standard lives); or
  - (ii) for any reason the insurer:
    - (A) fails to provide or increase insurance;
    - (B) reduces or terminates insurance;
    - (C) limits or restricts insurance or the circumstances in which insurance proceeds will become payable; or
    - (D) refuses to consider, defers or denies a claim or the payment of insurance proceeds in whole or in part,

and the Trustee will adjust or defer that benefit, and any other benefit which the Trustee may consider to be affected, in the manner and to the extent the Trustee

may consider necessary in order to effect and take account of that action by the insurer.

- (b) In any case the amount, time for and basis of payment of all or part of a benefit in respect of which insurance has been effected must be adjusted in the manner and to the extent the Trustee considers necessary to take account of the terms and conditions upon which insurance proceeds are payable.

## **TRANSFER**

### **43. Transfer within LS Scheme**

[Deleted]

### **44. External Transfers**

Subject to any conditions determined by the Trustee:

- (a) In the case of a CCASP Member who would not otherwise be entitled to have a benefit paid from the CCASP Sub-plan, with the consent of the CCASP Member, the Trustee may transfer to an Approved Benefit Arrangement in which the CCASP Member participates or is eligible to participate all or part of the CCASP Member's Entitlement.
- (b) In the case of a Beneficiary, with the consent of the Beneficiary, the Trustee may transfer to an Approved Benefit Arrangement in which the Beneficiary participates or is eligible to participate all or part of the benefit payable to the Beneficiary.
- (c) In the case of a benefit (or part thereof) of a Beneficiary which in the opinion of the Trustee cannot for any reason (including where the Beneficiary is not capable of being located or has not given sufficient direction in respect of the payment of the relevant benefit) be paid to or in respect of the Beneficiary, the Trustee may, subject to the Relevant Law, pay the benefit in such manner as the Trustee shall determine.

### **45. Adjustment**

As a result of a partial transfer of a Member's Entitlement under rule 43 or 44, the Trustee may adjust the Member's remaining Entitlement in such manner as it thinks fit to account for the transfer.

## **CCASP EXPENSES**

### **46. CCASP Expenses**

Notwithstanding any other provision of these Rules, the Trustee must pay all CCASP Expenses from the CCASP Assets.

## **ADDITIONAL PROVISIONS**

### **47. Additional applicable rules**

In addition to the provisions in these, the following provisions apply in respect of CCASP Members and the CCASP Sub-plan:

- (a) [Deleted]

- (b) [Deleted]
- (c) [Deleted]
- (d) [Deleted]
- (e) [Deleted]
- (f) [Deleted]
- (g) [Deleted]
- (h) [Deleted]
- (i) rule 46 of Sub-Division C of the Sub-plan Rules for the Local Super Sub-plan (as if that rule for “Terminal Medical Condition Benefits” formed part of these Rules, adjusted accordingly)
- (j) [Deleted]

#### **48. Tax**

The Trustee may pay any Tax and take any action which the Trustee may consider appropriate in taking account of any Tax, including:

- (a) reducing or otherwise adjusting the amount of any benefit payable from the CCASP Sub-plan;
- (b) reducing amounts from the Entitlement of a Beneficiary or from amounts before they form part of the Entitlement of the Beneficiary;
- (c) establishing reserves and making provision for the payment of tax from the CCASP Sub-plan to relevant government authorities; and
- (d) making arrangements whereby another party pays or provides for the tax liability of the CCASP Sub-plan (or what would be the tax liability of the CCASP Sub-plan were it not for such arrangements).

#### **49. Transfer to Retained Benefit**

- (e) Other than in circumstances where a CCASP Member makes an election under rule 37(a), if a CCASP Member becomes entitled to a benefit under these Rules and wishes to retain that benefit in the Fund, the Trustee may arrange for the benefit of the CCASP Member to be transferred from the CCASP Sub-plan to the CCASP Member’s Non-CCASP Interest in Division 1 or Division 2 (as applicable) or Division 3 (as requested) and the Trustee shall make such a transfer and upon such a transfer the Member shall cease to be a CCASP Member and the Member’s benefit will be dealt with in accordance with the rules governing those Benefit Divisions.

#### **50. Net Earnings**

- (a) Any amount of any Net Earnings determined by the Trustee to be appropriate to attribute to the Entitlements of CCASP Members must be attributed to the Entitlements of CCASP Members, allocated and otherwise dealt with in accordance with the other

provisions of these Rules in the manner and on the basis determined by the Trustee (which may be on a unitised basis), either generally or in a particular case.

- (b) As at the date a benefit becomes payable from the CCASP Sub-plan in respect of a CCASP Member, and at any other time the Trustee may consider appropriate, the Trustee may determine the amount of Net Earnings of the CCASP Sub-plan and attribute it (which may be attributed on a unitised basis) in accordance with the other provisions of these Rules, on an interim basis in respect of the period since an allocation was last made in respect of the CCASP Member in accordance with this rule 50.

#### **51. Late Payment Interest**

The Trustee may adjust a CCASP Member's benefit to reflect earnings (including on a unitised basis) between the date on which a benefit becomes payable under these Rules and the date that such benefit is actually paid, at such rate as may be determined by the Trustee from time from time.

#### **52. Interest as Member**

[Deleted]