

Deed of Amendment for Avenue Superannuation Plan

Macquarie Investment Management Limited

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Deed dated 1ST JULY 2007

between **Macquarie Investment Management Limited** (ACN 002 867 003)
of Level 27, 20 Bond Street, Sydney, New South Wales, 2000 (**Trustee**)

Recitals

- A. By trust deed executed on # 2006 (as amended) (**Trust Deed**) the Trustee established the Avenue Superannuation Plan (**Fund**).
- B. The Fund commenced on # 2006.
- C. The Trustee is the present trustee of the Fund.
- D. Pursuant to Clause 15 of the Trust Deed, the Trustee may by deed vary the Trust Deed, subject to a number of restrictions set down in Clause 15.
- E. The Trustee is of the opinion that the amendments made by this Deed may be made in accordance with Clause 15 of the Trust Deed.

Operative Provisions

1. The Trust Deed is amended by:
 - (a) deleting the words and characters which have been marked with lines which delete them; and
 - (b) adding the words and characters which have been marked up with underlining;on the attached copy of the consolidated Trust Deed. The Fund continues subject to the provisions of this Deed and nothing in this Deed terminates or is deemed to have terminated the Fund or creates or is deemed to have created a new trust.
2. For the avoidance of doubt, this Deed does not:
 - (a) add any of the words and characters that are underlined in the attached copy of the consolidated Trust Deed that were underlined in the Trust Deed immediately prior to execution of this Deed;
 - (b) amend any of the provisions of the Trust Deed except those amended by making the additions and deletions under Clause 1.
3. The amendments are effective from the date of this Deed.
4. If any provision inserted in the Trust Deed by this Deed is void or ineffective by operation of law, or declared void by any Court of competent jurisdiction, such avoidance or ineffectiveness does not affect the operation of the remaining provisions of the Trust Deed, to the extent that the ineffective or void provisions can be severed from those provisions.
5. This Deed is governed by and interpreted in accordance with the law of New South Wales.

Executed as a deed.

THE COMMON SEAL OF ~~MACQUARIE~~
~~INVESTMENT MANAGEMENT LIMITED~~
WAS HEREUNTO AFFIXED IN ACCORDANCE
WITH THE COMPANY'S CONSTITUTION:

~~Executed by Macquarie Investment
Management Limited (ACN 002 867 003)
in accordance with its Constitution:~~

63/07



[Signature]
Signature of Authorised Person

[Signature]
Signature of Authorised Person

Dennis Leong
Print name

Neil Roderick
Print name

COMPANY SECRETARY
Office held

Executive Director
Office held

AVENUE SUPERANNUATION PLAN

TRUST DEED
AND RULES OF FUND

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THIS DEED is made on the day of 2006

BY: MACQUARIE INVESTMENT MANAGEMENT LIMITED
(ACN 002 867 003) having its registered office at Level 27, 20 Bond Street, Sydney in the State of New South Wales ("the Trustee").

WHEREAS:

- A. The Trustee wishes to establish and maintain an indefinitely continuing superannuation plan ("the Fund") to provide:
- (i) benefits for members of the Fund in the event of the retirement of members from gainful employment or occupation;
 - (ii) benefits for members of the Fund in the event of members attaining an age under which benefits can be received under the Superannuation Industry (Supervision) Act, 1993 ("the Act");
 - (iii) benefits for dependants of members in the event of the death of the member; and
 - (iv) for any further or ancillary purposes which are permitted under the Act or may be approved by the Australian Prudential Regulation Authority.
- B. The Trustee has agreed to act as the first Trustee of the Fund.

WITNESSES:

1. The Fund shall be named the Avenue Superannuation Plan.
2. The Fund shall come into operation on the day of 2006 (the "Commencing Date").
3. The "Rules" means the Rules scheduled to this Deed, as amended from time to time, which shall have effect as if set out in this Deed.
4. The Trustee may from the Commencing Date accept contributions to the Fund and all the assets of the Fund from time to time shall be vested in the Trustee upon trust to apply the same in the manner set forth in the Rules.
5. The Fund shall be managed and administered in all respects according to the Rules.
6. The first Trustee shall continue as Trustee until a substitute Trustee is appointed in accordance with the Rules. The Trustee of the Fund from time to time shall be appointed and may resign or be removed in accordance with the Rules.
7. The provisions of this Deed may be amended in the manner set out in the Rules.
8. This Deed and the Rules shall be governed by and construed in accordance with the law of New South Wales.

EXECUTED AS A DEED

**EXECUTED by MACQUARIE INVESTMENT)
MANAGEMENT LIMITED in accordance with)
s127 of the Corporations Act 2001 (Cth);)
)**

Signature of Secretary

Signature of Director

Print name of signatory

Print name of signatory

AVENUE SUPERANNUATION PLAN

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RULES OF THE AVENUE SUPERANNUATION PLAN

1. INTERPRETATION

1.1 Definitions

In the Rules unless the context or subject matter otherwise requires:

"Actuary" means an Actuary, whose accreditation is acceptable for the purposes of the Relevant Law, who is for the time being appointed by the Trustee for the purposes of the Rules.

"Administration Agreement" means the agreement entered into between MIML and the Nominator on or around the date of this Deed.

"Allocated Pension" means a pension under which the Beneficiary has the right to receive regular income payments to be made by the Trustee to the Beneficiary from that Beneficiary's Allocated Pension Account maintained by the Trustee in the Division. Subject to the pension complying with the Relevant Law, the regular payments are determined on the basis agreed between the Trustee and the Beneficiary from time to time and continue until the account is exhausted.

"Allocated Pension Account" means the account established by the Trustee in respect of a Beneficiary in accordance with the Schedule applicable to the Division.

"Approved Benefit Arrangement" means a fund or benefit arrangement, other than the Fund, to which a payment may be made from the Fund, or from which a payment may be accepted into the Fund, in accordance with the Relevant Law.

"Auditor" means an "approved auditor" as defined in the Relevant Law.

"Beneficiary" means a person presently beneficially entitled to receive a Benefit from a Division. To avoid doubt, a Member of a Division may also be a Beneficiary of that Division.

"Benefit" means the amount paid or payable (as the case may be) from a Division to or in respect of a Beneficiary, and includes an Allocated Pension and a Term Allocated Pension.

"Benefit Direction" in respect of a Beneficiary, means a written notice received by the Trustee from the Beneficiary which:

- (a) was given to the Trustee by the Beneficiary prior to the Beneficiary commencing to receive a pension from the Fund;
- (b) is in a form approved by the Trustee;
- (c) has effect from the date the Beneficiary commences to receive a pension from the Fund; and
- (d) directs the Trustee, on the death of the Beneficiary, to pay a pension to a Dependant of the Beneficiary.

To avoid doubt, the written notice may request that the pension to be paid is not to be commuted after the death of the Beneficiary who gives the notice. If the Trustee consents to that request, the pension must not be commuted after the death of the Beneficiary who gives the notice.

"Child" includes a step-child, an ex-nuptial child, a legally adopted child, a posthumous natural child and a person recognised by the Trustee as an adopted child.

"Commissioner" means the Australian Prudential Regulation Authority, the Australian Securities and Investments Commission or the person for the time being holding the office of Commissioner of Taxation, according to the context in which the expression is used.

"Corporations Act" means Chapter 7 of the Corporations Act, 2001 and any regulations made or issued under Chapter 7.

"Death Benefit" means, for a Member or Beneficiary and to the extent applicable, the total of the following amounts:

- (a) for a Member:
 - (i) the Member's Division Credit for each Division; plus
 - (ii) any Insured Benefit payable to the Fund on the Member's death;
- (b) for a Beneficiary who is not a Member:
 - (i) the Beneficiary's Allocated Pension Account balance or Allocated Pension Account balances; plus
 - (ii) the Beneficiary's Term Allocated Pension Account balance or Term Allocated Pension Account balances; plus
 - (iii) any Insured Benefit payable to the Fund on the Beneficiary's death;
- (c) for a Member or Beneficiary who was receiving a pension or pensions from the Fund (Allocated Pensions and Term Allocated Pensions not to be counted for this purpose) when he or she died, the amount payable on the death of the Member or Beneficiary in accordance with the terms of the pension or pensions.

"Deed" means the Deed to which the Rules are annexed and includes the Rules.

"Dependant" in relation to a Member or Beneficiary includes a Spouse and Child of the Member or Beneficiary, and any other person who in the opinion of the Trustee is or was at the relevant time wholly or partially dependent on the Member or Beneficiary for maintenance and support or who is taken to be a dependant under the Relevant Law.

"Division" means the Avenue Superannuation Division and any other Division the Trustee resolves, with the consent of the Nominator, to establish. To avoid doubt, a person may be a Member of more than one Division, a Beneficiary of more than one Division and a Member of one Division and a Beneficiary of another Division.

"Division Credit" means in relation to a Member, the total value of the Member's Accounts for the Division.

"Division Membership" means in relation to a Member, the period of employment with the Employer during which the Member has contributed to the Division, or the Employer has contributed to the Division on behalf of the Member PROVIDED that the Employer may nominate some other basis to determine Division Membership in the Participation Agreement.

"Employer" means a Participating Employer and, in relation to a particular Member or former Member, means the Employer in whose employment that person is or was at the relevant time.

"Employer Contribution Account" means the account established by the Trustee in respect of a Member and managed by the Trustee in accordance with the Schedule applicable to the Division.

"Family Law Act" means Part VIII B of the Family Law Act 1975 and any regulations made or issued under Part VIII B.

"Foregone Benefits Account" means an account established and managed by the Trustee in accordance with the Schedule applicable to the Division.

"Fund" means the superannuation fund established pursuant to the Deed, and all its assets, to be known as the Avenue Superannuation Plan, including the Divisions.

"Fund Year" means a period of twelve months ending on 30 June each year or such other date as the Trustee may determine from time to time.

"Hub Strategy" means, for the purposes of Schedule 1, the investment strategy specified by the Trustee in Clause A1.6(c).

"Individual Member" means a person who is admitted as a Member of a Division under Clause 2.2.

"Insured Benefits" means in relation to a Member or Beneficiary, those benefits in a Division, including the provision of a pension, which the Trustee has secured by way of life insurance in the event of a Member's or Beneficiary's death or Total and Permanent Disablement or income protection insurance in respect of a Member or Beneficiary, but does not include benefits which the Trustee has secured under an investment account contract or investment linked contract as defined in the Life Insurance Act 1995.

"Life Insurance Policy" means a life insurance contract or contract of income protection insurance owned by the Trustee and issued on the life of a Member or group of Members.

"Member" means any person who has been admitted as a Member of a Division pursuant to Section 2. To avoid doubt, a Beneficiary of a Division may also be a Member of the Division, but is not necessarily a Member of the Division.

"Member's Accounts" means the accounts kept in respect of each Member pursuant to the Schedule applicable to the Division.

"Member Contribution Account" means the account established by the Trustee in respect of a Member and managed by the Trustee in accordance with the Schedule applicable to the Division.

"MIML" means Macquarie Investment Management Limited.

"Nominator" means Avenue Capital Management Ltd.

"Non-lapsing Nomination" in respect of a Member or Beneficiary, means a written notice received by the Trustee from the Member or Beneficiary under Clause 6.3.3 which:

- (a) is in a form approved by the Trustee and meets any requirements determined from time to time by the Trustee for such Nominations;
- (b) is clear on its face that it is not intended to lapse at the end of any fixed period of time;
- (c) confirms a previous Non-lapsing Nomination or makes a new nomination in respect of the Death Benefit payable on the Member's or Beneficiary's death, the nominee or each nominee (if more than one) to be a Dependant or the Personal Representative of the Member or Beneficiary;
- (d) is intended by the Member or Beneficiary to be binding on the Trustee if the Trustee gives its consent in accordance with Clause 6.3.CB;
- (e) can be revoked or amended by the Member or Beneficiary at any time, in a form approved by the Trustee; and
- (f) the Trustee has given its consent in accordance with Clause 6.3.4.

To avoid doubt, if the Trustee so determines a Non-lapsing Nomination may:

- (g) specify the proportions payable to each nominee (if there are more than one) and the form of the payment or payments;
- (h) provide that a nominee who does not satisfy a specified contingency will not have an entitlement and another nominee will take that entitlement instead;
- (i) provide that in the event of the death of a nominee who receives his or her entitlement as an Allocated Pension, Term Allocated Pension or a pension, the residue (if any) is to be paid to a

person or persons (who, if required by the Relevant Law, must be Dependants of a particular deceased Member), whether such a person is named, is otherwise identifiable or is to be determined by the Trustee in its discretion in accordance with the Non-lapsing Nomination;

- (j) specify that a Death Benefit payable as an Allocated Pension, Term Allocated Pension or pension is not commutable;
- (k) specify or provide for anything else;

and in these cases, subject to the Relevant Law the Death Benefit must be paid in accordance with any of the matters so provided or specified in the Non-lapsing Nomination.

"Normal Retirement Date" means in relation to a Member, the date on which the Member attains 65 years of age or such other age, acceptable under the Relevant Law, nominated in the Participation Agreement.

"Participation Agreement", for the purposes of a Division, means:

- (a) in relation to an Employer and those Members who are employed by that Employer, the agreement between the Employer and the Trustee covering the following:
 - (i) contributions to be paid to the Division by the Employer;
 - (ii) contributions to the Division (if any) to be paid by the Members employed by the Employer;
 - (iii) the investment selection pursuant to the Schedule applicable to the Division;
 - (iv) the Benefits to be provided under the Division in respect of those Members; or
- (b) in relation to an Individual Member, the application made by the Individual Member to the Trustee specifying:
 - (i) contributions payable to the Division by the Individual Member or any person in respect of the Individual Member;
 - (ii) the Member's investment selection pursuant to the Schedule applicable to the Division;
 - (iii) the Benefits to be provided under the Division in respect of such Member as varied by the parties from time to time; and
 - (iv) such other matters as the Trustee determines.

"Participating Employer" means any company, partnership or person which the Trustee has approved to participate in a Division as an Employer.

"Personal Representative" means, in relation to a Member or Beneficiary, the "legal personal representative" of that Member or Beneficiary as defined in the Relevant Law.

"Preserved Benefit" means that part of a Benefit in respect of a Member, or that part of the Member's interest in a Division, as appropriate, which is required to be preserved under, and in accordance with, the Relevant Law.

"Relevant Law" means:

- (a) SIS;
- (b) the Corporations Act;
- (c) the Family Law Act; and
- (d) from the date determined by the Trustee, any other statutory or regulatory requirement determined by the Trustee to be applicable;

PROVIDED THAT if an exemption from compliance with such requirement is granted, or a breach by the Trustee is consented to, by the Commissioner, either generally or in respect of the Fund, the operation of the appropriate requirement is qualified accordingly.

"Reserve Account" means an account established and managed by the Trustee in accordance with the Schedule applicable to the Division.

"Retrenchment" means, in the opinion of the Trustee whose decision shall be final, the termination of a Member's employment with the Employer by reason of the reduction or re-organisation of labour, or because the position in which the Member is employed is no longer necessary, and the Member is not offered similar employment with any organisation associated with the Employer.

"Rules" means these Rules, as altered or amended from time to time.

"Schedule" means Schedule 1 or any other schedule as the context requires.

"Section" means a Clause or group of Clauses in the Rules identified by the same initial number.

"SIS" means the Superannuation Industry (Supervision) Act, 1993 and any regulations made or issued thereunder.

"Spouse" includes a de facto spouse who lives with the Member on a bona fide domestic basis as the husband or wife of the Member and the widow, widower or surviving de facto spouse of a Member.

"Taxation Reserve Account" means an account established and managed by the Trustee in accordance with the Schedule applicable to the Division.

"Term Allocated Pension" means a pension under which the Beneficiary has the right to receive regular income payments for the applicable term, to be made by the Trustee to the Beneficiary from that Beneficiary's Term Allocated Pension Account maintained by the Trustee in the Division. Despite any other provisions of this Deed, the pension must comply with the standards for a market linked pension under sub regulation 1.06(8) and regulation 1.07C of SIS and, unless agreed otherwise by the Trustee and the Beneficiary, any other regulatory requirement in order for the pension to be taken as complying for reasonable benefit limit and social security asset test purposes. Subject to complying with those standards, the pension may have such other features as are agreed by the Trustee and the Beneficiary, the regular payments are determined on the basis agreed between the Trustee and the Beneficiary from time to time and continue until the account is exhausted, and the pension may be commuted (in whole or part) if requested by the Beneficiary and agreed to by the Trustee.

"Term Allocated Pension Account" means the account established by the Trustee in respect of a Beneficiary in accordance with the Schedule applicable to the Division.

"Total and Permanent Disablement" in respect of a Member, means:

- (a) to the extent that the Trustee is entitled to claim under a policy of insurance which the Trustee has effected to provide a benefit on the total and permanent disablement of the Member, the definition of "total and permanent disablement" in that policy; and
- (b) in the absence of any relevant insurance, the disablement of a Member to the extent that the Member is, in the opinion of the Trustee, formed after obtaining certification from two registered medical practitioners, unlikely ever to be able to work in a job for which the Member is reasonably qualified by education, training or experience.

"Trustee" means the trustee or trustees for the time being of the Fund whether original or substituted as hereafter provided.

"Written Notification of the Death" means a notice to the Trustee in writing containing proof of death satisfactory to the Trustee.

1.2 General

(a) Plural and gender of words

In the Rules unless the context otherwise requires, words importing any one gender shall be deemed to include the other gender and words importing the singular number shall be deemed to include the plural number and vice versa.

(b) Headings

The headings in the Rules are for convenience of reference only and shall not affect the interpretation of the Rules.

(c) Defined Words

For convenience, the first letters of words and expressions defined in the Rules are indicated by capital letters, (but the absence of a capital letter shall not alone imply that the word or phrase is used with a meaning different from that given by its definition).

(d) Statutory Enactments

References in the Deed to any Act shall be construed as referring to that Act as amended, modified or re-enacted from time to time and shall include any enactment in substitution or replacement for such Act.

(e) Reference to person

A reference to a person in the Rules includes a firm, body corporate, unincorporated association or governmental authority.

2. PARTICIPATION

2.1 Participating Employer

(a) The Trustee may in its discretion admit a Participating Employer to participate in a Division on the terms agreed in the Participation Agreement. A Participating Employer so admitted shall agree to be bound by the Rules.

(b) Employees of a Participating Employer are eligible to be admitted as Members of a Division by the Trustee with such entitlements as to Benefits and on such terms as to contributions by the Member and/or by the Employer in respect of the Member, as are specified in the Participation Agreement.

2.2 Individual Members

The Trustee may in its discretion admit a person the Trustee can admit to membership of a Division in accordance with the Relevant Law. Before admitting a person to membership, if it so determines the Trustee may require the person (or another person on that person's behalf) to make application for membership on the terms specified in the Participation Agreement. To avoid doubt but subject to the Relevant Law, where a person is to be admitted to membership of a Division by virtue of being a non-

member spouse who is entitled to a payment split under the Family Law Act, such admission to membership is contingent on the person making such application or meeting such other requirements as the Trustee determines.

2.3 Information

- (a) The Trustee may require both prospective Members and Members, to complete application forms, provide information and evidence, and undergo medical examinations and tests as the Trustee considers necessary or desirable.
 - (b) Subject to the Rules if
 - (i) a prospective Member or a Member fails to comply with paragraph (a) of this Clause or to satisfy any test, standard or requirement to the satisfaction of the Trustee; or
 - (ii) any statement made or evidence provided by or in respect of a prospective Member or a Member (whether in connection with an application to become a Member or otherwise) is found to contain any mis-statement, or there has been a material non-disclosure of relevant information;
- the Trustee may impose special terms, conditions and restrictions in respect of Insured Benefits provided under the Fund.

2.4 Conditions

Upon becoming a Member of a Division the Member is deemed to have approved of and is bound by the Rules.

2.5 Cessation of Membership

Membership of a Division ceases on:

- (a) payment in full of the Benefit under the Division to or in respect of the Member; or
- (b) transfer of the Member's entire interest in the Division under Clause 2.8 or Clause 11.2, whichever occurs first.

2.6 Notice to Applicants and New Members

The Trustee shall give to applicants for membership, and new Members of a Division, statements containing the information required to be disclosed to applicants and new Members by the Relevant Law in the manner, and in the circumstances prescribed by the Relevant Law.

2.7 Employment Relationship

Nothing in these Rules shall affect the powers or rights of an Employer with respect to the remuneration, terms of employment or dismissal of a Member, or any other dealings of the Employer with a Member in respect of the Member's employment and, without limiting the generality of the foregoing, nothing in those Rules shall be used to vary damages in any action brought against the Employer in respect of the dismissal of a Member, or affect the rights of a Member or the Member's Personal Representative or other persons to claim damages or compensation at common law or under

Workers Compensation legislation, and the Benefit payable shall not be reduced by reason of payment of such damages or compensation except as provided under the Rules or required by law.

2.8 Transfers between Divisions

At any time, a Participating Employer or a Member may, if the Trustee agrees, switch participation from a Division to another Division and the balances of the relevant Member's Accounts shall be transferred to Member's Accounts in the transferee Division.

3. TRUSTEE

3.1 Appointment and Removal of the Trustee

- (a) MIML will be the initial Trustee of the Fund and, subject to the Relevant Law, shall cease to be the Trustee on the first to occur of the following:
 - (i) the expiry of 5 years from the date on which the Administration Agreement is made or a longer period it agrees with the Nominator;
 - (ii) termination of the Administration Agreement by MIML for any reason;
 - (iii) a breach by MIML of any of its obligations under the Administration Agreement, unless it rectifies the breach in accordance with clause 13.3 of the Administration Agreement or the Nominator agrees to waive the breach for this purpose;
 - (iv) any of the circumstances listed in clause 13.4 of the Administration Agreement applies in relation to MIML (under clause 13.4 of the Administration Agreement, MIML shall be taken to be Party B for this purpose), unless the Nominator agrees to waive the circumstance for this purpose .
- (b) The Trustee shall be a constitutional corporation (as the term is defined in the Relevant Law) and, from the date required under the Relevant Law, hold an RSE licence (as that term is defined under the Relevant Law). Subject to paragraph (a) of this clause, the Trustee shall be appointed by the Nominator, which may appoint itself.
- (c) Each Member is deemed, upon admission to membership, to have confirmed his or her acceptance of the appointment of the Trustee.
- (d) A Trustee shall cease to hold office:
 - (i) if the Trustee resigns by written notice to the Nominator. This paragraph (d)(i) will not apply where MIML is Trustee of the Fund;
 - (ii) subject to the Relevant Law, if the Trustee is removed from office by notice in writing by the Nominator. This paragraph (d)(ii) will not apply where MIML is Trustee of the Fund;
 - (iii) if it goes into liquidation or is placed under receivership, or enters into a compromise relationship with creditors, or is wound up;
 - (iv) in the case of MIML, if it ceases to hold office in accordance with paragraph (a) of this clause.
- (e) In the event a Trustee position becomes vacant, a new Trustee shall be appointed by the Nominator within sixty days.
- (f) Any new Trustee shall, upon and by virtue of appointment, have all the powers, authorities, discretions and duties conferred or imposed on or undertaken by the Trustee under the Rules or otherwise by law.
- (g) The Trustee shall take all reasonable steps to ensure that each Employer shall, when required by the Relevant Law, establish a policy committee consisting of an equal number of Employer representatives and Member representatives. The Employer shall appoint the Employer

representatives of the policy committee while those Members who are employees of the Employer shall elect representatives in accordance with a procedure approved by the Trustee as being acceptable for the purposes of the Relevant Law.

3.2 Liability of Trustee

- (a) With the exception of fraud or wilful neglect or misconduct on the part of the Trustee, and such other conduct which if not excepted would cause this Clause 3.2 to be void under the Relevant Law, the Trustee shall not incur any liability for:
- (i) any loss suffered by a Division, the Fund, by any Member, by any Employer, or any person having at any time an interest in the Fund;
 - (ii) the act or default of any Member or Employer;
 - (iii) the neglect or default of any solicitor, banker, accountant, broker, Auditor, Actuary, adviser, agent or other such person, firms or companies employed in good faith by the Trustee;
 - (iv) the bankruptcy or insolvency of, or any fraudulent or negligent act by, any servant or delegate of the Trustee or any person with whom any investment may be deposited;
 - (v) time payment of an amount or benefit to a person reasonably believed to be entitled thereto but whom is in fact not so entitled;
 - (vi) any action taken or thing suffered in reliance upon any document, record, authority, representation, statement or evidence reasonably believed by the Trustee, or a servant or delegate, in good faith to be genuine, accurate and effective;
 - (vii) any act or acts done or omitted to be done bona fide in conformity with any decisions of the Trustee;
 - (viii) any mistake or determination or erroneous decision that exposes the Trustee to any claim by any person having an interest in a Division or the Fund; or
 - (ix) any breach of duty or trust;

PROVIDED THAT if any of the provisions of this Clause are void or ineffective by operation of law, or declared void by any Court of competent jurisdiction, such avoidance or ineffectiveness shall not affect the operation of the remaining provisions to the extent that the ineffective or void provisions can be severed from the Clause.

- (b) A reference in this Clause 3.2 to "Trustee" is, unless the context requires otherwise, also regarded as a reference to a director of the Trustee.

3.3 Indemnity of Trustee

- (a) The Trustee shall, to the extent permitted by law and except in the case of any conduct which if not excepted would cause this Clause 3.3 to be void under the Relevant Law, be indemnified from a Division or the Fund, as applicable, against all liabilities incurred by it in the exercise or purported exercise or as a consequence of the failure to exercise any of the trusts, powers, authorities and discretions vested in it under the Rules or at law and, to the extent permitted under the Relevant Law, shall have a lien on and may use the assets forming part of the Fund for the purposes of this indemnity. To avoid doubt, this Clause 3.3 is to be read subject to Section 20.
- (b) A reference in this Clause 3.3 to "Trustee" is, unless the context requires otherwise, also regarded as a reference to a director of the Trustee. The indemnity provided to a director extends to any liability for an act or omission of another director of the Trustee.

3.4 Policy Committees

- (a) Subject to the Relevant Law, a policy committee established under Clause 3.1 may meet, adjourn and otherwise regulate its meetings as it sees fit.
- (b) In the event a position in the policy committee becomes vacant, it shall be filled within 90 days.
- (c) In all other respects, policy committees shall operate on a basis which meets the requirements of the Relevant Law.

3.5 Remuneration of Trustee

The Trustee is entitled to charge fees in accordance with Clause 10.2. In addition, but subject to Section 20, the Trustee shall recover the costs and disbursements incurred in administering a Division or the Fund by deducting such expenses from the Division of the Fund, as applicable.

3.6 Delegation by Trustee

The Trustee may delegate any function to be performed under the Rules and any power, authority or discretion exercisable by it (including a power or discretion which it has a duty to exercise or perform and the power of delegation) to any other person, firm or company (including an associated company) in such manner and upon such terms and conditions as it thinks fit. The Trustee may vary or revoke any such delegation as it thinks fit and may exercise any power in conjunction with or to the temporary or permanent exclusion of a delegate.

3.7 Confidentiality

The Trustee and the members of each policy committee appointed, if any, shall be required to treat as confidential any information acquired in the course of performing their responsibilities and only use that information for the purposes of the Division or the Fund, as applicable.

3.8 Trustee Discretion

The Trustee, in the exercise of powers and discretions vested in it under the Rules, shall have an absolute and uncontrolled discretion and may exercise or enforce all or any powers and discretions from time to time or at any time, or may refrain from exercising all or any powers or discretions from time to time, or at all.

3.9 SIS Election

The Trustee may, and shall if required by SIS, elect that the Fund is to be a regulated superannuation fund under SIS.

4. CONTRIBUTIONS

4.1 Member Contributions

- (a) Subject to Clause 14.1, a Member shall contribute to a Division on the basis specified in the Participation Agreement (or on such other basis agreed with the Trustee).

- (b) Subject to Clause 14.1, an employer of an Individual Member or any person may contribute to a Division a Division on behalf of the Member on the basis agreed with the Trustee.
- (c) The Trustee may assume, without enquiry, that the Employer is authorised to deduct the contribution by a Member employed by that Employer from the Member's salary and the Trustee, and the Division, shall not be liable if such deduction is not authorised by the Member, or otherwise by law.
- (d) Upon any reduction or cessation of Member contributions to a Division, the Trustee shall adjust and otherwise deal with the Benefit of the Member in the manner it considers appropriate in the circumstances.

4.2 Employer Contributions

- (a) Subject to Clause 14.1, the Employer shall contribute to a Division in respect of a Member at the rate specified in the Participation Agreement (or such other rate agreed with the Trustee).
- (b) Upon any reduction or cessation of Employer contributions to a Division, the Trustee shall adjust and otherwise deal with the Benefit of the Member in the manner it considers appropriate in the circumstances.

4.3 Additional Contributions

Subject to Clause 14.1 and the approval of the Trustee, the Employer, any Member and any other person may make additional contributions to a Division. Additional contributions by the Member and any person other than the Employer shall be credited to the Member Contribution Account. Additional contributions by the Employer shall be credited, as directed by the Employer, to the Employer Contribution Account or the Member Contribution Account of the Member in respect of whom the additional contribution is made.

4.4 Payment of Contributions

- (a) Contributions shall be made to the Trustee on a monthly basis, or at such other intervals acceptable to the Trustee.
- (b) Contributions shall be paid by cheque or in any other manner approved by the Trustee.
- (c) The Member may request the Trustee to accept contributions to a Division made through any direct payment facility and the Trustee shall:
 - (i) credit the Member's Accounts with the relevant contribution with effect on the date the periodical deduction is scheduled to occur; and
 - (ii) debit the Member's Accounts with the amount incorrectly credited if, for any reason, the periodical deduction is not effected at the scheduled time.

4.5 *Splitting Contributions*

If permitted by the Relevant Law and agreed by the Trustee, a contribution by or on behalf of a Member may in whole or part be applied to the Member's Accounts of a second Member who is the Spouse of the first Member. If so, for the purposes of the Rules the amount so applied is deemed to be a contribution made by the second Member. To avoid doubt, for this purpose but subject to the Relevant Law the Trustee may admit a person to membership of a Division without an application having been made by or on behalf of the person.

4.6 *Repaying Contributions*

If required by the Relevant Law, a contribution by or on behalf of a Member shall be repaid by the Trustee to the person, and within the time, specified in the Relevant Law. In making a repayment, the Trustee may adjust the amount to be repaid to account for investment earnings (whether positive or negative) and fees, costs and expenses as permitted by the Relevant Law.

5. ACCOUNTS AND ALLOCATION OF PROFITS AND LOSSES

5.1 *Accounts*

The Trustee shall maintain accounts in respect of Members and/or Beneficiaries and/or a Division in accordance with the Schedules.

5.2 *Allocation of Profits and Losses*

The Trustee shall allocate profits and losses in respect of a Division in accordance with the Schedule applicable to the Division.

5.3 *Trustee Powers – Accounts*

- (a) The Trustee may sub-divide any account established under a Schedule, or establish additional accounts, if, in the opinion of the Trustee, it is appropriate or desirable to do so for the purposes of a Division.
- (b) The Trustee may vary the items to be credited or debited to any of the accounts established under a Schedule if, in the opinion of the Trustee, it is necessary or desirable to do so, for the purposes of the Division having regard to the interests of Members and Beneficiaries.

6. PAYMENT OF BENEFITS

6.1 *Overriding Restrictions*

Notwithstanding anything expressed or implied to the contrary in the Rules:

- (a) the Trustee shall limit, adjust, pay, or delay the payment of a Benefit, or take such other appropriate action as is, in the opinion of the Trustee, necessary to ensure the Fund complies with the Relevant Law;
- (b) no deduction, reduction, forfeiture or other adjustment shall be made to or from any Benefit that has accrued, or become payable, to a Beneficiary in breach of the Relevant Law;

- (c) in any case where the Trustee applies for insurance of any part of the Benefit in respect of a Member, such Benefit shall (unless otherwise determined by the Trustee), be reduced to the extent to which the Trustee is unable to effect such insurance on terms acceptable to the Trustee, or by the amount of any such insurance or part thereof which, having been effected, the insurer declares void, or for which the insurer refuses liability, for any reason;
- (d) a Beneficiary shall accept payment of the Benefit calculated by the Trustee in full discharge of all claims on the Division;
- (e) the Trustee shall ensure Benefits are fully secured if so required under the Relevant Law, but the Trustee shall not be liable to provide Benefits greater in amount than can be secured by the assets of the Division;
- (f) the Trustee may, at the request of a Member, pay to or apply on behalf of the Member any part or the whole of the Member's Accounts, subject to the Relevant Law. To avoid doubt, this includes:
 - (i) ~~a Benefit being paid as a non-commutable pension (including an Allocated Pension or Term Allocated Pension) as permitted by the Relevant Law; and~~
 - (ii) ~~a payment in accordance with a release authority as permitted by the Relevant Law.~~
- (g) the Trustee shall determine any claim by or on behalf of a Member under Clause 6.3 and 6.4 within a period of 6 months of receiving written notice of the claim, or such longer period as it considers necessary. After the expiry of that time, subject to the Relevant Law the Trustee is not obliged to reconsider the claim.

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6.2 Retirement

- (a) On a Member's permanent retirement on or after the Normal Retirement Date the Member shall be entitled to receive a Benefit equal to the Division Credit for each Division.
- (b) ~~At the request of a Member who has attained age 65 or met another condition of release in accordance with the Relevant Law, the Trustee may permit the Member to withdraw from the Division (or Divisions, if more than one) prior to retirement in which case the Member shall be entitled to the Benefit under paragraph (a) of this Clause.~~

Deleted: PROVIDED
Deleted: if the Relevant Law requires a Member to be paid his or her Benefit before permanent retirement, the Trustee shall pay the Benefit.¶

6.3 Death Benefits

6.3.1 A Member's interest in the Fund ceases immediately on his or her death and the Trustee must pay the Death Benefit as follows:

- (a) if the Trustee holds for the Member:
 - (i) a Benefit Direction, to the nominee in the Benefit Direction as a pension in accordance with the terms of the Benefit Direction; or
 - (ii) a Non-lapsing Nomination, in accordance with the terms of the Non-lapsing Nomination;

but if a nominee predeceases the Member who made a Non-lapsing Nomination or for any other reason (including without limitation that the Non-lapsing Nomination, or the part of it that relates to a particular nominee, is not valid at law) it cannot be paid, the Death Benefit (or, in the case of multiple nominees, the relevant part of the Death Benefit) is to be paid to the Member's Personal Representative;

- (b) if the Trustee does not hold a Benefit Direction or Non-lapsing Nomination for the Member,
 - to the Member's Personal Representative or if, to the Trustee's knowledge, there is no Personal Representative and the Trustee has a reasonable belief that there will not be a Personal Representative appointed, the Member's next of kin who is also a Dependant.

6.3.2 The interest in the Fund of a Beneficiary who is not a Member ("Death Benefit Pensioner") ceases immediately on his or her death and the Trustee must pay the Death Benefit as follows:

- (a) if the Trustee holds a Non-lapsing Nomination for the Death Benefit Pensioner, in accordance with the terms of the Non-lapsing Nomination,

but if a nominee predeceases the Death Benefit Beneficiary who made the Non-lapsing Nomination or for any other reason (including without limitation that the Non-lapsing Nomination, or the part of it that relates to a particular nominee, is not valid at law) it cannot be paid, the Death Benefit (or in the case of multiple nominees, the relevant part of the Death Benefit) is to be paid to the Death Benefit Pensioner's Personal Representative;

- (b) if:

- (i) the Death Benefit Pensioner was not the Beneficiary of a Benefit Direction; and
- (ii) the Trustee holds a Benefit Direction for the Death Benefit Pensioner,

to the nominee in the Benefit Direction as a pension in accordance with the terms of the Benefit Direction;

- (c) if the Death Benefit Pensioner does not satisfy paragraphs (a) or (b) above:

- (i) to the Death Benefit Pensioner's Personal Representative; or
- (ii) if, to the Trustee's knowledge, there is no Personal Representative and the Trustee has a reasonable belief that there will not be a Personal Representative appointed, to the Death Benefit Pensioner's next of kin who is also a Dependant.

6.3.3 A Member or Beneficiary may give the Trustee a notice which is intended by the Member or Beneficiary to be a Non-lapsing Nomination.

6.3.4 If a Member or Beneficiary gives a notice to the Trustee under Clause 6.3.3 and the Trustee is satisfied that the notice is an exercise of discretion by the Member or Beneficiary, the Trustee may consent to the exercise of that discretion (which includes the giving of the notice) on any grounds that the Trustee considers appropriate.

6.3.5 A Non-lapsing Nomination remains current until:

- (a) it is revoked; or
- (b) the Member or Beneficiary gives the Trustee another Non-lapsing Nomination.

A Member's or Beneficiary's Non-lapsing Nomination wholly revokes the Member's or Beneficiary's previous Non-lapsing Nomination.

6.3.6 At any time, by notice in writing to the Trustee, a Member or Beneficiary may revoke or amend a current Non-lapsing Nomination if the Trustee is satisfied that the notice is an exercise of discretion by the Member or Beneficiary and the Trustee consents to the exercise of that discretion. The Trustee may consent or refuse to consent as it considers appropriate.

6.3.7 The Trustee must:

- (a) accept a notice to the Trustee as a Non-lapsing Nomination if the Trustee is satisfied the notice is a Non-lapsing Nomination;
- (b) accept a notice to the Trustee to revoke or amend a current Non-lapsing Nomination if the Trustee consents to the notice in accordance with Clause 6.3.5.

6.3.8 If at any time the Trustee considers that a proposed Non-lapsing Nomination or a Non-lapsing Nomination is not sufficiently clear to allow the Trustee to pay a Death Benefit according to the Non-lapsing Nomination, the Trustee may refuse to accept it or give effect to it.

6.3.9 Without limiting the effect of Clauses 3.2 and 3.3, the Trustee is discharged from any liability to, or claim by, any person whatsoever in respect of a Member's or Beneficiary's Death Benefit if:

- (a) the Trustee pays the Death Benefit in accordance with the Member's or Beneficiary's Non-lapsing Nomination and any confirmation or amendment of it; or
- (b) the Trustee does not pay the Death Benefit in accordance with the Member's or Beneficiary's Non-lapsing Nomination and the Trustee reasonably believes that the Non-lapsing Nomination was revoked by the Member or Beneficiary.

6.4 *Disablement*

6.4.1 On the Total and Permanent Disablement (proved to the satisfaction of the Trustee) of a Member, prior to the Normal Retirement Date, there shall be payable to the Member a Benefit equal to:

- (a) the Division Credit; and
- (b) the Insured Benefits, if any;

for each Division.

6.4.2 Where the Trustee receives an Insured Benefit arising from income protection insurance held by the Trustee in respect of a Member, there shall be payable to the Member a Benefit equal to the Insured Benefit, at such times and by such instalments as the Trustee determines.

6.5 *Retrenchment Benefit*

On the Retrenchment of a Member, not being an Individual Member, prior to the Normal Retirement Date, the Member shall be entitled to receive a Benefit equal to the Division Credit for each Division.

6.6 *Resignation or Early Retirement Benefit*

On a Member ceasing employment with no entitlement to a Benefit under Clauses 6.2, 6.4, or 6.5, the Member shall be entitled to receive from each Division:

- (a) the balance of the Member Contribution Account;
- (b) that part of the balance of the Employer Contribution Account (if any) as is determined in accordance with the Participation Agreement;
- (c) any other part of the Employer Contribution Account vested in the Member under the Relevant Law;

PROVIDED THAT the Trustee may, with the consent of the Employer, pay all or part of the balance of the Employer Contribution Account (if any) to the Member. Any part of the balance of the Employer Account not paid to the Member shall be applied to offset contributions to the Division otherwise payable by the Employer of such Member, or for such other purpose as may be agreed between the Trustee and the Employer, subject to the Relevant Law.

6.7 Beneficiary under Disability

If it appears to the Trustee that a Beneficiary is under any legal disability, or is unable for any reason to satisfactorily deal with an amount otherwise payable to the Beneficiary from a Division, the Trustee may pay or apply the whole or part of any Benefit payable to the Beneficiary in such one or more of the following ways:

- (a) to any Dependant of the Beneficiary, if the Beneficiary is, or was, a Member;
- (b) for or towards the maintenance education advancement or otherwise for the benefit of the Beneficiary or, if the Beneficiary is, or was, a Member, of any Dependant of the Beneficiary in such form and manner and subject to such terms and conditions as the Trustee thinks fit; and
- (c) without limiting the generality of paragraph (b), to a person who appears to the Trustee to be a trustee for (including a trustee appointed by the Trustee under a separate trust established by the Trustee, which trust may be subject to such trusts and powers as the Trustee thinks fit) or a representative or guardian of, or a person who has for the time being the care or custody of the Beneficiary or to have the financial expense of the care or custody of the Beneficiary.

The Trustee is not under any duty to have recourse to this Clause or to consider whether recourse should be had to it, notwithstanding that the Trustee may have actual notice of any infirmity, lack of fitness or other relevant matter as provided in this Clause.

6.8 Discharge to Trustee

The receipt of any person to whom the Trustee is authorised to make payment shall be a full and true discharge to the Trustee, and the Trustee shall not be bound or concerned to see to the application of such payment.

6.9 Preservation of Benefits

If all or any part of the Benefit payable under Section 6 is a Preserved Benefit, then the Preserved Benefit will only be payable in the following circumstances:

- (a) subject to the Relevant Law the Member's retirement from the workforce having attained age 55 or such other age as may be prescribed under the Relevant Law; or
- (b) the retirement of Member from the workforce on the grounds of Total and Permanent Disablement **PROVIDED** the Trustee is given proof that the disability is such that the payment may be made in accordance with the Relevant Law; or
- (c) the death of the Member; or
- (d) the Member attains age 65; or
- (e) such other circumstances as may be prescribed in the Relevant Law or approved by the Commissioner, either generally, or in the specific instance.

6.10 Application of Preserved Benefit

A Preserved Benefit may be transferred by the Trustee to an Approved Benefit Arrangement nominated by the Member **PROVIDED** such transferee facility restricts the payment of the Preserved Benefit in the manner prescribed in the Relevant Law.

6.11 Payment

- (a) Benefits under a Division shall subject to the Relevant Law be payable as:

- (i) a lump sum;
- (ii) an Allocated Pension;
- (iii) a Term Allocated Pension;
- (iv) a pension or annuity issued by a life insurance company (which may be purchased by the Trustee in the name of the Beneficiary);
- (v) a combination of one or more lump sums, Allocated Pensions, Term Allocated Pensions, pensions and annuities .

in accordance with Section 6 or otherwise as determined by the Trustee (taking into account the request of the Beneficiary). To avoid doubt, if the Relevant Law does not permit a Benefit or part of a Benefit to be paid as an Allocated Pension, a Term Allocation Pension, a pension or an annuity the Trustee shall not pay the Benefit or part of the Benefit in such form and if the Relevant Law so requires the Trustee shall commute an Allocated Pension, Term Allocated Pension, pension or annuity to a lump sum on such terms as it determines.

- (b) The Trustee shall pay the Benefit to the Beneficiary in accordance with the Rules and the Relevant Law PROVIDED the Trustee may, at the request of a Beneficiary, defer payment for 90 days or such other period acceptable, either generally or in the specific instance, under the Relevant Law.
- (c) If, under the Relevant Law, an Individual Member is entitled to request payment of all or any part of the Division Credit which represents the amount transferred in the name of the Member to the Division, the Trustee shall pay such amount to the Member on receipt of such documentation, properly completed, as it considers necessary or desirable.
- (d) The Trustee is not required to pay any Benefit on the death of a Member or Beneficiary until such time as the Trustee receives Written Notification of the Death.

6.12 Minimum Division Credit

The Trustee shall specify a minimum Division Credit level from time to time. If a Member's Division Credit is less than the minimum for the time being specified by the Trustee then:

- (i) if the Member is entitled to receive the Benefit under Rules, the Member shall complete all forms and do any other things necessary to enable the Trustee to pay the Benefit, and the Trustee shall pay the Benefit in accordance with Rule 6.11; or
- (ii) if the Member is not entitled to receive the Benefit under the Rules, the Member shall, at the request of the Trustee, nominate an acceptable Approved Benefit Arrangement and shall complete all forms and do all other things necessary to enable the Trustee to transfer the Member's Division Credit, and the Trustee shall transfer the Member's Division Credit in accordance with Rule 11.2.

6.13 Members' Benefit Entitlements at the Time of Death

For the avoidance of doubt, a Member is not entitled to a Benefit at the time of the Member's death.

7. TRUSTEE'S POWER OF INVESTMENT AND SALE

7.1 Authorised Investments

The Trustee shall invest each Division in accordance with the applicable Schedule.

7.2 Additional Powers

- (a) The Trustee shall effect Life Insurance Policies to secure the Insured Benefits for each Member who has requested Insured Benefits, subject to the insurance cover being available .
- (b) The Trustee may generally do all acts and things as the Trustee may consider necessary or convenient for the administration, maintenance and preservation of any investment of the Fund and in the performance of its obligations under the Rules.
- (c) Without limiting paragraph (b), the Trustee may value the assets of the Fund at any time and as it considers appropriate.
- (d) Without limiting paragraph (b), for investment purposes the Trustee may aggregate or mix (or authorise a custodian to aggregate or mix) assets of a Division with assets of another Division, or another trust (not being part of the Fund), provided that the Trustee is reasonably satisfied:
 - (i) that there are in place adequate accounting or other measures to enable the Trustee (or the custodian) to identify assets and liabilities of the Division and assets and liabilities of the other Division or trust, notwithstanding that the assets are shares, units or other interests in a single entity;
 - (ii) that doing so is not adverse to the interests of Beneficiaries of the Division.

8. WITHDRAWAL OF PARTICIPATING EMPLOYERS

- (a) The participation in a Division of a Participating Employer may be terminated:
 - (i) by the Participating Employer by notice in writing to the Trustee; or
 - (ii) by the Trustee by notice in writing to the Participating Employer; or
 - (iii) if an order is made, or an effective resolution is passed for the winding up of a Participating Employer other than for the purpose of amalgamation or reconstruction.

The date upon which such participation is terminated shall be nominated by the Trustee.

- (b) The terminating Participating Employer shall pay all arrears, if any, in contributions or other payments to the Division due up to the termination date.
- (c) If the withdrawing Participating Employer has established, or intends to participate in, another superannuation fund (the "transferee fund") which is an Approved Benefit Arrangement, then the Trustee shall transfer, in respect of each Member who is an employee of the Participating Employer on the termination date and who is admitted as a member of the transferee fund, to the trustee of the transferee fund to hold for the benefit of the Member, the amount derived as follows:
 - (i) if the Member would have been entitled to a benefit under Clause 6.2 if he retired on the termination date, the Division Credit and
 - (ii) in other circumstances, the Benefit (including the Preserved Benefit) to which the Member would have been entitled had he or she resigned from employment with the Participating Employer on the termination date.

The balance of the Member's Accounts, if any, in respect of each such Member shall be transferred to the trustee of the transferee fund and applied as if they were contributions by the Participating Employer to the transferee fund in respect of such Member.

- (d) If the withdrawing Participating Employer has not established, or does not intend to participate in, another superannuation fund which is an Approved Benefit Arrangement, then the Trustee shall pay the Division Credit in respect of each Member:
 - (i) to the Beneficiary entitled in accordance with Clause 6.11; or
 - (ii) transfer the Benefit in accordance with Clause 11.2;

PROVIDED that the Trustee shall not pay a Benefit to or in respect of a Member other than in circumstances acceptable under the Relevant Law.

- (e) If a Benefit becomes payable before the expiration of the termination date in respect of a Member who is an employee of the withdrawing Participating Employer, it shall be payable from the Division.

9. RECORDS FINANCIAL ACCOUNTS AND REPORTS

9.1 Fund Records

The Trustee shall keep or cause to be kept records of all Members and of all deaths, withdrawals, retirements, other terminations of employment and all other matters necessary for the proper administration of the Fund and shall also keep or cause to be kept proper accounts to show the income, expenditure, assets and liabilities of, and dealings in relation to, the Fund and any other records required under the Relevant Law.

9.2 Financial Accounts

The Trustee shall, within the period (if any) specified under the Relevant Law, prepare or obtain, and lodge with the appropriate authority, all returns, accounts, statements, certificates and other records required under the Relevant Law and pay all fees due and payable in respect of same.

9.3 Auditor

The Trustee shall appoint an Auditor of the Fund who shall have access to all accounts, records and other information relating to the Fund. The Trustee shall require the Auditor to:

- (a) audit the accounts and records of the Fund;
- (b) provide a report to the Trustee in accordance with the requirements of the Relevant Law; and
- (c) otherwise provide services to the Fund as specified by the Trustee.

The appointment of the Auditor shall be on such terms as the Trustee may determine, and the Trustee may remove the Auditor at any time and appoint another Auditor. The costs and disbursements of the Auditor shall be deducted by the Trustee from the Fund.

9.4 Disclosure and Reporting Requirements

The Trustee shall make a copy of the Deed and Rules available to Members at offices of the Trustee during normal business hours, and shall provide to each Member, former Member and Beneficiary the statements, reports and information to which he or she is entitled to under the Relevant Law in the manner, and in the circumstances, prescribed under the Relevant Law. To avoid doubt, the Trustee may divide the Fund or a Division into such sub-plans as it considers necessary for disclosure and reporting purposes, but only to the extent permitted by the Relevant Law.

10. ADMINISTRATION

10.1 Appointment of Administrator and Advisers

- (a) The Trustee may appoint a competent person or organisation, including a corporation associated with the Trustee, as administrator for the Fund or a Division.

- (b) If necessary to perform functions which are required under the Relevant Law, or which the Trustee may consider desirable for the proper administration of the Fund or a Division, the Trustee may appoint an Actuary, investment managers, solicitors, counsel, brokers, agents, consultants or such other advisers as the Trustee considers to be appropriate.
- (c) The appointment of an administrator, expert or adviser shall be on such terms as the Trustee determines in its discretion and the costs and disbursements of such administrator, expert or adviser shall be deducted by the Trustee from the Fund or the Division.

10.2 Charges and Expenses

The Trustee shall be entitled to receive remuneration and, subject to Section 20, to recover costs and expenses for a Division, in accordance with the Schedules. Without limitation, if a Government co-contribution is paid into a Division, any repayment of the co-contribution in whole or part may be recovered from the Division.

11. TRANSFERS

11.1 Transfers from Other Funds

- (a) Subject to the Relevant Law, the Trustee shall have the power at any time to arrange with the trustee or another responsible person of an Approved Benefit Arrangement to accept the transfer of a benefit in respect of a Member to a Division to be applied as provided in the Rules. To avoid doubt, but subject to the Relevant Law, the transfer may be from an Approved Benefit Arrangement of which the Member is a member or the Member's Spouse is a member and for the purposes of this paragraph the Trustee may admit a person to membership of a Division without an application having been made by or on behalf of the person.
- (b) The Trustee may arrange with the trustee or another responsible person of an Approved Benefit Arrangement for a person to be transferred to a Division, if permitted by the Relevant Law. The Trustee may admit such a person as a Member of the Division on such special terms and conditions as may be necessary to enable the Fund to be a "successor fund" for the purposes of the Relevant Law.

11.2 Transfers to Other Funds

- (a) Subject to the Relevant Law, the Trustee may, on the written request of a Member who:
 - (i) is entitled to receive a Benefit; or
 - (ii) wishes to transfer his or her Division Credit (in whole or in part);
 apply all or part of the Division Credit in the case of an Individual Member, or the Benefit the Member would have been entitled to had he voluntarily left service with the consent of the Employer at the time of the transfer (or such greater amount as the Trustee, with the consent of the Employer, determines) in the case of a Member who is not an Individual Member, in accordance with the Member's request PROVIDED THAT such application will only be made by transfer to an Approved Benefit Arrangement. To avoid doubt, but subject to the Relevant Law, a transfer to an Approved Benefit Arrangement may be made for the benefit of the Member or the Member's Spouse.
- (b) The Benefit in the Division of a Member in respect of whom an amount is transferred under this Clause shall be reduced by the amount transferred.

12. TAXATION AND GOVERNMENTAL CHARGES

12.1 *Trustee's Power to make Provision for Tax Liability*

The Trustee shall make adequate provision to meet the tax liability of a Division in the manner the Trustee considers appropriate.

12.2 *Trustee's Power to Pay Tax and Governmental Charges*

The Trustee shall pay the tax, duties or other Governmental charges or imposts it is lawfully required to pay, whether in respect of contributions, other income of a Division, or on Benefits or other payments out of the Division, or in respect of the operation of the Division generally.

12.3 *Deduction of Tax and Governmental Charges*

The Trustee shall deduct from a Division, or from any Benefit or other payment made from the Division, as appropriate, the amount of any tax, duty or other charge or impost it is lawfully required to pay.

13. LIEN OVER BENEFITS

13.1 *Trustee's Lien*

Subject to the Relevant Law, the Trustee shall have a lien over the Benefit payable to or in respect of a Member to the extent of an identified debt owed by a Member to the Trustee as Trustee, of the Fund.

13.2 *Employer's Lien*

The Employer shall have a lien over the Benefit payable to or in respect of a Member for any amount owed to the Employer by the Member, or an amount equal to the value of any loss (including costs on a solicitor/client basis in respect of any legal proceedings related thereto) arising from the misconduct of such Member in relation to any funds, or property in the care or control of, or belonging to, the Employer, and interest thereon, PROVIDED such lien shall not extend to such part (if any) of the Benefit to the extent it is prevented under the Relevant Law.

13.3 *Deduction from Benefit*

The Trustee shall deduct the amount of the Trustee's lien and, if the Employer so directs after producing evidence satisfactory to the Trustee that the Member owes the amount, or was responsible for the loss, deduct the amount of the Employer's lien (including interest at such rate and in respect of such period the Trustee considers appropriate) from the Benefit. The Trustee shall pay the amount of the Employer's lien to the Employer or as the Employer directs.

14. LIMITS ON CONTRIBUTIONS & BENEFITS

14.1 Contributions

The Trustee shall only accept contributions which can be made to the Fund in accordance with the Relevant Law.

14.2 Benefits

Notwithstanding anything in the Rules to the contrary, the Trustee shall ensure that any Benefit paid or payable from a Division (together with any other relevant benefit which the Trustee is required to take into account) is limited to the extent necessary to ensure the Trustee and the Fund is not in breach of the Relevant Law, or any other legislation which limits the amount of any Benefit payable from the Fund. In order to give effect to this Clause the Trustee has power:

- (a) to require the Member to provide details of any other relevant benefits which have been, are being, or may be provided for the Member or for Dependants of the Member;
- (b) to refuse to accept part or all of a contribution by or in respect of a Member;
- (c) to adjust the Benefit payable to or in respect of a Member.

If, pursuant to this Clause, the Benefit payable to or in respect of a Member is reduced, the balance of the Benefit shall be credited to the Foregone Benefits Account.

15. VARIATION OF DEED AND RULES

15.1 Method of Variation

All or any of the provisions of the Deed and Rules (including this Clause) may subject to Relevant Law be varied (whether by way of addition, deletion or amendment) from time to time by the Trustee:

- (a) by written resolution of the Trustee; or
- (b) by deed executed by the Trustee;

to take effect from the date on which the resolution is made or the deed is executed or from such earlier or later date as the Trustee, specifies in the resolution or deed.

PROVIDED THAT:

- (i) no such variation shall alter the requirement of Clause 3.1(a) that the Trustee be a constitutional corporation unless permitted under the Relevant Law;
- (ii) no such variation shall, without the consent of Avenue Capital Management Ltd, amend the definition of Nominator in Clause 1.1 or do anything else to remove Avenue Capital Management Ltd from the position of Nominator; and
- (iii) no such variation shall, without the consent of the Nominator, have the effect of enabling the Trustee to establish a new Division or Divisions under the Rules without the Nominator's consent or enabling the Trustee to make determinations under paragraphs (a) and (d) of Clause 20 without the Nominator's consent.

15.2 *Advice to Members*

After the Rules or any of them have been varied, the Trustee shall advise the Members of the Division or the Fund, as applicable, of the nature and purpose of the variation, the effect (if any) on their entitlements, and any other matters required under the Relevant Law, in the manner provided under the Relevant Law.

16. LEGISLATIVE RESTRAINTS

For the purpose of removing any doubt:

- (a) any provision or requirement which must, under the Relevant Law, be incorporated in the Rules in order that the Fund meets the requirements of the Relevant Law and qualifies for the maximum income tax concessions available to superannuation funds, is deemed to be incorporated in the Rules PROVIDED THAT:
 - (i) any provision or requirement so incorporated shall only apply to the extent its application is necessary to meet the requirements of the Relevant Law and to ensure the Fund qualifies for income tax concessions; and
 - (ii) where there is an inconsistency between a provision or requirement of the Rules and to the extent it applies, any provision or requirement so incorporated, the latter shall prevail over the former; and
 - (iii) if a provision or requirement so incorporated is required, under the Relevant Law, to be amended, the provision or requirement in its amended form is deemed to be included in substitution for the previous provision or requirement from the date required under the Relevant Law;
- (b) despite anything contained in the Rules, the Trustee:
 - (i) shall take any action; and
 - (ii) shall refrain from taking any action;in order to comply with the Relevant Law;
- (c) the Trustee shall not be in breach of the Rules or the trusts of the Fund if the Trustee fails to comply with a provision of the Relevant Law if the failure to comply is consented to by the Commissioner or, notwithstanding the failure to comply, the Commissioner issues a notice of satisfaction or compliance under the Relevant Law; and
- (d) if a provision of the Deed and Rules would be wholly or partially invalid because it:
 - (i) subjects the Trustee to direction by another person; or
 - (ii) permits a person to exercise a discretion without the consent of the Trustee;then the Trustee's consent is required for the giving of the direction or the exercise of the discretion.

17. NOTICES

17.1 *Notice to Members*

Notices shall be properly given by the Trustee to Members and to former Members if:

- (a) handed to the Member personally;
- (b) other than for Individual Members, enclosed in the Member's pay envelope; or
- (c) sent by prepaid post to the last known address or place of employment of the Member or former Member.

17.2 Notice to Trustee

Notices to the Trustee shall be properly given if:

- (a) handed to a responsible officer of the Trustee personally;
- (b) sent by pre-paid post addressed to the Trustee.

17.3 Notice to Employer

Notices to the Employer shall be properly given if:

- (a) handed to a responsible officer of the Employer personally;
- (b) sent by pre-paid post addressed to the Employer at its registered office or place of business.

17.4 Service by Post

In the case of service by post, notice shall be deemed to have been effectively given on the third day after the day of posting.

18. WINDING UP

18.1 Winding up of Avenue Capital Management Ltd

If Avenue Capital Management Ltd is being wound up (except for the purposes of reconstruction or amalgamation) the Trustee may determine that the Fund or a Division shall be dissolved and determine the final balance date for the Fund or Division (as applicable) (in this Section referred to as "the Closure Date"). All contributions to the Fund or Division (as applicable) shall cease on the day immediately prior to the Closure Date and any arrears in contributions and other payments to the Fund or Division (as applicable) due up to the Closure Date shall be paid forthwith. The Trustee shall promptly advise all Members of the Fund or Division (as applicable) and notwithstanding any contrary provision in the Rules, no Benefits shall be paid from the Fund or Division (as applicable) to or in respect of Members until after the Closure Date.

18.2 Trustee's Expenses and Payment of Benefits

On the Closure Date the Trustee shall, after providing for the payment of the costs and disbursements of administering and dissolving the Fund or Division (as applicable), any outstanding tax payable from the Fund or Division (as applicable) and the repayment of any authorised borrowings of the Fund or Division (as applicable), adjust the value of the Member's Accounts of each Member and in the case of a Beneficiary receiving one or more Allocated Pension and Term Allocated Pensions, that Beneficiary's Allocated Pension Account(s) and Term Allocated Pension Account(s), on an equitable basis, such that the Fund or Division (as applicable) is thereby fully allocated to such accounts. The Trustee shall then pay same:

- (a) to the Beneficiary entitled; or
- (b) transfer the Benefit in accordance with Clause 1.2;

PROVIDED that the Trustee shall not pay a Benefit to or in respect of a Member other than in the circumstances acceptable under the Relevant Law.

18.3 Power of Trustee in Winding Up

The Trustee may do all things necessary or convenient for giving effect to Section 18.

19. RESOLUTION OF QUESTIONS OR DISPUTES

If a question or dispute arises in regard to the Fund, the rights of Members former Members or Beneficiaries, or the construction or meaning of any Clause of the Deed or Rules, the Trustee may:

- (a) seek and act on the advice of a solicitor or barrister practising in the Supreme Court of any State or Territory of Australia; or
- (b) submit the matter to arbitration; or
- (c) settle the question or dispute and, to the extent permitted by law, the decision of the Trustee in such regard shall be final and binding and with power to commence, carry on, defend and settle any proceedings arising in respect of any such question or dispute. The costs of obtaining advice and/or expenses incurred in commencing.

20. SEPARATE TRUSTS

- (a) All divisions are one trust, except to the extent that the Trustee, with the consent of the Nominator, determines otherwise on the establishment of a Division. To avoid doubt, despite there being any such separate trusts, the Fund shall be administered as a single complying superannuation fund under the Relevant Law.
- (b) In administering the Fund, if applicable the Trustee shall at all times have regard for the fact that there are such separate trusts.
- (c) The Trustee shall only debit to one trust those liabilities, expenses and other amounts which are properly referable to a trust, unless the amount debited is properly referable to two or more trusts in which case the Trustee shall apportion it between the trusts on a basis it considers reasonable.
- (d) Whether or not it is expressly provided for in the Schedules the Trustee may, with the consent of the Nominator, determine separate classes of Employers, Members and Beneficiaries within a Division. Without limitation, the Trustee may take such classes into account in applying fees, making investment strategies available and for any other purpose under this Deed. To avoid doubt, but again without limitation, the issue by the Trustee of separate product disclosure statements specifying different terms of participation for different groups of Members or Beneficiaries will, unless the Trustee determines otherwise with the consent of the Nominator, be indicative of those different groups of Members or Beneficiaries being separate classes.

To avoid doubt, subject to Clause 7.2(d) this Section 20 prevails over every other provision of these Rules and, to the extent of any inconsistency, the other Rules shall be read down.

SCHEDULE 1

AVENUE SUPERANNUATION DIVISION

ACCOUNTS (Section 5)

A1.1 Member Contribution Account

The Trustee shall establish a Member Contribution Account in respect of each Member of the Division, to which the following amounts shall be credited or debited, as appropriate:

- (a) contributions to the Division pursuant to Clause 4.1;
- (b) contributions to the Division by the Member that are remitted to the Division by the Employer or some other person on behalf of that Member;
- (c) that proportion of the assets received by the Trustee pursuant to Clause 11.1 which was standing to the credit of the Member or the Member's Spouse under another Approved Benefit Arrangement;
- (d) amounts debited or credited pursuant to Clause 2.8;
- (e) amounts debited to meet taxation liabilities pursuant to Section 12;
- (f) amounts debited or credited pursuant to Clause A1.4;
- (g) amounts credited pursuant to Clauses 4.3 and A1.5;
- (h) charges and expenses deducted pursuant to Clause 10.2 including, without limitation, premiums for Insured Benefits; and
- (i) amounts paid as Benefits or transfers to Approved Benefit Arrangements from the Division.

For the purposes of determining an account balance or a Benefit to be paid under Section 6, subject to the debiting and crediting of amounts as permitted by this Deed, the value of a Member Contribution Account at a particular time is the value of the allocations made to investment strategies (including the Hub Strategy) in accordance with this Schedule at that time.

A1.2 Employer Contribution Account

The Trustee shall establish an Employer Contribution Account in respect of a Member, other than an Individual Member, to which the following amounts shall be credited or debited, as appropriate:

- (a) contributions to the Division made pursuant to Clause 4.2 in respect of that Member;
- (b) the balance, if any, of the assets received by the Trustee pursuant to Clause 11.1 after crediting the Member Contribution Account pursuant to Clause A1.1(c);
- (c) amounts debited or credited pursuant to Clause 2.8;
- (d) amounts debited to meet taxation liabilities pursuant to Section 12;
- (e) amounts debited or credited pursuant to Clause A1.4;

- (f) amounts credited pursuant to Clauses 4.4 and A1.5;
- (g) charges and expenses deducted pursuant to Clause 10.2 including, without limitation, premiums for Insured Benefits; and
- (h) amounts paid as Benefits or transfers to Approved Benefit Arrangements from the Division.

For the purposes of determining an account balance or a Benefit to be paid under Section 6, subject to the debiting or crediting amounts as permitted by this Deed, the value of an Employer Contribution Account at a particular time is the value of the allocations made to investment strategies (including the Hub Strategy) in accordance with this Schedule at that time.

A1.3 Pension Accounts

If a Benefit is payable as an Allocated Pension or a Term Allocated Pension from the Division pursuant to Clause 6.11, the Trustee shall as applicable establish an Allocated Pension Account or a Term Allocated Pension Account in respect of the Beneficiary to which the following amounts shall be credited or debited, as appropriate:

- (a) the value of the Benefit at the time the Allocated Pension Account or Term Allocated Pension Account is established;
- (b) amounts debited to meet taxation liabilities pursuant to Section 12;
- (c) amounts debited or credited pursuant to Clause A1.4;
- (d) amounts credited pursuant to Clause A1.5;
- (e) charges and expenses deducted pursuant to Clause 10.2;
- (f) regular income payments debited to pay the Beneficiary's Benefit; and
- (g) amounts paid as Benefits (other than regular income payments) or transfers to Approved Benefit Arrangements from the Division.

For the purposes of determining an account balance or a Benefit to be paid under Section 6, subject to the debiting or crediting amounts as permitted by this Deed, the value of an Allocated Pension Account or a Term Allocated Pension Account at a particular time is the value of the allocations made to investment strategies (including the Hub Strategy) in accordance with this Schedule at that time.

A1.4 Reserve Accounts

- (a) If necessary or convenient for the management of the Division, the Trustee shall establish a Reserve Account to which such amounts as the Trustee determines are credited from the Division and from which such amounts as the Trustee determines are debited for the purposes of the Rules.
- (b) If necessary or convenient for the management of the Division, the Trustee shall establish a Taxation Reserve Account to which the Trustee shall credit amounts which, in the Trustee's opinion, are required to be set aside to meet the taxation liabilities of the Division, including:
 - (i) income tax on contributions to the Division;
 - (ii) income tax on earnings of the Division;
 - (iii) income tax on Benefits payable or paid from the Division;

- (iv) an allowance for capital gains tax which may be payable in respect of unrealised gains on assets of the Division;
- (v) capital gains tax on realised assets of the Division;
- (vi) any other taxes payable by the Trustee as may be required by the Commissioner of Taxation or other lawfully empowered taxing authority.

The Taxation Reserve Account shall be debited by the Trustee as required to pay tax, or to transfer to the Member's Accounts, Allocated Pension Accounts and Term Allocated Pension Accounts, on an equitable basis, amounts set aside to pay tax but which are no longer required for this purpose.

- (c) For the purposes of this Clause A1.4 but subject to the Relevant Law, the Trustee shall make allocations to, and deductions from, the Member's Accounts, Allocated Pension Accounts and Term Allocated Pension Accounts on an equitable basis determined by the Trustee.

A1.5 Foregone Benefits Account

The Trustee shall establish a Foregone Benefits Account for the Division to which amounts are credited as provided in the Rules and which shall be applied, within the period (if any) specified under the Relevant Law, in any one or more of the ways approved, either generally or in the specific instance, by the Commissioner.

In the absence of such approved means of applying the proceeds of the Foregone Benefits Account, the Trustee shall apply the proceeds in any one or more of the following ways to the extent such application is not prohibited under the Relevant Law:

- (a) toward the provision of additional benefits for Members and/or their Dependants;
- (b) to pay any expenses of the Division; or
- (c) to assist a Member, or Dependand, in the event of financial hardship, ill health, accident or other misfortune causing hardship.

A1.6 Allocation of Accounts

The balances of the Member's Accounts, Allocated Pension Accounts and Term Allocated Pension Accounts shall, from time to time, be allocated in accordance with this Clause A1.6. For this purpose, subject to the Relevant Law, the following requirements apply:

- (a) The Trustee shall establish one or more investment strategies with differing investment objectives. The Trustee may, at any time, terminate an investment strategy or close it to further allocations.
- (b) The Trustee shall provide prospective Members, Beneficiaries receiving Allocated or Term Allocated Pensions and Employers with those details of an investment strategy required under the Relevant Law, at the times required by the Relevant Law.
- (c) The Trustee shall specify a particular investment strategy as the hub investment strategy to which Member's Accounts, Allocated Pension Accounts and Term Allocated Pension Accounts shall be allocated. In particular, the Trustee shall specify a minimum balance for this purpose. To avoid doubt, the Trustee may specify different minimum balances for different classes of Members and/or Beneficiaries.
- (d) On such terms as are acceptable to the Trustee, and subject to such restrictions as the Trustee determines (including, without limitation, minimum allocations to investment strategies),

Members, Beneficiaries receiving Allocated Pensions or Term Allocated Pensions and (if permitted by the Relevant Law) Employers on behalf of Members they employ, shall designate the investment strategies to which the relevant Member's Accounts, Allocated Pension Accounts and/or Term Allocated Pension Accounts are to be allocated. A Member, Beneficiary or an Employer may vary a designation, but only on terms acceptable to the Trustee. To avoid doubt, the Trustee may apply different terms and restrictions for different classes of Members and/or Beneficiaries.

- (e) Member's Accounts, Allocated Pension Accounts and Term Allocated Pension Accounts shall be allocated by the Trustee to the Hub Strategy. Subject to the minimum balance being maintained in the Hub Strategy, the Trustee shall give effect to a designation properly made in accordance with paragraph (d). To the extent a designation is not properly made, or cannot be implemented by the Trustee because of the Relevant Law, the affected Member's Accounts, Allocated Pension Accounts and Term Allocated Pension Accounts are to be allocated to the Hub Strategy or to such other investment strategy or strategies as the Trustee determines.
- (f) The Trustee shall redeem allocations made from Member's Accounts, Allocated Pension Accounts and Term Allocated Pension Accounts to investment strategies, as necessary for the purposes of the Rules. Where a redemption is to be made and the relevant account is allocated to two or more investment strategies, the redemption shall be made on terms determined by the Trustee. To avoid doubt, the Trustee may apply different terms for different classes of Members and/or Beneficiaries.

A1.7 Investment Strategies

- (a) Where Member's Accounts, Allocated Pension Accounts or Term Allocated Pension Accounts are allocated to it, an investment strategy shall be administered in accordance with this Clause A1.7.
- (b) Amounts allocated to an investment strategy will be applied to purchase the investment or investments which comprise the investment strategy (to avoid doubt, the Trustee may, from time to time, dispose of any investment which is part of the investment strategy and acquire another investment or other investments to be part of the investment strategy).
- (c) The Trustee shall, as necessary for the purposes of the Rules, redeem investments which are part of the investment strategy. The Trustee shall apply the redemption proceeds by way of credit to the Hub Strategy. Alternatively, the Trustee may agree that the redemption proceeds be applied as an investment in another investment strategy, rather than the Hub Strategy.
- (d) The Trustee shall apply the income of an investment strategy by way of credit to the Hub Strategy. Alternatively, the Trustee may agree that income be applied as an investment to the applicable investment strategy or any strategy, rather than to the Hub Strategy.
- (e) For the purposes of Clauses A1.1, A1.2 and A1.3, the value of allocations made from Member's Accounts, Allocated Pension Accounts and Term Allocated Pension Accounts to an investment strategy is to be determined on a basis determined by the Trustee, having regard to any advice it decides to seek from an appropriately qualified valuer.

AUTHORISED INVESTMENTS (Clause 7.1)

- (a) The Trustee shall invest that part of the Division attributable to the balances of the Member's Accounts, Allocated Pension Accounts and Term Allocated Pension Accounts in any investments determined by the Trustee in accordance with Clause A1.7. In this respect, the balance is the amount remaining after payment of premiums in respect of the Protected Pension Policy as they fall due.
- (b) The Trustee shall invest the balance of the Division (including, without limitation, amounts arising under Clauses 6.6, A1.4 and A1.5) in any investments determined by the Trustee, which the Trustee would be able to invest in if it was investing on its own behalf as beneficial owner.

- (c) Where a Benefit is paid as a pension (other than an Allocated Pension or a Term Allocated Pension) under Clause 6.11, the Trustee may invest the capital amount of the Benefit in an annuity policy with a life insurance policy and pay the annuity payments to the Beneficiary.

CHARGES AND EXPENSES (Clause 10.2)

- (a) A fee payable to the Trustee from contributions to the Division made pursuant to Section 4 and transfers to the Division under Clause 2.8 or Clause 11.1, of up to \$50.00 for each contribution or transfer, deducted from the contribution or transfer, or from the Member's Accounts, Allocated Pension Accounts and Term Allocated Pension Accounts.
- (b) A withdrawal fee deducted by the Trustee from lump sum payments out of the Division under Clause 2.8, Section 6 or Clause 11.2, of up to \$50.00 per withdrawal.
- (c) (i) An administration fee of up to 2% per annum of the balance of the Member's Accounts, Allocated Pension Accounts and Term Allocated Pension Accounts during a month, subject to a minimum of up to \$30.00 per month for each Member and each Beneficiary receiving an Allocated Pension or Term Allocated Pension, deducted monthly from the accounts.
- (ii) Where there has been a contribution or transfer to the Division from a scheme in the United Kingdom (to avoid doubt, this includes a contribution or transfer of an amount derived from such a scheme in the United Kingdom) and the Fund or the Division is a "Qualifying Recognised Overseas Pension Scheme" for that purpose, an additional administration fee may be deducted monthly from the Member's Account, Allocated Pension Account and/or Term Allocated Pension Account of a Member or a Beneficiary for whom such contribution or transfer was made or whose interest derives from the interest of another person for whom such contribution or transfer was made. The amount of the additional administration fee shall be \$50.00 per month or such greater amount agreed with the Member, the Beneficiary or the other person for whom the contribution or transfer was made.
- (d) A switching fee of up to \$50.00 of an amount arising upon the redemption of an allocation from a Member's Account, Allocated Pension Account or Term Allocated Pension Account, where it is to be re-allocated to another investment strategy in accordance with the Rules.
- (e) Costs and expenses incurred in connection with the establishment, maintenance, administration and operation of the Division may be deducted from the Division, but only to the extent they are disclosed to Participating Employers and Individual Members before they are admitted to the Division, or to Beneficiaries receiving an Allocated Pension or Term Allocated Pension before it commences. To avoid doubt, but without limitation, the Trustee may deduct costs and expenses directly or indirectly incurred in connection with administration of any goods and services tax or other tax which may apply to the Trustee or the Division, and any bank fees (including dishonour fees) arising from contributions and withdrawals. Deductions under this paragraph (e) may be made from the assets of an investment strategy or directly from the Member's Accounts, Allocated Pension Accounts and Term Allocated Pension Accounts.
- (f) All costs and expenses which the Trustee is entitled to deduct in respect of the Division pursuant to the Rules shall be deducted on an equitable basis determined by the Trustee.
- (g) The cost of providing Insured Benefits in respect of a Member shall be deducted by the Trustee from the Division Credit of that Member.
- (h) The Trustee may debit the Member's Accounts, Allocated Pension Accounts or Term Allocated Pension Accounts, with an additional Trustee fee or additional Trustee fees agreed with Members or Beneficiaries receiving Allocated Pensions or Term Allocated Pensions. Those fees may be in the nature of establishment fees, contribution fees, transaction fees and/or regular fees. Establishment, contribution and transaction fees are debited as they accrue. Regular fees are based on the average daily balance of the Member's Accounts, Allocated Pension Accounts and Term Allocated Pension Accounts during a month or part of a month,

and are deducted from the accounts at or after the end of the month. The Trustee shall, if it was so agreed with the Member or Beneficiary, pay the additional Trustee fee (in whole or part) to an adviser nominated by the Member or Beneficiary.

- (i) To avoid doubt:
 - (i) the Trustee may, for such time as it determines, reduce or waive any fee payable to it under this Schedule; and
 - (ii) the Trustee may pay commission or other remuneration, from its own resources (including, without limitation, from fees payable to it under this Schedule), to persons who arrange for amounts to be paid to the Division, or persons who provide advice to Members or Beneficiaries receiving Allocated Pensions and/or Term Allocated Pensions.
- (j) If goods and services tax (or any similar tax) is or becomes payable by the Trustee in connection with the Division (including, without limitation, in connection with fees payable to the Trustee under this Schedule), the Trustee may recover the tax by way of an increase to the fees payable under this Schedule.
- (k) On 30 June each year or on such other date as the Trustee determines, the Trustee may increase the dollar amounts specified in paragraphs (a), (b), (c) and (d) in accordance with increases in the Consumer Price Index, All Groups Eight Capital Cities ("CPI"). Such increase shall be no more than the percentage change in the CPI from that applicable on the date of the previous increase of such dollar amounts and that applicable on the date of the current increase.

