

HERBERT  
SMITH  
FREEHILLS

## Trust Deed

# MLC Super Fund

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NULIS Nominees (Australia) Limited

National Australia Bank Limited

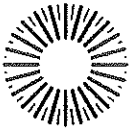


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## Important notes

### 1 Important notes

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These important notes do not form part of the operative part of the deed for the MLC Super Fund and are included for explanatory purposes only.

The important notes below:

- (1) relate only to the drafting approach that has been adopted for clauses 1 to 16 of the deed; and
- (2) on this basis, do not relate to the drafting approach adopted for the Divisions (despite some of the information below also applying to the Divisions).

### 2 Structure

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The deed has been structured such that:

- (a) subject to paragraph (b) below, clauses 1 to 16 of the deed provide a high level framework for the Fund and Products (as defined in clause 1.1 of the deed); and
- (b) except to the extent that common clauses of the deed (as set out in clause 1.3(a)) apply across the entire Fund, each Division is drafted as a stand-alone Division, the terms of which govern the class of membership (and sub-fund) of the Fund that is administered under that Division.<sup>1</sup>

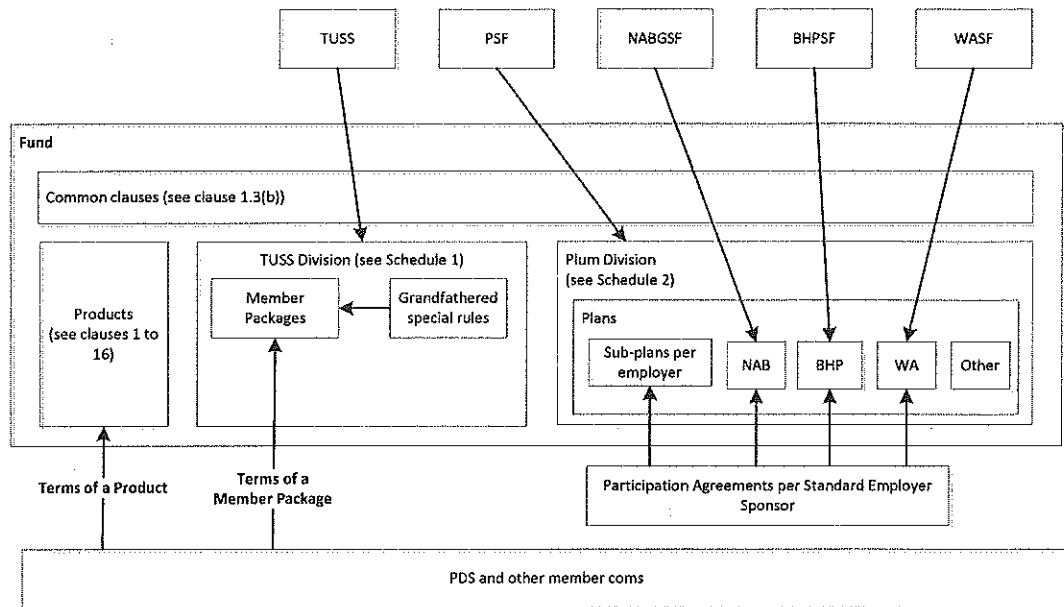
The diagram below shows the structure of the Fund as at 1 July 2016.

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<sup>1</sup> This is because a 'lift and drop' drafting approach has been adopted for the successor fund transfer of members' interests and assets of:

- The Universal Super Scheme (TUSS) to the TUSS Division in the Fund;
- the Plum Superannuation Fund (PSF) to the Plum Division in the Fund;
- BHP Billiton Superannuation Fund (BHPSF) to the BHP Billiton sub-plan of the Plum Division in the Fund;
- Worsley Alumina Superannuation Fund (WASF) to the Worsley Alumina sub-plan of the Plum Division in the Fund; and
- National Australia Bank Group Superannuation Fund A (NABGSF) to the NAB sub-plan of the Plum Division in the Fund.

In interpreting the provisions of the TUSS Division and the Plum Division it is important to remember that there are some 'common clauses' that apply to all parts of the Fund that are set out in clause 1.3(a) of the deed.



### 3 Streamlined deed

The deed (excluding the Divisions<sup>2</sup>) has been prepared on the basis that it does not:

- (a) repeat provisions that are deemed to be incorporated into the deed by the *Superannuation Industry (Supervision) Act 1993 (Cth)*;
- (b) repeat trust law duties, powers and rights; or
- (c) preface each clause with the words 'subject to the Relevant Law' because this is achieved by the operation of clause 3 of the deed which overrides all other clauses (see clause 2.1).

Accordingly, in interpreting a clause of the deed, a reader must have regard to:

- (1) the clause and any other related clauses of the deed;
- (2) the Relevant Law (as that term is defined in clause 1.1 of the deed); and
- (3) trust law.

This means that a detailed knowledge of superannuation legislation and trust law is required to be able to interpret a clause of the deed.

### 4 Flexibility

The deed (excluding the Divisions<sup>3</sup>) has been drafted to be a flexible deed that will require minimal amendments if there is a future change either to the law or to the business structure of the Trustee.

<sup>2</sup> See footnote 1 above in relation to the drafting approach adopted for the Divisions.

<sup>3</sup> See footnote 1 above in relation to the drafting approach adopted for the Divisions.



## 5 Important considerations

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Accordingly, it is important to bear in mind when reading the deed (excluding the Divisions<sup>4</sup>) that:

- (a) because it is the legal foundation for the existence of the Fund, the deed contains only the basic trust law requirements of a superannuation fund deed;
- (b) the administrative operations of the Fund will not be reflected in the deed because this deed only needs to contain broad administration powers rather than detailed administration provisions; and
- (c) any action expressed in the deed to be done by the Trustee, may in practice be done by another party to which the Trustee has delegated that action. However, under trust law, and other than in limited circumstances, the Trustee will have ultimate responsibility for those actions.

## 6 Terms of a 'Product' (as defined in clause 1.1 of the deed)

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The 'Product' specific rules will be contained only in the information provided to members and standard employer-sponsors (**Member Information**) and are called 'terms of a Product'.

However, it is important to note that this does not mean that everything in a document that is 'Member Information' will be terms of a Product. For example:

- (a) the material in the 'Member Information' that states the rights, duties, powers and obligations of a beneficiary, a standard employer-sponsor or the Trustee is a term of the Product (eg how a member can contribute, the fees, the costs, the frequency of pension payments, how a member's account will be valued); and
- (b) any other material in the 'Member Information' is not a term of the Product (eg marketing material about MLC, the product, information about investing in superannuation in general, description of the tax treatment of benefits).

## 7 Product 'lifecycle'

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### 7.1 Creating a new Product

- (a) The Trustee decides to establish a new Product (clause 5.1(a)).
- (b) The Trustee determines:
  - (1) the terms of the new Product and records those terms in writing – the Trustee has flexibility in how the terms are recorded in writing; and
  - (2) how those terms will be made available to a current or potential member (and if relevant a standard employer-sponsor) (clause 5.2(b)). This may be by approving a proposed product disclosure statement (**PDS**) for the new Product.
- (c) The Trustee must administer a Product in accordance with the terms of the Product from time to time (clause 5.2(a)).

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<sup>4</sup> See footnote 1 above in relation to the drafting approach adopted for the Divisions.



## 7.2 Changing the terms of a Product

- (a) The legal tests that must be satisfied before the Trustee can change a term of a Product are that the Trustee must:
- (1) act consistently with its power to determine the amended terms of a Product (clause 5.2(b));
  - (2) act consistently with the duties that it owes to beneficiaries including the duty to act:
    - in the 'best' interests of beneficiaries as a whole; and
    - for a proper purpose and in good faith; and
    - subject to any applicable exceptions, so as to ensure that the change does not adversely affect a beneficiary's accrued benefits.
- (b) The steps the Trustee would need to take to change a term of a Product (after satisfying the legal tests set out above) are for the Trustee to:
- (1) determine the amended terms of the Product and record those amended terms in writing; and
  - (2) make those amended terms available to a current or potential member (and, if relevant, a standard employer-sponsor) (clause 5.2(b)).
- (c) This may be done by disclosing the amended terms of the Product to:
- (1) new members (and, if relevant, standard employer-sponsors) by, for example, issuing a new PDS; and
  - (2) existing members (and, if relevant, standard employer-sponsors) through, for example, an annual report or significant event notice.

## 7.3 Terminating a Product

- (a) The Trustee decides to terminate the Product (in accordance with clauses 5.1(b) and 15).
- (b) The Trustee must apply the assets of the Product in accordance with clause 15.2(a).



## Operative part

### MLC Super Fund

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Date ▶

9 May

2016

Between the parties

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**NULIS Nominees (Australia) Limited**

ABN 80 008 515 633 of Ground Floor, MLC Building, 105-153 Miller Street, North Sydney, New South Wales

**(Trustee)**

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**National Australia Bank Limited**

ABN 12 004 044 937 of Level 1, 800 Bourke Street, Melbourne, Victoria

**(Principal Company)**

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#### Recitals

- 1 The Trustee wishes to establish an indefinitely continuing superannuation fund (**Fund**):
  - for the provision of superannuation benefits to persons who become members of the fund on the trust mentioned in this deed; and
  - that is a regulated superannuation fund and registered registrable superannuation entity under the *Superannuation Industry (Supervision) Act 1993* (Cth).
- 2 On or about 1 July 2016:
  - the members and assets of The Universal Super Scheme (ABN 44 928 361 101) may be transferred on a successor fund transfer basis into the TUSS Division of the Fund; and
  - the members and assets of the Plum Superannuation Fund (ABN 20 339 905 340), National Australia Bank Group Superannuation Fund A (ABN 59 929 570 050), BHP Billiton Superannuation Fund (ABN 30 187 082 512) and Worsley Alumina Superannuation Fund (ABN 51 469 547 458) may be transferred on a successor fund transfer basis in to the Plum Division of the Fund.
- 3 Paragraph 5 on page 6 of this deed has been included to ensure that the Fund is treated as a trust for United States of America federal income tax purposes.
- 4 The Trustee wishes to act as the trustee of the Fund under the terms of this deed.
- 5 The Principal Company wishes to act as the 'Principal Company'



under the terms of this deed.

This deed witnesses  
as follows:

- 1 The superannuation fund constituted by this trust deed and to be known as the MLC Super Fund is established with effect from the date that the trust is settled.
- 2 The Trustee agrees to act as the trustee of the Fund in accordance with this deed.
- 3 The assets of the Fund are vested in, controlled and must be administered by the Trustee in accordance with this deed.
- 4 The Trustee holds the assets of the Fund on the trusts of, and subject to, this deed.
- 5 The sole purpose of the Fund (the trust) created by this deed is to provide superannuation benefits to the beneficiaries. Accordingly, the purpose of this deed is to vest in the Trustee responsibility for the protection and conservation of property for the beneficiaries who cannot share in the discharge of responsibility and, therefore, are not associates in a joint enterprise for the conduct of business for profit. The Trustee is obligated to manage the funds of the Fund responsibly in order to protect and conserve the Fund.



## 1 Definitions and interpretation

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### 1.1 Definitions

The meanings of the terms used in this deed are set out below.

<b>Term</b>	<b>Meaning</b>
<b>Account</b>	an account maintained by the Trustee: <ul style="list-style-type: none"><li>• for a Beneficiary;</li><li>• in relation to a deceased former Member (before the Trustee determines the distribution of the deceased former Member's Death Benefit);</li><li>• in relation to a Participating Employer; or</li><li>• for any other reason determined by the Trustee.</li></ul>
<b>Associated Employer</b>	a person who participates in the Fund by arrangement with the Trustee under clause 7.5.
<b>Beneficiary</b>	a Member or any other person who is entitled to be paid a benefit from the Fund.
<b>Benefit Arrangement</b>	another superannuation entity or a benefit arrangement: <ul style="list-style-type: none"><li>• to which assets may be paid or transferred from the Fund; or</li><li>• from which assets may be received into the Fund.</li></ul>
<b>Binding Nomination</b>	a nomination by a Member of one or more persons to receive all or part of the Member's Death Benefit which complies with the requirements in the SIS Act for a binding death benefit nomination in a form and manner, and subject to any terms, determined by the Trustee.
<b>Business Day</b>	a day on which banks are open for business in Sydney excluding a Saturday, Sunday or public holiday in that city.
<b>Corporations Act</b>	the <i>Corporations Act 2001</i> (Cth).
<b>CPI</b>	the consumer price index issued by the Australian Bureau of Statistics that the Trustee determines is to apply.



<b>Term</b>	<b>Meaning</b>
<b>Death Benefit</b>	the benefit that is payable from the Fund in respect of a Member on their death.
<b>Dependant</b>	has the same meaning as in the SIS Act.
<b>Discretionary Request</b>	a notice in a form and manner determined by the Trustee and given to the Trustee by a Member requesting the Trustee to pay all (or part of) the Member's Death Benefit to one or more persons (including the Member's Legal Personal Representative) in the proportions stated in the nomination.
<b>Divisions</b>	<ul style="list-style-type: none"><li>• the TUSS Division;</li><li>• the Plum Division; and</li><li>• any other division created under clause 6.1(a).</li></ul>
<b>Excess GST</b>	has the meaning given to that term in section 142-10 of the GST Act.
<b>Fund</b>	the superannuation fund known as the MLC Super Fund (ABN 70 732 426 024).
<b>Fund Email Address</b>	the latest email address of the Trustee in relation to the Fund that is set out in: <ul style="list-style-type: none"><li>• the Product Disclosure Statement for the relevant Product; or</li><li>• information sent or provided to the Notice Recipient.</li></ul>
<b>Fund Expenses</b>	the costs and expenses of and incidental to the establishment, operation, management, administration, investment and termination of the Fund (or a part of the Fund), including Tax, insurance costs and any fees or charges imposed on, or paid by, the Trustee.
<b>Fund Website</b>	the dedicated website for the Fund that is advised to the Notice Recipient from time to time in one or more of the following: <ul style="list-style-type: none"><li>• a Product Disclosure Statement for the relevant Product; or</li><li>• information sent or provided to the Notice Recipient.</li></ul>
<b>GST</b>	has the same meaning as in the GST Act.





<b>Term</b>	<b>Meaning</b>
<b>GST Act</b>	<i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
<b>GST Exclusive Consideration</b>	amounts payable for a supply exclusive of an amount for GST.
<b>Investment Option</b>	a separate investment strategy for the investment of an amount of assets of the Fund, which may be a single security or another single asset.
<b>Legal Personal Representative</b>	has the same meaning as in the SIS Act.
<b>Market Value</b>	has the same meaning as in the SIS Act.
<b>Member</b>	a person admitted as a member of the Fund and who has not ceased to be a member of the Fund under clause 7.2.
<b>Messaging System</b>	an electronic messaging system (other than email) that the Trustee approves for the purposes of providing and receiving notices under this deed that is advised to the Notice Recipient from time to time in one or more of the following: <ul style="list-style-type: none"><li>• a Product Disclosure Statement for the relevant Product; or</li><li>• information sent or provided to the Notice Recipient.</li></ul>
<b>MySuper Product</b>	has the same meaning as in the SIS Act.
<b>Nominated Beneficiary</b>	in relation to a Member, the person last nominated in a Binding Nomination, a Non-Lapsing Nomination, a Discretionary Request or a Prior Instruction by the Member to the Trustee as the person to or in respect of whom the Death Benefit should be paid if they die while a Member of the Fund.
<b>Non-Lapsing Nomination</b>	a nomination by a Member of one or more persons to receive all (or part of) the Member's Death Benefit in a form and manner, and subject to any terms, determined by the Trustee and that is not a Binding Nomination or Discretionary Request.
<b>Notice Recipient</b>	a Beneficiary or Participating Employer that is giving notices to or receiving notices from the Trustee.



<b>Term</b>	<b>Meaning</b>
<b>Participating Employer</b>	a Standard Employer Sponsor or Associated Employer.
<b>Plum Division</b>	a class of Membership and sub-fund of the Fund the terms of which are set out in clause 1.3 and Schedule 2.
<b>Policy</b>	a policy of insurance that covers a Member that is held by the Trustee in connection with the Fund.
<b>Power</b>	a power, right, discretion, remedy, determination or authority of any nature and however arising (including a power or right to approve and a power which a person has a duty to exercise).
<b>Principal Company</b>	National Australia Bank Limited or another company nominated under clause 3.6.
<b>Prior Instruction</b>	a direction or nomination, of binding or discretionary effect: <ul style="list-style-type: none"><li>• which was in effect in a Benefit Arrangement immediately prior to the transfer of the Member and the Member's benefit from that Benefit Arrangement to the Fund; and</li><li>• has been provided by the trustee of the other Benefit Arrangement to the Trustee.</li></ul>
<b>Product</b>	a class of interests in the Fund that: <ul style="list-style-type: none"><li>• is established by the Trustee under clause 5.1;</li><li>• subject to clause 5.4, in relation to which the Trustee holds assets; and</li><li>• has terms (eg a fee structure and Investment Options) determined under clause 5.2.</li></ul>
<b>Product Disclosure Statement</b>	has the same meaning as in the Corporations Act.
<b>Regulator</b>	in relation to a matter, the applicable person who exercises a statutory function in relation to the matter under the Relevant Law.
<b>Related Body Corporate</b>	has the same meaning as in the Corporations Act.



<b>Term</b>	<b>Meaning</b>
<b>Relevant Amount</b>	the amount or proportion of a Beneficiary's Account that is prescribed by the Trustee under clause 9.2(b)(2).
<b>Relevant Law</b>	<ul style="list-style-type: none"><li>• the SIS Act;</li><li>• the Corporations Act;</li><li>• the <i>Income Tax Assessment Act 1936</i> (Cth) and the <i>Income Tax Assessment Act 1997</i> (Cth);</li><li>• any other present or future law of Australia or a State or Territory of Australia which the Fund, this deed, the Trustee or a Beneficiary must comply with or satisfy to secure or better secure a concession or benefit for the Fund in respect of Tax or to avoid, in the opinion of the Trustee, a penalty, detriment or disadvantage to the Fund, the Trustee or a Beneficiary;</li><li>• any prudential standard, direction, instruction, ruling, guideline, licence or registration condition issued by a person duly authorised by a competent Parliament for this purpose which the Trustee determines is legally required to be followed, non-compliance with which may result in the Fund ceasing to be a complying superannuation fund or which the Trustee determines to be a Relevant Law for the purpose of this deed; and</li><li>• any present or future law of Australia, a State or Territory of Australia or a foreign jurisdiction which the Trustee determines to be a Relevant Law for the purpose of this deed.</li></ul>
<b>Relevant Terms</b>	the terms determined by the Trustee under clause 9.2(a).
<b>SIS Act</b>	the <i>Superannuation Industry (Supervision) Act 1993</i> (Cth).
<b>SIS Regulations</b>	the <i>Superannuation Industry (Supervision) Regulations 1994</i> (Cth).
<b>Standard Employer Sponsor</b>	an employer that participates in the Fund by arrangement with the Trustee under clause 7.4.
<b>Successor Fund</b>	has the same meaning as in the SIS Regulations.
<b>Supplier</b>	a party that makes a supply.



Term	Meaning
Tax	includes any Commonwealth or State or Territory of Australia or foreign tax, surcharge, levy, impost or duty (including any additional interest, fine, penalty or charge on those amounts) which is or might become payable in connection with the Fund, income of the Fund, payments or transfers of assets to or from the Fund, this deed or anything done or which may be done under this deed.
Trustee	the trustee for the time being of the Fund, whether original, additional or substituted.
TUSS Division	a class of Membership and sub-fund of the Fund the terms of which are set out in clause 1.3 and Schedule 1.

## 1.2 Interpretation

In this deed:

- (a) headings are for convenience only and do not affect the interpretation of this deed;
- (b) the provisions of clause 2 override all other provisions of this deed; and
- (c) unless the context otherwise requires:
  - (1) **SIS defined terms:** an expression that is used in this deed that is defined in the SIS Act has the same meaning in this deed.
  - (2) **Amended provisions:** a reference to a document (including this deed) includes a change or supplement to, or replacement or novation of, or a document which is incorporated by reference into that document.
  - (3) **Invalidity and enforceability:**
    - (i) if any provision of this deed is invalid under the law of any jurisdiction, the provision is enforceable in that jurisdiction to the extent that it is not invalid, whether it is in severable terms or not; and
    - (ii) paragraph (i) does not apply where enforcement of the provision of this deed in accordance with paragraph (i) would materially affect the nature or effect of:
      - an obligation of the Trustee;
      - a right of the Beneficiaries (as a whole);
      - a right of a Participating Employer; or
      - a right of the Principal Company, under this deed.



- 
- (4) **Approvals:**
- an approval, discretion, determination, agreement, consideration, opinion, resolution, consent, authorisation, direction or similar act (each an **approval**) of the Trustee may be made or exercised in any manner in the sole and absolute discretion of the Trustee and is conclusive and binding on all relevant parties;
  - a Power of approval includes a Power to withhold, revoke or vary an approval; and
  - any appointment to an office or position under this deed, and any conduct under this deed which requires the continued approval of a particular person, ceases on revocation of that approval.
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- (5) **Grammatical extension:** where a word or phrase is given a particular meaning in this deed, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.
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- (6) **Inclusions and examples:** all matters which are stated as being included in or an example of the scope of an expression or a clause do not limit the scope and generality of that expression or that clause.
- 
- (7) **Assets:** any reference to assets is a reference to real or personal property of any nature (including cash) and whether or not producing income or of a wasting or speculative nature and includes any indirect or direct legal or equitable interest in property and any right or option in respect of property.
- 
- (8) **Person:** a reference to a person includes an individual, body corporate, partnership, joint venture, association or authority.
- 
- (9) **Singular, plural and genders:** words importing the singular include the plural and vice versa and words importing a gender include any gender.
- 
- (10) **Statutory enactments:** a reference to any statute or other law includes all laws changing, consolidating or replacing them, and includes all laws, regulations, prudential standards, modification orders and other instruments issued under the statute or law.
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- (11) **Clauses of or schedules to this deed:** a reference to a clause or schedule is a reference to a clause of, or schedule to, this deed.
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- (12) **Proper Law:** this deed is governed by, and is to be construed in all respects with, the laws of New South Wales or such other jurisdiction determined by the Trustee.
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- (13) **State Trustee Acts:** to the extent possible, and unless the Trustee determines otherwise, this deed is not subject to
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section 35B of the *Trustee Act 1936* (SA) or the equivalent to that section in any State or Territory of Australia.

### 1.3 Interpretation rules for a Division

- (a) The only provisions of this deed that apply to a Member or Participating Employer of a Division are:
- (1) set out in the relevant Schedule for that Division; and
  - (2) the clauses of this deed that are listed below and the definitions in clause 1.1 and interpretation provisions in clause 1.2 that are relevant to those clauses:
    - clause 1.2(c)(12) 'Proper Law';
    - this clause 1.3 'Interpretation rules for a Division';
    - clause 2 'Compliance with Relevant Law';
    - clause 3 'Trustee and Principal Company';
    - clause 4.1 'General Powers';
    - clause 4.2 'Specific Powers';
    - clause 4.4 'Delegation';
    - clause 4.6 'Action despite interest';
    - clause 4.8 'Liability and indemnity';
    - clause 4.9 'GST';
    - clause 6 'Divisions';
    - clause 12.4(f) 'Transfers';
    - clause 12.4(g) 'Transfers';
    - clause 14 'Amending the deed'; and
    - clause 15 'Termination'.
- (b) In relation to the Plum Division, if there was:
- (1) a participation agreement or deed between PFS Nominees Pty Limited and a standard employer sponsor in relation to the Plum Superannuation Fund;
  - (2) a successor fund transfer deed between PFS Nominees Pty Limited and a trustee of another superannuation entity under which PFS Nominees Pty Limited has agreed that transferring members' interests will be treated in particular way in the Plum Superannuation Fund; or
  - (3) a special arrangement under clause 6.3 of the Plum Superannuation Fund trust deed,
- (each, an **agreement**) that applied to either:
- (4) an employer 'Sub-plan' of the Plum Superannuation Fund; or
  - (5) a person's membership of the Plum Superannuation Fund,
- immediately prior to the effective date of the successor fund transfer of the member's interest in the Plum Superannuation Fund into the Fund and the



relevant person becomes a Participating Employer or Beneficiary, despite anything to the contrary in an agreement, that agreement must be interpreted and applied so that it continues to apply in relation to the Plum Division following the successor fund transfer to the Fund with no adverse impact on a Beneficiary's interest.

- (c) In relation to the TUSS Division, if there was:
- (1) a participation agreement or deed between MLC Nominees Pty Limited and a standard employer sponsor in relation to The Universal Super Scheme;
  - (2) a successor fund transfer deed between MLC Nominees Pty Limited and a trustee of another superannuation entity under which MLC Nominees Pty Limited has agreed that transferring members' interests will be treated in particular way in The Universal Super Scheme;
  - (3) a special arrangement under clause 5.4 of The Universal Super Scheme trust deed,
- (each, an **agreement**) that applied to either:
- (4) an employer's participation in The Universal Super Scheme; or
  - (5) a person's membership of The Universal Super Scheme,
- immediately prior to the effective date of the successor fund transfer of the member's interest in The Universal Super Scheme into the Fund and the relevant person becomes a Participating Employer or Beneficiary, despite anything to the contrary in an agreement, that agreement must be interpreted and applied so that it continues to apply in relation to the TUSS Division following the successor fund transfer to the Fund with no adverse impact on a Beneficiary's interest.
- (d) Nothing in clauses 1.3(b) or 1.3(c) limits the ability of the Trustee to exercise a power under clause 6.3 to transfer a Member provided that the terms of the relevant agreement or deed did not prevent PFS Nominees Pty Limited or MLC Nominees Pty Limited from exercising a similar power.
- (e) In relation to an agreement or a deed, the Trustee may determine that:
- (1) clause 1.3(b) or 1.3(c) does not apply in circumstances when that agreement or deed would have been able to be terminated by PFS Nominees Pty Limited or MLC Nominees Pty Limited; or
  - (2) the application of that agreement or deed under clause 1.3(b) or 1.3(c) is varied in circumstances when that agreement or deed would have been able to have been varied by PFS Nominees Pty Limited or MLC Nominees Pty Limited.

## 2 Compliance with Relevant Law

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### 2.1 Clause paramount

Despite anything expressed or implied to the contrary in any other provision of this deed, if there is a conflict between this clause 2 and any other provision of this deed (including any provision which purports to override this clause 2), this clause 2 prevails.





## 2.2 Deed subject to Relevant Law

The provisions of this deed are subject to the Relevant Law and if:

- (a) there is any inconsistency between the provisions of this deed and the Relevant Law, the requirements of the Relevant Law prevail;
- (b) a provision of a Relevant Law is required to be included in this deed, that provision is included in this deed for as long as required by the Relevant Law; and
- (c) a provision of the Relevant Law (an **empowering provision**) states that the Trustee can (but is not obliged to) act in accordance with the Relevant Law but requires that this deed include a particular provision (a deed provision), the deed provision is deemed to be included in this deed for so long as it is so required by the Relevant Law if the Trustee acts in accordance with the empowering provision.

## 2.3 Requirements (and discretions) of Relevant Law

The Trustee:

- (a) must comply with a requirement of the Relevant Law; and
- (b) can (but is not obliged to) act in accordance with a provision of the Relevant Law that is not a requirement of the Relevant Law.

## 2.4 Direction or discretion of a third party

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

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

## 2.5 Income stream

Where the Trustee decides to issue an income stream from the Fund on the basis that it qualifies as a pension (or a particular type of pension) under the Relevant Law, any condition, standard or requirement of the Relevant Law which is required to be satisfied in order for the income stream to qualify as a pension (or as a particular type of pension) under the Relevant Law is deemed to be included in this deed for so long as it is so required.

## 2.6 MySuper Product

If the Trustee is authorised and decides to offer a MySuper Product any condition, standard or requirement of the Relevant Law which must be satisfied in relation to a MySuper Product is deemed to be included in this deed for so long as it is so required.





## 3 Trustee and Principal Company

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### 3.1 Fund assets held on trust

The Trustee must hold the Fund assets on trust for the Beneficiaries subject to the terms of this deed.

### 3.2 Nature of the Trustee

The Trustee must be a body corporate formed within Australia that is either a trading or a financial corporation (within the meaning of paragraph 51(xx) of the Australian Constitution) unless the Trustee determines (which it is empowered to do) that the sole or primary purpose of the Fund is the provision of old-age pensions.

### 3.3 Resignation

- (a) The Trustee holds office until the Trustee exercises its right to resign as trustee of the Fund and another person assumes the office of Trustee.
- (b) The Trustee's resignation under clause 3.3(a) becomes effective on the appointment of a new Trustee of the Fund under clause 3.4.

### 3.4 Appointing a new Trustee

If the Trustee ceases (or will cease) to hold office, the Principal Company may appoint as the new Trustee a person eligible under the Relevant Law to be the trustee of the Fund.

### 3.5 Transfer of assets

A retiring Trustee must execute all transfers, deeds and other documents that are necessary to transfer the assets of the Fund to a new Trustee as the new Trustee reasonably requires.

### 3.6 Appointing a new Principal Company

The Principal Company may cease to hold the office of 'Principal Company' and appoint another entity to act as the new Principal Company.

## 4 Trustee's Powers

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### 4.1 General Powers

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

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



## 4.2 Specific Powers

The Trustee's Powers under clause 4.1 include the following Powers:

(a)	<b>Licences and authorities</b>	to apply for any relevant licences or authorities;
(b)	<b>Agent, adviser or service provider</b>	to appoint an agent, adviser or service provider on the terms that the Trustee determines;
(c)	<b>Benefit calculation and manner of payment</b>	to conclusively calculate and determine the amount of a benefit, the persons entitled to all or part of a benefit and the manner in which a benefit will be paid;
(d)	<b>Delay payment of a benefit</b>	to delay the payment of a benefit until the Trustee: (1) can determine a fair and reasonable price for the assets, or a particular asset or assets that the Trustee considers on reasonable grounds to be referable to a particular Beneficiary's interest; and (2) is in receipt of the relevant assets required to pay the benefit;
(e)	<b>Change a benefit</b>	to revoke, change or correct a benefit determination;
(f)	<b>Indemnity or undertaking</b>	to give an indemnity or undertaking;
(g)	<b>Insurance</b>	to obtain insurance in respect of the Fund, a Beneficiary, the Trustee or a director of the Trustee;
(h)	<b>Proceedings</b>	to be involved in or compromise proceedings, disputes, claims or any other action by any person in relation to the Fund or the Trustee;
(i)	<b>Discharge</b>	to give a receipt, release or other discharge in respect of a right or claim that the Trustee has against another party;
(j)	<b>Rules and procedures</b>	to make rules and adopt procedures in relation to the Fund;
(k)	<b>Tax</b>	to do anything it considers appropriate in respect of any Tax, including creating a reserve or making any other provision for estimated Tax;
(l)	<b>Borrow</b>	to borrow;
(m)	<b>Reserves</b>	to maintain a reserve for the Fund, a Product, a Division or a class of Beneficiaries in a Product or Division; and



- (n) **Anything necessary** to do anything that is necessary or incidental to the exercise of any Power by the Trustee.
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### 4.3 Absolute discretion in exercising powers

- (a) Except as otherwise expressly provided in this deed, the Trustee has absolute and uncontrolled discretion in the exercise of any Power at any time and from time to time and is not required to justify the exercise of any Power.
- (b) The Powers conferred on the Trustee by this deed are additional to the powers exercisable by a trustee at law.
- (c) Any determination made by the Trustee under this deed to pay or apply any amount of assets may at any time in the absolute discretion of the Trustee be varied, altered, revoked or replaced.
- (d) Without limiting this clause 4.3, in exercising any Power, the Trustee may treat classes of Beneficiaries differently and is not required to exercise a Power in the same manner in relation to different classes of Beneficiaries.

### 4.4 Delegation

The Trustee may in such manner and on such terms as the Trustee considers appropriate:

- (a) delegate a Power exercisable by the Trustee to any person that may include the Power to sub-delegate;
- (b) vary or revoke a delegation; and
- (c) exercise a Power in conjunction with, or to the temporary or permanent exclusion of, a delegate.

### 4.5 Reliance on opinions, advice or information

- (a) The Trustee:
- (1) may rely on any opinion, advice, statement or information obtained from a Regulator, a Beneficiary or Participating Employer, an issuer of a Policy or the Principal Company; and
- (2) is not liable for anything done, suffered or omitted by it in doing so.
- (b) A Beneficiary or Participating Employer indemnifies the Trustee for:
- (1) any loss, expense, liability or damage incurred;
- (2) any overpayment made; or
- (3) any failure to provide for Tax,
- as a result of the Trustee relying on any opinion, advice, statement or information provided by a Beneficiary or Participating Employer or which should have been given to it by the Beneficiary or Participating Employer under this deed or the Relevant Law.

### 4.6 Action despite interest

- (a) A Beneficiary, director or officer of the Trustee or other person associated with the Trustee may act as a delegate or agent of or adviser to the Trustee.





- (b) The Trustee or any other person, irrespective of any fiduciary obligations arising from any relationships created by this deed, may:
- (1) participate in the Fund;
  - (2) deal with themselves (as Trustee of the Fund or in any other capacity) and retain for its own benefit any profit or other benefit arising pursuant to such dealing;
  - (3) contract with any person associated with the Trustee;
  - (4) contract with any Related Body Corporate of the Trustee and, in the course of such transacting or dealing, benefit the Related Body Corporate;
  - (5) have any interest in a person contracting with the Trustee and retain any profit or other benefit arising from such a transaction; and
  - (6) act in the same or a similar capacity in relation to any other superannuation entity.

#### 4.7 Remuneration

- (a) The Trustee is entitled to be paid, and retain for its own benefit, the fees that are disclosed to Members in one or more of the Product Disclosure Statement, member communications, on the Fund Website or as otherwise determined by the Trustee.
- (b) A fee that is charged under clause 4.7(a), or the basis for the calculation of the fee, may be waived, changed, varied, replaced, added to or increased by the Trustee in its absolute discretion.
- (c) The fees may be deducted, in the manner determined by the Trustee, from:
- (1) the assets of the Fund; or
  - (2) amounts paid into or out of the assets of the Fund.
- (d) The Trustee may charge a different fee or amount to any Beneficiary (or class of Beneficiaries) based on such criteria as it determines appropriate, including levels of investment held by the member or other persons in other financial products issued by the Trustee or a Related Body Corporate of the Trustee or a third party:
- (e) If the Trustee or a director or officer of the Trustee performs work in relation to the Fund in a personal capacity including anything which could be done by an unqualified person:
- (1) he or she can be paid all their usual fees for the work they do; and
  - (2) the company or firm in which that person is a shareholder, partner or an employee, can be paid all their usual fees for the work that the person does.

#### 4.8 Liability and indemnity

To the extent that is permitted by the Relevant Law, the current and former Trustee and each current and former director or officer of the Trustee is:

- (a) exempted from any liability; and
- (b) may be indemnified (or exonerated) from the Fund in respect of a liability (including a Fund Expense), incurred while acting as Trustee or a director or officer of the Trustee.



## 4.9 GST

- (a) In this clause:
- (1) any reference to a term defined or used in the GST Act is, unless the context indicates otherwise, a reference to that term as defined or used in the GST Act; and
  - (2) a reference to GST payable by or input tax credit of a party includes the corresponding GST payable by or input tax credit of the representative member of the GST group of which that party is a member.
- (b) Unless otherwise expressly stated, all amounts referred to in this deed, including amounts used to determine a payment to be made by one party to the other are exclusive of any amount for GST.
- (c) To the extent that GST is payable in respect of all or any part of a supply made by a Supplier under or in connection with this deed, the GST Exclusive Consideration to be provided under this deed for that supply is increased by an amount equal to the GST payable by the Supplier (excluding any Excess GST).
- (d) The recipient must pay the additional amount payable under clause 4.9(c) to the Supplier at the same time and in the same manner as the GST Exclusive Consideration for the supply is otherwise required to be provided.
- (e) The Supplier must issue a tax invoice to the recipient of the taxable supply at or before the time of payment of the additional amount on account of GST under clause 4.9(d) or at such other time as the parties agree.
- (f) Whenever an adjustment event occurs in relation to any taxable supply made under or in connection with this deed the Supplier must determine the net GST in relation to the supply (taking into account any adjustment and excluding any Excess GST) and if the net GST differs from the amount previously paid under clause 4.9(d), the amount of the difference must be paid by, refunded to or credited to the recipient, as applicable.
- (g) If one of the parties to this deed is entitled to be reimbursed or indemnified for a loss, cost, expense or outgoing incurred in connection with this deed, then the amount of the reimbursement or indemnity payment must first be reduced by an amount equal to any input tax credit to which the party being reimbursed or indemnified is entitled in relation to that loss, cost, expense or outgoing and then, if the amount of the payment is consideration or part consideration for a taxable supply, it must be increased on account of GST in accordance with clause 4.9(c).

## 4.10 Unallocated amount

The Trustee can determine how to deal with (and the purpose for which it will deal with) any amount in the Fund that:

- (a) is not allocated to any Beneficiary or reserve; or
- (b) may not (or cannot) be paid or is not payable by the Trustee to any Beneficiary, including applying that amount for the reduction of contributions of a Participating Employer or to pay Fund Expenses.





#### 4.11 Uneconomic compensation

The Trustee can allocate an amount out of Fund assets or otherwise to a reserve or an Investment Option determined by the Trustee instead of paying that amount as compensation to a Beneficiary if the Trustee reasonably considers that:

- (a) the amount of compensation that would (if this clause did not apply) be payable in relation to the Beneficiary is less than \$20 (increased for CPI from 1 July 2016) and the Beneficiary has either:
  - (1) ceased to be a Member; or
  - (2) was never a Member; or
- (b) the Fund Expenses that the Trustee is entitled to be indemnified or exonerated for from the Fund in calculating and providing the compensation will exceed the amount of compensation to be provided to the Beneficiary.

## 5 Products

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### 5.1 Establishment and termination of a Product

The Trustee may:

- (a) decide to issue one or more Products; and
- (b) terminate a Product and apply the assets in accordance with clause 15.

### 5.2 Terms of a Product

- (a) The Trustee must administer a Product in accordance with the terms of the Product determined and changed by the Trustee from time to time.
- (b) The terms of a Product are to be determined and recorded in writing by the Trustee and made available to a current or potential Member (and, if relevant, Participating Employer) in a manner determined by the Trustee and may include different classes of Beneficiaries within the Product.
- (c) If there is an inconsistency between a term of a Product and a provision of this deed, the term of the Product prevails to the extent of the inconsistency unless:
  - (1) the term of the Product or the provision of this deed expressly states that this deed prevails; or
  - (2) the inconsistency is with clause 2 in which case that clause prevails.

### 5.3 Movement between Products

The Trustee may:

- (a) without a Member's consent, transfer the Member's interest or benefit in the Fund:
  - (1) between Products,
  - (2) from a Product to a Division; or
  - (3) between classes of Beneficiaries in a Product,



provided that the transfer does not increase the amount that a Member must contribute to the Fund; and

- (b) without a Participating Employer's consent, alter the terms of a Product in which the Participating Employer participates.

#### 5.4 Assets and liabilities

- (a) Subject to clause 5.4(b), any liability that relates to:
  - (1) a Product must not be satisfied from the assets that are (or the proportion of an asset that is) attributable to any other Product or a Division; or
  - (2) a class of Beneficiaries of a Product must not be satisfied from the assets that are (or the proportion of an asset that is) attributable to any other class of Beneficiaries of that Product.
- (b) The Trustee can decide that clause 5.4(a) does not apply to certain liabilities (eg if an operational risk financial reserve is held in the Fund, liabilities for operational risks that should be paid out of the operational risk financial reserve).

#### 5.5 Sub-plan

Unless the Trustee determines otherwise, a Product (or class of Beneficiaries within a Product) is not a sub-plan under the Corporations Act.

## 6 Divisions

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### 6.1 Establishment and termination

The Trustee may decide to:

- (a) create a new Division by amending this deed to insert a new Schedule; and
- (b) terminate a Division in accordance with clause 15.

### 6.2 Terms of a Division

The only provisions of this deed that apply to a Member or Participating Employer of a Division are referred to in clause 1.3.

### 6.3 Movement from Divisions or within Divisions

The Trustee may:

- (a) without a Member's consent, transfer the Member's interest or benefit in the Fund:
  - (1) from a Division to a Product;
  - (2) between classes of Beneficiaries in a Division; or
  - (3) between Divisions,

provided that the transfer does not increase the amount that a Member must contribute to the Fund; and



- (b) without a Participating Employer's consent, alter the terms of a Division that apply to the Participating Employer.

## 6.4 Assets and liabilities

- (a) Subject to clause 6.4(b), any liability that relates to:
  - (1) a Division must not be satisfied from the assets that are (or the proportion of an asset that is) attributable to any other Division or Product; or
  - (2) a class of Beneficiaries of a Division must not be satisfied from the assets that are (or the proportion of an asset that is) attributable to any other class of Beneficiaries of that Division.
- (b) The Trustee can decide that clause 6.4(a) does not apply to certain liabilities (eg if an operational risk financial reserve is held in the Fund, liabilities for operational risks that should be paid out of the operational risk financial reserve).

## 6.5 Sub-plan

Unless the Trustee determines otherwise, a Division (or class of Beneficiaries within a Division) is not a sub-plan under the Corporations Act.

# 7 Membership and participation

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## 7.1 Commencing Membership

- (a) Subject to clause 7.1(b), a person may apply to become a Member in a manner determined by the Trustee if:
  - (1) under the Relevant Law the person is eligible to contribute, have contributions made on their behalf or have an amount rolled over or transferred to a Product for their benefit or is a non-member spouse; and
  - (2) under the terms of a Product, is eligible to participate in the Product.
- (b) The Trustee may in its absolute discretion, with or without giving reasons, accept or reject a person becoming (or delay considering whether a person will become) a Member or impose terms in respect of a person's Membership.
- (c) The Trustee may accept a payment by, or in respect of, a person who has not applied to become a Member in which case the person becomes a Member from the date determined under clause 7.1(d).
- (d) Subject to clauses 7.1(a) and 7.1(b), a person becomes a Member from the date determined by the Trustee or, if the Trustee does not determine a date, from the earlier date that the Trustee accepts:
  - (1) the application by a person to become a Member under clause 7.1(a);
  - (2) a nomination of that person by a Standard Employer Sponsor for that person to become a member under clause 7.4(f) or 7.5(f); or
  - (3) a payment by, or in respect of, a person's Membership under clause 7.1(c).





- (e) A Member participates in a Product (and, if applicable, class of Beneficiaries within a Product):
  - (1) as determined by the Trustee; or
  - (2) if the Trustee makes no such determination, as specified in the person's application or nomination by a Standard Employer Sponsor.

## 7.2 Ceasing to be a Member

A person who is a Member ceases to be a Member and a Beneficiary:

- (a) on their death;
- (b) on the date they no longer have in the Fund either:
  - (1) a positive Account balance; or
  - (2) insurance cover under a Policy,unless:
  - (3) a benefit is then payable to them, in which case they cease to be a Member and a Beneficiary on the date that all of that benefit has been paid to (or for the benefit of) the person; or
  - (4) the Trustee decides that the person should continue to be a Member and a Beneficiary; or
- (c) if the Trustee determines that they have ceased to be a Member and a Beneficiary.

## 7.3 Ceasing to be a Beneficiary

A person who is a Beneficiary but not a Member, ceases to be a Beneficiary:

- (a) on the date that all of the person's benefit is:
  - (1) paid to (or for the benefit of) the person; or
  - (2) otherwise satisfied or dealt with in accordance with the Relevant Law and this deed,unless the Trustee decides that the person should continue to be a Beneficiary; or
- (b) if the Trustee determines that they have ceased to be a Beneficiary.

## 7.4 Standard Employer Sponsors

- (a) A person, who under the terms of a Product is eligible to participate in the Product as a Standard Employer Sponsor, may apply to become a Standard Employer Sponsor in relation to that Product in a manner determined by the Trustee.
- (b) The Trustee may in its absolute discretion, with or without giving reasons, accept or reject a person becoming (or delay considering whether a person will become) a Standard Employer Sponsor or impose terms in respect of a person being a Standard Employer Sponsor.
- (c) The Trustee may accept a payment by, or in respect of, a person who has not applied to become a Standard Employer Sponsor, but who made the payment under an arrangement with the Trustee, in which case the person becomes a Standard Employer Sponsor from the date determined under clause 7.4(d).



- (d) Subject to clause 7.4(b), a person becomes a Standard Employer Sponsor from the date determined by the Trustee or, if the Trustee does not determine a date, from the earliest date that the Trustee accepts:
- (1) the application by a person to become a Standard Employer Sponsor under clause 7.4(a);
  - (2) a payment under clause 7.4(c); and
  - (3) a payment from the Standard Employer Sponsor.
- (e) A Standard Employer Sponsor participates in the Product (and if applicable, class of Beneficiaries within a Product) that is:
- (1) determined by the Trustee; or
  - (2) if the Trustee makes no such determination, specified in the Standard Employer Sponsor's application.
- (f) A Standard Employer Sponsor may nominate an employee to become a Member provided that the employee is eligible under the Relevant Law and under the relevant terms of the Product to become a Member of the Fund.
- (g) A Standard Employer Sponsor ceases to be a Standard Employer Sponsor if:
- (1) the Standard Employer Sponsor gives the Trustee at least 30 days' (or a shorter period agreed to by the Trustee) written notice to that effect;
  - (2) the Trustee gives the Standard Employer Sponsor notice to that effect; or
  - (3) unless the Trustee agrees otherwise, the Standard Employer Sponsor ceases to have any employees who are Members.
- (h) When a Standard Employer Sponsor ceases to be a Standard Employer Sponsor the Trustee may:
- (1) if permitted by the rules of the Product, permit each Member who is an employee of the Standard Employer Sponsor to continue to participate in the Product or to be transferred to another Product or Division; or
  - (2) transfer the benefit entitlements of each Member who is an employee of the Standard Employer Sponsor to another Product, a Division or superannuation entity nominated by the Member.
- (i) When a Member who is an employee of a Standard Employer Sponsor ceases to be an employee of a Standard Employer Sponsor, the Trustee may:
- (1) if permitted by the rules of the Product, permit the Member to continue to participate in the Product or to be transferred to another Product or Division; or
  - (2) transfer the benefit entitlement of the Member to another Product, a Division or superannuation entity nominated by the Member.

## 7.5 Associated Employers

- (a) A Standard Employer Sponsor may, in a form and manner approved and accepted by the Trustee, nominate a person to be an Associated Employer of a Standard Employer Sponsor.
- (b) The Trustee may, with or without giving reasons, accept, reject or delay consideration of a nomination of a person to be an Associated Employer of a





- Standard Employer Sponsor or impose terms in respect of a person being an Associated Employer of a Standard Employer Sponsor.
- (c) A person can only become an Associated Employer of a Standard Employer Sponsor if it has consented to being an Associated Employer of the Standard Employer Sponsor.
  - (d) Unless the Trustee determines otherwise, an Associated Employer of a Standard Employer Sponsor will participate in the same Product (and if applicable, class of Beneficiaries within a Product) as the Standard Employer Sponsor.
  - (e) A person becomes an Associated Employer of a Standard Employer Sponsor from the date determined by the Trustee or, if the Trustee does not determine a date, from the date that the Trustee accepts the nomination of the person under clause 7.5(b).
  - (f) An Associated Employer may nominate an employee to become a Member provided that the employee is eligible under the Relevant Law and under the relevant terms of the Product to become a Member of the Fund.
  - (g) An Associated Employer ceases to be an Associated Employer if:
    - (1) the Standard Employer Sponsor or Associated Employer gives the Trustee at least 30 days' (or a shorter period agreed to by the Trustee) written notice to that effect;
    - (2) the Trustee gives the Associated Employer notice to that effect; or
    - (3) unless the Trustee agrees otherwise, the Associated Employer ceases to have any employees who are Members.
  - (h) When an Associated Employer ceases to be an Associated Employer the Trustee may:
    - (1) if permitted by the rules of the Product, permit each Member who is an employee of the Associated Employer to continue to participate in the Product or to be transferred to another Product or Division; or
    - (2) transfer the benefit entitlements of each Member who is an employee of the Associated Employer to another Product, a Division or superannuation entity nominated by the Member.
  - (i) When a Member who is an employee of an Associated Employer ceases to be an employee of an Associated Employer, the Trustee may:
    - (1) if permitted by the rules of the Product, permit the Member to continue to participate in the Product or to be transferred to another Product or Division; or
    - (2) transfer the benefit entitlement of the Member to another Product, a Division or superannuation entity nominated by the Member.

## 7.6 Special arrangements

- (a) The Trustee may agree with a person that the participation of the person as a Member or a Participating Employer is subject to, or varied in accordance with, the terms and conditions contained in the agreement.
- (b) If the Trustee and a person enter into an agreement about the terms of the person's participation as a Member or a Participating Employer:
  - (1) that agreement is binding on both the Trustee and the person; and



- (2) to the extent that the agreement conflicts with any other provision of this deed (except clause 2) or the terms of the relevant Product, the terms of the agreement prevail.

## 7.7 Beneficiary and Participating Employer bound

- (a) Each Beneficiary and Participating Employer is bound by this deed.
- (b) A Participating Employer may exercise any power or discretion given under this deed in its own interests.

## 8 Accounts and Information

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### 8.1 Accounts

The Trustee:

- (a) must maintain an Account for each Member (and, to the extent necessary, each Beneficiary) to record the benefits of the Beneficiaries;
- (b) may maintain:
  - (1) an Account in relation to a Participating Employer;
  - (2) any reserves that the Trustee determines; and
  - (3) any records and other Accounts it determines;
- (c) may adopt any method or policy (including unit pricing) it determines to:
  - (1) calculate the investment return and changes in capital value to be credited or debited to an Account or reserve; or
  - (2) allocate actual and anticipated Fund Expenses to an Account or reserve; and
- (d) may credit and debit Accounts and reserves with any amount and in any manner it considers appropriate.

### 8.2 Provision and disclosure of information

- (a) Each Beneficiary and, with the exception of paragraph (3), Participating Employer must:
  - (1) provide all information and evidence;
  - (2) sign all documents;
  - (3) undergo all examinations and tests; and
  - (4) satisfy all standards and requirements,  
requested by the Trustee.
- (b) The Trustee may place conditions on the person's Membership if:
  - (1) the person does not comply with clause 8.2(a) to the satisfaction of the Trustee; or
  - (2) the information provided by the person is incorrect or contains an omission.





- (c) The Trustee may use or disclose confidential information relating to a Beneficiary or Participating Employer:
  - (1) for the purposes of the Fund;
  - (2) as required or permitted by the Relevant Law;
  - (3) as the Trustee considers to be in the interests of the Beneficiary; or
  - (4) in such other circumstances as the Trustee considers is appropriate.

## 9 Investments

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### 9.1 Authorised investments

- (a) The Trustee may make any investment or deal with the assets of the Fund in any manner that the Trustee considers appropriate.
- (b) Subject to clause 9.1(c), without limiting clause 9.1(a), if the Trustee can identify the amount that represents a Fund asset, the Trustee may:
  - (1) deposit Fund assets in a bank account that also contains assets that are not Fund assets; and
  - (2) mix investments with investments of assets that are not Fund assets.
- (c) Clause 9.1(b) does not preclude the Trustee from holding the Fund assets separately and on trust for the benefit of each Beneficiary or accessing the full value of any statutory benefit that is available to a Beneficiary.

### 9.2 Member investment choice

- (a) The Trustee may permit a Beneficiary (or a class of Beneficiaries) to choose one or more Investment Options (as amended from time to time) on such terms as the Trustee considers appropriate.
- (b) Without limiting clause 9.2(a), the Trustee may:
  - (1) prescribe a minimum amount which must be held in one or more Investment Options;
  - (2) prescribe the amount or proportion of a Beneficiary's Account which may be invested or held in a particular Investment Option and to which the Beneficiary's choice will apply;
  - (3) determine different terms for different classes of Beneficiaries;
  - (4) change the Relevant Terms for an Investment Option;
  - (5) terminate the Investment Option and transfer the Relevant Amount to an Investment Option that the Trustee considers is the most appropriate alternative to the terminating Investment Option or an Investment Option where the assets are invested in cash or cash-like assets;
  - (6) close an Investment Option to Beneficiaries who do not have a Relevant Amount invested in that Investment Option or to additional amounts being invested in that Investment Option; and



- (7) to the extent permitted by the Relevant Law decide that an Investment Option or a component of an Investment Option that is held as cash, has certain characteristics to qualify for any benefit for a Beneficiary.
- (c) If the Trustee permits a Beneficiary to choose one or more Investment Options (as amended from time to time):
  - (1) if all Relevant Terms have been satisfied, the Trustee must invest the Relevant Amount in accordance with the Investment Option or Options that the Beneficiary has chosen and that investment is made for the sole benefit (and at the sole risk) of the Beneficiary and any income, capital gains, capital losses or Fund Expenses incurred in relation to that Investment Option must be attributed to that Beneficiary;
  - (2) the Trustee may nominate an Investment Option (that may also be a MySuper Product) in which the Trustee will invest the Relevant Amount if a Beneficiary does not choose an Investment Option or if the Beneficiary's choice cannot be implemented; and
  - (3) the Beneficiary agrees that their choice of an Investment Option applies to an Investment Option to which the Relevant Amount is transferred under clause 9.2(b)(5).
- (d) A Beneficiary may, in relation to all or part of a Relevant Amount, request that the Trustee change the Investment Option or redeem an investment in an Investment Option.
- (e) The Trustee must comply with a request under clause 9.2(d) unless the Trustee determines that the request should be delayed or not given effect to for any reason such as:
  - (1) the Beneficiary will not comply with the Relevant Terms for an Investment Option that they have requested that a Relevant Amount be invested in;
  - (2) the underlying assets of the Investment Option cannot be liquidated or transferred for fair market value; or
  - (3) the liquidation or transfer of an underlying asset of an Investment Option would adversely impact the interests of other Beneficiaries.
- (f) If, under clause 9.2(e), the Trustee delays giving effect to a request, the Trustee must implement that request after the Trustee decides that the request should no longer be delayed.
- (g) The Trustee is not:
  - (1) liable to a Beneficiary for acting (or for a delay in acting) in accordance with the Beneficiary's choice of one or more Investment Options or request under clause 9.2(d);
  - (2) required to consider the Beneficiary's individual circumstances before acting on the Beneficiary's choice of one or more Investment Options or request under clause 9.2(d) or at any other time;
  - (3) required to act in relation to a right that relates to an Investment Option including notifying a Beneficiary of that right; or
  - (4) liable for any act or omission in relation to a right that relates to an Investment Option.





### 9.3 No right to a particular Fund asset

A Beneficiary has no right to claim any interest or exercise any right in any particular asset of the Fund.

### 9.4 Segregation of assets

The Trustee may segregate (physically or notionally) particular assets of the Fund from other assets.

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## 10 Valuation of assets

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### 10.1 Valuation of Assets

- (a) The Trustee may, at any time, arrange for an asset of the Fund to be valued.
- (b) In determining the valuation of an asset of the Fund, the Trustee is not to be regarded as having the knowledge of a valuer or any other expertise in respect of the valuation of the asset of the Fund.
- (c) An asset of the Fund must be valued at its Market Value at the time of valuation unless the Trustee determines that:
  - (1) there is no market in respect of the asset; or
  - (2) the Market Value does not represent the fair market value of the asset.
- (d) Where the Trustee makes a determination under clause 10.1(c), the Trustee must at the same time determine the method of valuation for the asset.
- (e) The Trustee may decide when an asset of the Fund is to be valued.
- (f) When determining the amount in an Account on a particular date, the Trustee may rely on the most recent valuation of the assets of the Fund and does not need to arrange for the assets of the Fund to be valued at that date.

### 10.2 Currency conversion

Where it is necessary for any purposes to convert one currency to another, the conversion must be made at a time and at rates quoted by a bank or other financial institution, currency dealer or currency quotation service provider nominated by the Trustee from time to time.

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## 11 Insurance

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- (a) The Trustee may acquire, hold, vary or dispose of one or more Policies to provide insured benefits for one or more Beneficiaries.
- (b) The component of the Member's benefit that relates to cover provided under a Policy is:
  - (1) subject to the terms of the Policy under which it is provided;
  - (2) limited to the extent that the Member is covered under the Policy;



- (3) only payable if, and to the extent that, the Trustee receives payment from the insurer under the Policy.
- (c) If an insurer refuses to provide cover for a Member (or a Member's cover ceases) under a Policy, the Trustee is not required to arrange any other cover for the Member.

## 12 Contribution, rollover or transfer

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### 12.1 Amount

The Trustee may determine the amount or rate of contributions that can be made to the Fund or rollovers or transfers that can be made into the Fund.

### 12.2 Manner

The Trustee may determine the manner in which a contribution to (or rollover or transfer to) the Fund can be made including:

- (a) the payment method that can be used; and
- (b) whether a contribution, rollover or transfer can be done by transferring an asset or assets.

### 12.3 Types of contributions

The Trustee may accept into the Fund any contribution, rollover or transfer for a person that the Relevant Law permits the Trustee to accept.

### 12.4 Transfers

- (a) On terms agreed between the Trustee and the other person, the Trustee may arrange for the transfer into the Fund of assets with:
  - (1) the person responsible for a Benefit Arrangement;
  - (2) a person who is (or was) a participant in a Benefit Arrangement; or
  - (3) any other person who can transfer assets into the Fund.
- (b) The Trustee:
  - (1) may, with or without the consent of a Beneficiary, transfer all or part of the benefit entitlement of the Beneficiary from the Fund to a Benefit Arrangement; and
  - (2) must transfer or rollover the benefit entitlement of a Beneficiary to a Benefit Arrangement or to a Regulator in the circumstances required by the Relevant Law.
- (c) The Trustee may provide an indemnity or an undertaking or accept a liability (each an **obligation**) in relation to the transfer of assets to and from the Fund as it determines in its absolute discretion (including assuming an obligation towards the trustee of another Benefit Arrangement from which the benefit entitlements of a Beneficiary are transferred).





- (d) If the Trustee assumes an obligation, the Trustee may debit the Accounts of the Members to which the assets relate and other Accounts as the Trustee, in its absolute discretion, determines.
- (e) The Trustee may transfer all or part of a reserve or any unallocated surplus in the Fund to a Benefit Arrangement.
- (f) If the Trustee accepts a transfer of a benefit into the Fund on the basis that the Fund is a Successor Fund and admits a person as a Member, the Trustee:
  - (1) must, if it has made an irrevocable decision that this clause 12.4(f)(1) applies prior to accepting the transfer of a benefit, comply with any Prior Instruction that was a binding nomination or non-lapsing nomination for as long as that nomination would have applied to the trustee of the transferring fund; and
  - (2) may decide to comply with any other Prior Instruction, in which case that Prior Instruction must be treated as if it was provided to the Trustee.
- (g) Despite any other provision in this deed (except for clause 2) if:
  - (1) prior to the transfer of benefits into the Fund on the basis that the Fund is a Successor Fund, the Trustee decides that this clause 12.4(g) is to apply;
  - (2) the Trustee accepts a transfer of benefits into the Fund on the basis that the Fund is a Successor Fund and admits a person as a Member; and
  - (3) the benefit entitlement of the person admitted as a Member is dependent on an event or information that relates to an event that occurred prior to the person becoming a Member,the Trustee can solely rely on:
  - (4) the information provided to the Trustee by (or on behalf of) the trustee of a superannuation entity that the Member was a member of immediately prior to the date of becoming a Member; and
  - (5) if the information that is referred to in clause 12.4(g)(4) is not provided or is not adequate, the Trustee's estimation of what occurred or that information,and the Trustee is not liable if its estimation is not accurate.

## 12.5 Discretion to refuse or refund

- (a) The Trustee may refuse to accept all or part of a contribution, rollover or transfer made for a person without giving any reason.
- (b) The Trustee is not required:
  - (1) to take any action to obtain a contribution or recover a transfer or rollover from any person; or
  - (2) to notify any person if a contribution, transfer or rollover has not been received or is in arrears.
- (c) If a contribution, transfer or rollover that is received by the Trustee cannot be credited to the Fund in accordance with the Relevant Law or has been paid by mistake, the Trustee may refund that contribution, transfer or rollover to the person who made the contribution, transfer or rollover or on whose behalf the



contribution, transfer or rollover was made, subject to any deduction or addition as it determines.

## 13 Benefits

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### 13.1 Product terms

The Trustee must set out in the terms of a Product, or otherwise determine, the details of benefits payable to a Beneficiary from the Fund.

### 13.2 When a benefit is payable

The Trustee:

- (a) may (but is not obliged to) pay all or part of any benefit when permitted by the Relevant Law; and
- (b) must pay any benefit or interest in the Fund when required by the Relevant Law.

### 13.3 Calculation of the amount of benefit

- (a) The Trustee:
  - (1) must calculate the benefit of a Beneficiary as at the date the event which gave rise to the entitlement of the Beneficiary occurred; and
  - (2) may adjust that benefit to reflect any income, capital gains, capital losses or Fund Expenses on the Beneficiary's benefit up to the date that the benefit is paid to the Beneficiary.
- (b) The Trustee may adjust benefits and rights of a Beneficiary to take account of:
  - (1) any contribution that has not been paid;
  - (2) any Fund Expense;
  - (3) any incorrect, inaccurate or misleading information supplied, or lack of information supplied, by or in respect of, a Beneficiary;
  - (4) any terms of payment requested by the Beneficiary;
  - (5) any refusal or failure by an insurer to provide insurance or to pay any insurance proceeds;
  - (6) an insurer reducing the payment of any insurance proceeds, deferring the payment of any proceeds or imposing terms on which the insurance proceeds are payable;
  - (7) any amount that is owed by the Beneficiary to the Trustee, including any costs in seeking to recover that amount;
  - (8) any requirement of the Relevant Law to pay an amount from the Beneficiary's Account or to pay all or part of the Beneficiary's benefit to a particular person;
  - (9) the manner in which a benefit will be paid under clause 13.5;
  - (10) any amount that has been (or will be) deducted from the assets of the Fund that relates to the Beneficiary including contributions that have





been overpaid and an amount that the Relevant Law requires or permits the Beneficiary to request to be withdrawn (or permits a Regulator, on the Beneficiary's behalf, to request to be withdrawn);

- (11) rounding amounts;
- (12) correcting errors; or
- (13) any other matter the Trustee considers appropriate.

### 13.4 Recoupment

A benefit is paid to a Beneficiary on the condition that:

- (a) if the Trustee determines, after paying the benefit, that:
  - (1) the Trustee overpaid a benefit, the Beneficiary must pay to the Trustee the amount of the overpayment; or
  - (2) an insufficient deduction was made from the benefit to pay Fund Expenses, the Beneficiary must repay to the Trustee on demand such amount as the Trustee determines should not have been paid to the recipient in respect of the Fund Expenses; and
- (b) the Beneficiary releases the Trustee from any loss or damage that the recipient may suffer as a result of the repayment of an amount under clause 13.4(a).

### 13.5 Manner of payment

The Trustee may pay or satisfy all or part of a benefit in any manner determined by the Trustee including by:

- (a) the benefit being transferred or rolled over to a Benefit Arrangement selected by the Trustee;
- (b) the benefit being paid as one or more lump sums or one or more income streams;
- (c) transferring assets to, or for the benefit of, the relevant Beneficiary; or
- (d) procuring the payment by a third party of the benefit, including through the provision by a life insurance company of an annuity or a banking facility.

### 13.6 Death Benefits

- (a) A Member may make an election, nomination or request listed in the first column of the table below in the circumstances listed in the second column of the table below:

Binding Nomination	If permitted by the Trustee
Non-Lapsing Nomination	If permitted by the Trustee
Discretionary Request	If: <ul style="list-style-type: none"> <li>• the terms of the Product do not state otherwise;</li> <li>• the Member has not given the Trustee a Binding Nomination that is in force; and</li> <li>• the Member has not given the Trustee a Non-Lapsing</li> </ul>



Nomination that the Trustee has consented to under clause 13.6(b).

- (b) The Trustee may provide its consent to the exercise of a Member's direction in a Non-Lapsing Nomination:
- (1) on an individual basis; or
  - (2) on a general basis with effect from the time that the Non-Lapsing Nomination is processed by or on behalf of the Trustee where the direction is exercised in accordance with guidelines that the Trustee determines in accordance with clause 13.6(c) from time to time.
- (c) For the purposes of clause 13.6(b)(2), the guidelines comprise the following:
- (1) a Nominated Beneficiary of the Member must be a Dependant or the Legal Personal Representative of the Member; or
  - (2) if there is no Dependant or Legal Personal Representative nominated by the Member, any other natural person to whom the Death Benefit of the Member may be paid under the SIS Act;
  - (3) the Nomination must deal with all or part of the Death Benefit of the Member; and
  - (4) such other or such terms determined by the Trustee from time to time.
- (d) Subject to clause 13.6(f), the Trustee:
- (1) must, in the case of a Binding Nomination that is in force, give effect to that Binding Nomination in accordance with its terms;
  - (2) must, in the case of a Non-Lapsing Nomination to which the Trustee has consented pursuant to clause 13.6(b), give effect to that Non-Lapsing Nomination in accordance with its terms; and
  - (3) if clause 13.6(d)(1) or 13.6(d)(2) does not apply or cannot be implemented, to one or more of the Dependants or the Legal Personal Representative of the deceased Member and in such proportions as the Trustee decides after considering any Discretionary Request.
- (e) If a Member gives the Trustee a Binding Nomination, Non-Lapsing Nomination or Discretionary Request:
- (1) any prior Binding Nomination, Non-Lapsing Nomination or Discretionary Request is taken to be revoked on the date of the Trustee's acceptance of that later Binding Nomination, Non-Lapsing Nomination or Discretionary Request; and
  - (2) the later Binding Nomination, Non-Lapsing Nomination or Discretionary Request given by the Member and accepted by the Trustee replaces any prior Binding Nomination, Non-Lapsing Nomination or Discretionary Request.
- (f) If a Binding Nomination, Non-Lapsing Nomination or Discretionary Request specifies a person as a beneficiary who is not eligible under the Relevant Law or the Trustee's guidelines (an **ineligible beneficiary**) to receive the portion of the benefit specified in the Binding Nomination, Non-Lapsing Nomination or Discretionary Request, the Trustee:
- (1) must, in the case of a Binding Nomination or Non-Lapsing Nomination; and
  - (2) may, in the case of a Discretionary Request,





pay the specified portion of the benefit referable to the ineligible beneficiary:

- (3) to the remaining Nominated Beneficiary, or, if there is more than one, to the remaining Nominated Beneficiaries in the same proportion, but as to the whole, that they shared in the portion of the Death Benefit payable to them in accordance with the Binding Nomination, Non-Lapsing Nomination or Discretionary Request; or
  - (4) if there is no remaining eligible Nominated Beneficiary, to one or more of the Dependants or the Legal Personal Representative of the deceased Member and in such proportions as the Trustee decides.
- (g) If a Member does not provide a Binding Nomination, Non-Lapsing Nomination or Discretionary Request, the Trustee must pay the Death Benefit of the Member to one or more of the Dependants or the Legal Personal Representative of the deceased Member and in such proportions as the Trustee decides.
- (h) If the Trustee is required to pay or has decided to pay a Death Benefit, or a portion of a Death Benefit, to a Legal Personal Representative of a Member and a Legal Personal Representative is not appointed, or the Trustee is unable to identify the Legal Personal Representative, within 90 days of the date of death or any later date the Trustee considers reasonable, the Trustee must pay the whole or the part of the Death Benefit:
- (1) to such one or more of the Dependants of the Member; or
  - (2) if none, to any other person or persons in accordance with the Relevant Law, as the Trustee determines.

### **13.7 Requirements for a person claiming a benefit**

The Trustee is not required to pay all (or part of) a benefit if the person claiming the benefit has not:

- (a) made a proper application to the Trustee in the form required by the Trustee;
- (b) provided any information that the Trustee has requested to substantiate the person's claim; or
- (c) given instructions in relation to how the benefit is to be paid which is acceptable to the Trustee.

### **13.8 Discharge and release**

The Trustee is completely discharged in respect of any payment made in accordance with this deed including a payment to a person the Trustee believes in good faith is entitled to the benefit.

### **13.9 Financial incapacity**

If the Trustee believes that a Beneficiary is under a legal disability, the Trustee may pay the benefit of the Beneficiary to another person to be used for the benefit of the Beneficiary.



## 14 Amending the deed

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### 14.1 Amendment

Subject to clause 14.2, the Trustee may by deed either prospectively or retrospectively change, amend or replace all or any of the provisions of this deed including this clause 14.1.

### 14.2 Principal Company's consent

The Trustee must obtain the consent of the Principal Company to any amendment to:

- (a) clause 3 'Trustee and Principal Company';
- (b) clause 14.2 'Principal Company's consent'; or
- (c) clause 15.1 'Termination of the Fund, a Product or a Division'.

## 15 Termination

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### 15.1 Termination of the Fund, a Product or a Division

- (a) The Trustee may in its absolute discretion:
  - (1) terminate a Product (or a class of Beneficiaries within a Product); and
  - (2) with the consent of the Principal Company, terminate the Fund or a Division (or part of a Division or class of Beneficiaries within a Division whatever that part or class is called in the relevant Schedule).
- (b) In exercising its right under clause 15.1(a), the Trustee may do so having regard only to its own interest and is not required to consider its fiduciary or statutory duties (if any) to Beneficiaries.

### 15.2 Application of assets

- (a) If the Fund, a Product (or a class of Beneficiaries within a Product), a Division (or part of a Division or class of Beneficiaries within a Division whatever that part or class is called in the relevant Schedule) is terminated, the proceeds of the Fund, the Product (or the class of Beneficiaries within the Product), the Division (or the part of the Division or class of Beneficiaries within the Division whatever that part or class is called in the relevant Schedule) must be applied in the following order:
  - (1) apply the proceeds of:
    - the TUSS Division in accordance with the relevant provisions in Schedule 1; and
    - the Plum Division in accordance with the relevant provisions in Schedule 2;
  - (2) to pay, or provide for, the payment of applicable Fund Expenses;
  - (3) to pay benefits to the applicable Beneficiaries; and
  - (4) any remaining assets may be dealt with as determined by the Trustee.



- (b) The payment in accordance with clause 15.2(a)(3) is in full discharge of all claims by a Beneficiary in respect of the Fund.

## 16 Notices

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### 16.1 Requirements

Any notice or other communication in connection with the Fund (including any information required or permitted by the Relevant Law to be given by the Trustee to a Beneficiary) (each a **notice**) must be given in accordance with clause 16.2.

### 16.2 When notice given and received

- (a) A Notice Recipient agrees that by participating in the Fund, or on becoming entitled to a superannuation interest, to (as set out in this clause 16.2):
- (1) receive any notice from the Trustee by:
    - post sent to the recipient's last known address;
    - email to the Notice Recipient's last known email address (or if the Notice Recipient is a Member, the email address provided by the Notice Recipient's employer);
    - a Messaging System;
    - the Fund Website; or
    - any other medium utilised by the Trustee and notified to the Notice Recipient; and
  - (2) give any notice to the Trustee by:
    - post to the Trustee's latest address in relation to the Fund that is advised to the Notice Recipient;
    - email to the Fund Email Address;
    - the Fund Website; or
    - any other medium utilised by the Trustee and notified to the Notice Recipient.
- (b) Subject to clause 16.2(d), where the Trustee wishes to give a notice to a Notice Recipient by:
- (1) post;
  - (2) email;
  - (3) a Messaging System; or
  - (4) the Fund Website,
- any such notice is deemed to have been received and read by the Notice Recipient 2 Business Days (or other period determined by the Trustee from time to time) after posting or transmission unless the Trustee determines that the notice was not received.
- (c) Subject to clause 16.2(d), where a Notice Recipient wishes to give a notice to the Trustee by:
- (1) post;





- (2) email; or
  - (3) the Fund Website,
- any such notice is effective only when it is received by the Trustee.
- (d) Clauses 16.2(b) and 16.2(c) do not apply if:
- (1) the person giving the notice receives a report of delivery failure or delivery delay;
  - (2) the person giving the notice receives an 'out of office' reply or similar response; or
  - (3) the recipient informs the person giving the notice that the notice is illegible, incomplete or corrupted,
- within 2 Business Days (or other period determined by the Trustee from time to time) of the notice being transmitted or posted.
- (e) A notice to the Trustee which is received:
- (1) other than on a Business Day or after 3.00 pm (Sydney time) (or other time determined by the Trustee from time to time) is regarded as received at 9.00 am (Sydney time) on the following Business Day; and
  - (2) before 9.00 am (Sydney time) is regarded as received at 9.00 am (Sydney time).

### 16.3 Reliance

A notice given and received in accordance with this clause 16 can be relied on by the Trustee and the Trustee is not liable to any person for any consequences of that reliance in good faith if the Trustee believes it to be genuine, correct and authorised by the sender.





## Schedule 1

### TUSS Division

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# 1 Definitions and interpretation

## 1.1 Definitions

The meanings of the terms used in this Division are set out below.

Term	Meaning
<b>Account</b>	an account maintained by the Trustee: (a) for a Beneficiary; or (b) in relation to a deceased former Member (before the Trustee determines the distribution of the deceased former Member's Death Benefit).
<b>Beneficiary</b>	a Member or any other person who is entitled to be paid a benefit from this Division.
<b>Binding Nomination</b>	a nomination by a Member of one or more persons to receive all or part of the Member's Death Benefit which complies with section 59(1A) of the SIS Act in a form and manner, and subject to any conditions, determined by the Trustee.
<b>Death Benefit</b>	the benefit that is payable from this Division in respect of a Member on their death.
<b>Death Benefit Category</b>	a category of Membership (including those set out in rule 1.3 of Schedule 1A) that (subject to any conditions determined by the Trustee) determines the manner in which benefits will be paid on the death of a Member.
<b>Death Benefit Category Election</b>	a written election by a Member, in a form and manner determined by the Trustee, to join a Death Benefit Category.
<b>Discretionary Request</b>	a notice in a form and manner determined by the Trustee and given to the Trustee by a Member requesting the Trustee to pay all (or part of) the Member's Death Benefit to one or more persons (including the Member's legal personal representative) in the proportions stated in the nomination.
<b>Division Expenses</b>	the costs and expenses of and incidental to the establishment, operation, management, administration, investment and termination





<b>Term</b>	<b>Meaning</b>
	of this Division or a Member Package, including Tax, insurance costs and any fees or charges imposed on, or paid by, the Trustee.
<b>Family Law Arrangement</b>	an agreement, order or other arrangement made, or entered into, pursuant to the <i>Family Law Act 1975</i> (Cth).
<b>Fund</b>	the superannuation fund known as the MLC Super Fund.
<b>Investment Option</b>	a separate investment strategy for the investment of an amount of assets of this Division.
<b>Member</b>	a person admitted as a member of this Division and the Fund and who has not ceased to be a member of this Division and the Fund.
<b>Member Package</b>	a part of this Division that: <ul style="list-style-type: none"><li>(a) has been (or which is) established by the Trustee under clause 4.1;</li><li>(b) comprises the assets held by the Trustee in respect of or attributable to that part of this Division; and</li><li>(c) has terms (eg a fee structure and Investment Options) determined under clause 4.2.</li></ul>
<b>Net Earnings</b>	the return (whether positive or negative) of a Member Package or an Investment Option determined by the Trustee in accordance with clause 6.4.
<b>Non-Lapsing Nomination</b>	a nomination by a Member of one or more persons to receive all (or part of) the Member's Death Benefit in a form and manner, and subject to any conditions, determined by the Trustee and that is not a Death Benefit Category Election, Binding Nomination or Discretionary Request.
<b>Pre-Schedule Clauses</b>	the clauses of the deed prior to this Schedule 1 'TUSS Division'.
<b>Policy</b>	a policy of insurance obtained by the Trustee in connection with this Division or a Member Package.



Term	Meaning
Power	a power, right, discretion, remedy, determination or authority of any nature and however arising (including a power or right to approve and a power which a person has a duty to exercise).
Regulator	in relation to a matter, the applicable person who exercises a statutory function in relation to the matter under the Relevant Law.
Relevant Law	<ul style="list-style-type: none"><li>(a) the SIS Act and any prudential standards made under the SIS Act;</li><li>(b) the <i>Corporations Act 2001</i> (Cth);</li><li>(c) the <i>Income Tax Assessment Act 1936</i> (Cth) and the <i>Income Tax Assessment Act 1997</i> (Cth);</li><li>(d) any other present or future law of Australia or a State or Territory of Australia which the Fund, this deed, the Trustee or a Beneficiary must comply with or satisfy to secure or better secure a concession for the Fund in respect of Tax or to avoid, in the opinion of the Trustee, a penalty, detriment or disadvantage to the Fund, the Trustee or a Beneficiary;</li><li>(e) any direction, instruction, ruling or guideline given by a person duly authorised by a competent Parliament for this purpose which the Trustee determines is legally required to be followed or non compliance with which may result in the Fund ceasing to be a complying superannuation fund;</li><li>(f) any direction, instruction, ruling, guideline, licence or registration condition issued by any person authorised by a competent Parliament for this purpose; and</li><li>(g) any present or future law of Australia or a State or Territory of Australia which the Trustee determines to be a Relevant Law for the purpose of this deed.</li></ul>
SIS Act	the <i>Superannuation Industry (Supervision) Act 1993</i> (Cth).
Standard Employer Sponsor	an employer that participates in this Division by arrangement with the Trustee under clause 5.3.
Tax	includes any Commonwealth or State or Territory of Australia tax, surcharge, levy, impost or duty (including any additional interest, fine, penalty or charge on those amounts) which is or might become payable in connection with the Fund, income of the Fund, payments or transfers of assets to or from the Fund, this deed or anything done or which may be done under this deed.