

DEED OF VARIATION

Made on 22 September 2016

BY **IS INDUSTRY FUND PTY LTD ABN 45 010 814 623** of Level 10, 270 Adelaide Street, Brisbane in the State of Queensland

(**'Trustee'**)

BACKGROUND

- A. Australian Liquor Hospitality and Miscellaneous Union (Liquor Division) (formerly Federated Liquor and Allied Industries Employees Union of Australia Queensland Branch Union of Employees) and Queensland Hotels Association Union of Employers as the Original Sponsors established a Superannuation Fund known as Host-Plus Queensland on 1 June 1988 for the purposes of providing superannuation benefits for such of the Employees of any Employers being eligible to participate in the fund and the dependants of such Employees pursuant to a deed dated 15 June 1988 (**'Fund'**).
- B. The Trust Deed of the Fund has been varied by deeds of variation dated 17 October 1990, 25 June 1992, 12 April 1994, 17 October 1994, 3 December 1998, 17 December 1999, 7 March 2001, 15 October 2003, 26 November 2004, 7 March 2006 and 20 November 2007, and a deed of variation effective from 1 July 2013 and dated the same date as this deed.
- C. The name of the Fund was changed from 'Host-Plus Queensland' to 'Host-Plus Queensland trading as Host Super' on 3 December 1998.
- D. The name of the Fund was further changed from 'Host-Plus Queensland trading as Host Super' to 'Host-Plus Queensland trading as Intrust Super Fund' on 24 July 2003.
- E. Clause 52.1 of the Trust Deed of the Fund provides as follows:

'52.1 Method Of Amendment

- (a) Subject to clause 52.1(b) and 52.1(c) and the Superannuation Law, the Trustee may at any time by resolution or by written instrument amend, alter, vary, modify or delete any provisions of the Deed with immediate, prospective or, to the extent allowed by the law and with retrospective effect from time to time.
- (b) No reduction of the accrued Benefit of a Member may be made without their written consent.

- (c) No amendment may be made under clause 52.1(a) that would cause the trusts contained in the Deed to fail by reason of the application of the rule against perpetuities.
 - (d) No amendment may be made under clause 52.1(a) that would allow a person other than a Constitutional Corporation to be eligible to be appointed as a Trustee unless the governing rules provide and will continue to provide after the amendment that the Fund has as its sole or primary purpose, the provision of old-age pensions.
- F. The Trustee wishes to amend, alter, vary, modify or delete the provisions of the Trust Deed of the Fund in the manner set out in this Deed of Variation, and is of the opinion that the amendments, alterations, variations, modifications and deletions are in accordance with the requirements specified in clause 52.1.
- G. The Trustee desires that the assets of the Fund be held on the trusts specified in the Trust Deed for the Fund as varied by this Deed of Variation.
- H. This Deed is made in pursuance of the powers in the Trust Deed for the Fund.

OPERATIVE PROVISIONS

1. VARIATION

Under the Trustee's power in clause 52.1 of the Trust Deed and with effect from the date of this document, the Trustee varies the Trust Deed by replacing all clauses of the Trust Deed with the clauses contained in Annexure 'A'.

2. CONFIRMATION

The Trustee confirms the terms of the Trust Deed of the Fund, varied as set out in Annexure 'A'.

Annexure A

REPLACEMENT TRUST DEED PROVISIONS

AGREED TERMS

1 ESTABLISHMENT

The date of the Fund's commencement is 1 June 1988.

2 NAME OF FUND

The name of the Fund is '**Intrust Super Fund**', or any other name the Trustee determines.

3 DEFINITIONS

In this document:

'**Account**' means any one of the following:

- (a) Accumulation Account;
- (b) Pension Account;
- (c) Fluctuation Account;
- (d) Reserve Account; and
- (e) any other accounts required to be opened or maintained by the Trustee in accordance with the Superannuation Law or any other accounts the Trustee decides to establish and maintain.

'**Accumulation Account**' means the Account established on behalf of each Member or Beneficiary as described in clause 13.

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

'**Account-Based Pension**' has the meaning given to that term in the SIS Regulations.

'**Allocation Date**' has the meaning given to that term in clause 16.3(a)(i).

'**Allocation Period**' means a period ending on an Allocation Date and starting the day after the previous Allocation Date.

'**Allot**' has the meaning given to that term in the SIS Regulations.

'Annuity' means a Benefit payable by instalments that satisfies the meaning of Annuity in regulation 1.05 of the SIS Regulations or any other provision of the Superannuation Law.

'Approved Benefit Arrangement' means a fund or benefit arrangement other than the Fund including without limitation another Complying Superannuation Fund, an Approved Deposit Fund and an Annuity arrangement into which or from which assets can be transferred into or from the Fund without causing the Fund to be in breach of or to fail to comply with the Superannuation Law and includes an Eligible Rollover Fund.

'Approved Deposit Fund' in relation to a year of income means a fund which is a complying approved deposit fund in accordance with the Taxation Act.

'Associate' has the meaning given to that term in the Corporations Act.

'Authorised Deposit-taking Institution' has the meaning given to that term in the *Banking Act 1959* (Cth).

'Beneficiary' means a person who is presently and absolutely entitled or has a contingent right to receive a Benefit under this Deed at any given time and includes a Member, a Dependant of a Member, and a Pensioner.

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

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

'Binding Death Benefit Nomination' means a nomination made by a Member in relation to the payment or application of a death benefit that is binding on the Trustee in accordance with the Superannuation Law.

'Child' has the meaning given to that term in the SIS Act.

'Compassionate Ground' has the meaning given to that term in the SIS Regulations.

'Complying Superannuation Fund' in relation to a year of income means a fund which is a complying superannuation fund in accordance with the Superannuation Law.

'Constitutional Corporation' has the meaning given to that term in the SIS Act.

'Contributions' means payments to the Fund by Members, Employers and other Permitted Entities in accordance with this Deed before the deduction of any Taxation payable in respect of those Contributions.

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

'Deed' means this deed and any alterations, additions, amendments, modifications or variations to it.

'Dependant', in relation to a Member or former Member, means a person who is at the relevant time:

- (a) a Spouse of the Member or former Member;
- (b) a Child of a Member or former Member;
- (c) a person with whom the Member or former Member is in an Interdependency Relationship; or
- (d) a person who, in the opinion of the Trustee, is financially dependent on the Member or former Member.

'**Director**' and '**Officer**', in relation to a body corporate, have the meanings given to those terms in the Corporations Act.

'**Disclosure Document**' means any document required to be given under the Corporations Act to a person applying to be a Member.

'**Earnings**' means:

- (a) a net change in value of the assets of the Fund, a sub-fund or an Investment Portfolio allocated to an Account under clause 16.4; or
- (b) net income or profit of a specific investment allocated to an Account under clause 16.5.

'**Eligible Company**' means a company which is a Constitutional Corporation and which:

- (a) consists of an equal number of:
 - (i) Directors nominated by the Member Body in accordance with clause 10.7 ('**Member Directors**'); and
 - (ii) Directors nominated by the Employer Body under clause 10.8 ('**Employer Directors**'), and
- (b) may also include a person appointed as an Independent Director in accordance with clause 10.11 PROVIDED THAT if required by the Superannuation Law:
 - (i) an Eligible Company shall include in its constitution a requirement that decisions of the Directors shall be carried by not less than a two thirds majority of the Directors, with no casting vote being given to the chairperson of the Eligible Company nor to any Independent Director; and
 - (ii) an Eligible Company shall have an appropriately representative shareholding; and
- (c) if the Superannuation Law requires - holds an RSE Licence of a class required under the Superannuation Law to be a trustee of the Fund,

or is approved by the Statutory Authority to act as Trustee under the Superannuation Law.

'**Eligible Rollover Fund**' has the meaning given to that term in the SIS Act.

'**Employee**' has the meaning given to that term in the SIS Act.

'Employer' has the meaning given to that term in the SIS Act.

'Employer Body' means the Queensland Hotels Association Union of Employers.

'Family Law' means the Payment Splitting arrangements under the Superannuation Law.

'Financial Assistance' means any financial assistance granted to the Fund in accordance with Part 23 of the SIS Act.

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

'Fluctuation Account' means the account established under clause 15.

'Fund' means the superannuation fund established on 1 June 1988 by a Deed of Trust dated 15 June 1988.

'Fund Year' means a period of twelve months ending on 30 June, or any other period ending on any other date as the Trustee determines.

'Gainful Employment' in relation to a Member means engagement in any business, trade, profession, vocation, calling, occupation or employment for personal gain to the extent required by the Superannuation Law.

'Guarantee Act' means the *Superannuation Guarantee Charge Act 1992*(Cth) which incorporates the *Superannuation Guarantee (Administration) Act 1992* (Cth) and any regulations made to that Act.

'Hospitality Industry' means any industry involved in the provision of services related to:

- (a) accommodation in all its facets;
- (b) food and catering;
- (c) beverages and the supply of liquor;
- (d) licensed gambling including but not limited to casinos;
- (e) entertainment associated with any of the above activities; or
- (f) such other activities as the Trustee in its absolute discretion determines from time to time.

'Income Stream' means:

- (a) a Pension;
- (b) an Annuity; or
- (c) a Benefit payable in a form other than as a Superannuation Lump Sum as permitted by the Superannuation Law.

'Independent Director' has the same meaning as in the Superannuation Law.

'Insured Member' means any Member who has a Policy effected in his or her name by the Trustee.

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

'Interdependency Relationship' has the meaning given to that term in the Superannuation Law.

'Investment Portfolio' has the meaning given to that term in clause 11.6(a).

'Legal Personal Representative' has the meaning given to that term in the SIS Act.

'Levy' includes a levy payable by the Fund to the Statutory Authority in accordance with the *Superannuation Supervisory Levy Act 1991* (Cth), the *Superannuation (Fund Assistance Levy) Act 1993* (Cth) and any other legislation or regulations which impose a levy or levies on the Fund.

'Market Linked Pension' has the meaning given to that term in the SIS Regulations.

'Member' means a person who has been admitted as a member of the Fund and has not ceased to be a Member.

'Member Account' means a Member's Accumulation Account or Pension Account as the case may be.

'Membership' means a Member's or Beneficiary's membership of the Fund.

'Member Body' means United Voice (formerly the Australian Liquor Hospitality and Miscellaneous Union (Queensland Branch)).

'Nominated Beneficiary' means one or more Dependants or Legal Personal Representatives of a Member nominated by the Member as the Nominated Beneficiary.

'Non-Binding Death Benefit Nomination' means a nomination made by a Member in relation to the payment or application of a death benefit that is not binding on the Trustee.

'Non-Concessional Contribution' has the meaning given to that term in the Taxation Act.

'Non-Member Spouse' in relation to a Member has the meaning given to that term in the Superannuation Law. A person ceases to be a Non-Member Spouse when:

- (a) the entitlement of the Non-Member Spouse in respect of a Payment Split is paid to the Non-Member Spouse or transferred or rolled over in accordance with the Superannuation Law; or
- (b) he or she becomes a Member.

'Payment Flag' has the meaning given to that term in the Superannuation Law.

'Payment Split' has the meaning given to that term in the Superannuation Law and includes a Payment Split in accordance with the SIS Regulations.

'Pension' includes a Benefit payable by instalments that satisfies the meaning of Pension in regulation 1.06 of the SIS Regulations or any other provision of the Superannuation Law, and includes a Transition to Retirement Income Stream.

'Pension Account' means the account established in respect of a Pensioner in accordance with clause 14.

'Pensioner' means a Member who is entitled to receive or has applied to receive Benefits payable to the Member as a Pension, and a person in receipt of a Pension on the death of a Member.

'Permanent Incapacity' has the meaning given to that term in the SIS Regulations.

'Permitted Entity' means any person or entity permitted under the Superannuation Law to make a Contribution in respect of a Member.

'Policy' means any policy of assurance including:

- (a) a policy on the life of a Member for endowment, term, disablement, accident or sickness insurance, effected either as an individual policy or as a group policy in relation to a Member or a former Member;
- (b) any policy which provides that Benefits are payable to the Trustee on the death or disablement of a Member unless the acquisition of the policy is prohibited by the Superannuation Law.

'Preservation Age' means:

for a person born before 1 July 1960	55 years of age
for a person born during the year 1 July 1960 to 30 June 1961	56 years of age
for a person born during the year 1 July 1961 to 30 June 1962	57 years of age
for a person born during the year 1 July 1962 to 30 June 1963	58 years of age
for a person born during the year 1 July 1963 to 30 June 1964	59 years of age
for a person born after 30 June 1964	60 years of age.

'Preserved' means the prohibition against paying any amount held in the Fund before a Member reaches Preservation Age or is otherwise entitled to be paid that amount in accordance with the Superannuation Law and **'Preserve'** has a corresponding meaning.

'Registrable Superannuation Entity' has the same meaning as in the Superannuation Law;

'Relative' in relation to a Member or former Member has the meaning given to that term in the SIS Act.

'Reserve Account' means the account established under clause 15.3.

'Retires from Gainful Employment' means actual retirement by a Member from Gainful Employment or retirement as defined for the purposes of the Superannuation Law for the payment of Benefits.

'Reversionary Beneficiary' means in relation to Member, a person:

- (a) whom the Member nominated:
 - (i) on commencement of the Member's Pension, or on commencement of the Member's pension benefit in another Approved Benefit Arrangement, where the Trustee has determined to accept that nomination for the purposes of the Fund; or
 - (ii) at such other time during the term of the Pension as the Trustee permits, in a form acceptable to the Trustee, as the person entitled to receive the Member's Pension on the Member's death; and
- (b) who:
 - (i) is a Dependant of the Member, and is otherwise eligible under Superannuation Law to be a Reversionary Beneficiary of the Pension (at the time of the nomination and at the time of the Member's death); and
 - (ii) where the Reversionary Beneficiary is the Member's Spouse at the time of nomination, is the Member's Spouse at the time of the Member's death.

'Rollover' means paid to, or received from, another Approved Benefit Arrangement, other than by way of being Transferred or as otherwise described under the Superannuation Law.

'RSE Licensee' has the meaning given to that term in the SIS Act.

'Severe Financial Hardship' has the meaning given to that term in the SIS Regulations.

'Shortfall Component' has the meaning given to that term in section 64 Guarantee Act.

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

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

'Splittable Contribution' has the meaning given to that term in the SIS Regulations.

'Spouse' has the meaning given in the SIS Act.

'Statutory Authority' means a regulatory body or person having responsibility for the administration of superannuation, as the case requires including the:

- (a) Commissioner of Taxation;
- (b) Australian Prudential Regulation Authority;
- (c) Australian Securities and Investments Commission;
- (d) Australian Transaction Reports and Analysis Centre;

'Superannuation Entity' has the meaning given to that term in the SIS Act.

'Superannuation Law' means any requirement under:

- (a) SIS Act;
- (b) SIS Regulations;
- (c) *Superannuation Guarantee (Administration) Act 1992* (Cth);
- (d) *Family Law Act 1975* (Cth);
- (e) Corporations Act;
- (f) *Corporations Regulations 2001* (Cth);
- (g) Taxation Act;
- (h) *Financial Sector (Collection of Data) Act 2001* (Cth);
- (i) *Financial Institutions Supervisory Levies Collection Act 1998* (Cth); and
- (j) any other present or future legislation which the Trustee must comply with for the Fund to:
 - (i) qualify for concessional Taxation treatment as a Complying Superannuation Fund; or
 - (ii) meet any other requirement of the Statutory Authority,

and includes any proposed requirements, rulings, announcements or obligations which the Trustee believes will have effect retrospectively.

'Superannuation Lump Sum' has the meaning given to that term in the Taxation Act.

'Taxation Act' means the *Income Tax Assessment Act 1936* (Cth) and the *Income Tax Assessment Act 1997* (Cth) and any regulations or public rulings issued under those Acts.

'Taxation' includes income tax, pay-roll tax, land tax, stamp duty and any other taxes, duties or surcharges paid or payable by the Trustee on behalf of the Fund or a Member or, where applicable, by any Member, former Member, Dependant or Beneficiary.

'Temporary Disablement' in respect of a Member, has the same meaning as that term or a corresponding term in any Policy effected by the Trustee with an Insurer in respect of the Member and in force at the time of the Temporary Disablement of the Member.

'Temporarily Disabled' has a corresponding meaning.

'Total and Permanent Disablement' in respect of a Member:

- (a) has the same meaning as that term or a corresponding term in any Policy effected by the Trustee with an Insurer in respect of the Member and in force at the time of the Total and Permanent Disablement of the Member; or

- (b) if there is no Policy in force that covers the Member for Total and Permanent Disablement, then Total and Permanent Disablement has the same meaning as Permanent Incapacity, or such other meaning as the Trustee may determine from time to time,

and the expression '**Totally and Permanently Disabled**' has a corresponding meaning.

'**Transfer**' or '**Transferred**' means paid to, or received from another Approved Benefit Arrangement or as otherwise described under the Superannuation Law.

'**Transition to Retirement Income Stream**' has the meaning given to that term in the SIS Regulations.

'**Tribunal**' means the Superannuation Complaints Tribunal established under the *Superannuation (Resolution of Complaints) Act 1993* (Cth).

'**Trustee**' means the trustee or trustees for the time being of the Fund whether original, additional or substituted which are appointed in accordance with clause 10 of this Deed.

'**Unrestricted Non-Preserved Amount**' means an amount including a Rollover payable to or in respect of a Member which is not required to be Preserved or at the time of payment is no longer required to be Preserved under the Superannuation Law and is an Unrestricted Non-Preserved Benefit as that term is defined in the SIS Regulations, including Subdivision 6.1.4 of the SIS Regulations.

4 INTERPRETATION OF OTHER MATTERS

4.1 Clause headings and index

The headings and index in this Deed are for convenience and reference only and do not affect the interpretation of this Deed.

4.2 Legislation

A reference to any act of parliament or regulation or to any section or provision of that legislation includes any statutory modification or re-enactment or any statutory provision substituted therefor and by-laws, regulations or other statutory instruments issued under them.

4.3 Plural and gender of words

The singular includes the plural and vice versa and one gender includes the other gender.

4.4 A person includes a body corporate

A reference to a person includes a body corporate.

4.5 Dispute as to interpretation

If there is a dispute about the interpretation of this Deed or the rights or obligations of the Member or any other person, then (except to the extent otherwise expressly provided in the Deed) the decision of the Trustee is final and binding.

4.6 Severance

If:

- (a) any provision of this Deed is void or voidable or unenforceable in accordance with its terms, but would not be void, voidable, unenforceable or illegal if it were construed more narrowly and is capable of being construed more narrowly, the provision must be construed accordingly; or
- (b) notwithstanding clause 4.6(a), a provision of this Deed would still be void, voidable, unenforceable or illegal:
 - (i) if the provision would not be void, voidable, unenforceable or illegal if a word or words were omitted, that word or those words must be severed; and
 - (ii) in any other case, the whole provision must be severed,

and the remainder of this Deed will be of full force and effect.

4.7 Fund Subject to Superannuation Law at all times

This Deed is at all times subject to the Superannuation Law and is deemed to incorporate the Superannuation Law to the extent necessary for the Trustee and the Fund to qualify for concessional Taxation treatment or to satisfy any other requirements of the Statutory Authority.

4.8 Inconsistency

If there is an inconsistency between the Deed and the Superannuation Law, the Superannuation Law prevails to the extent of the inconsistency.

4.9 Requirements of the Statutory Authority

Any references to any requirements, consents or approvals being required to be given by the Statutory Authority or for the purposes of satisfying the Superannuation Law, means requirements, consents or approvals of the Statutory Authority or under the Superannuation Law.

5 OTHER PROVISIONS TO NOTE

5.1 Exercise of powers and rights

All powers, rights, decisions, discretions, appointments or other authorisations of whatsoever nature or kind granted to or conferred on the Trustee by, under or for the purposes of this Deed, may be fully and effectively exercised, made, done or performed by or on behalf of a Trustee by resolution of the Directors in accordance with its constitution or by any person or persons having the authorisation of those Directors to act on their behalf if all requirements of the Superannuation Law are satisfied.

5.2 Benefits secured

The rights of the Members or their Dependants who receive Benefits payable under this Deed are secured within the meaning of the Superannuation Law.

6 GOVERNING LAW

This Deed is governed by and is to be construed in accordance with the laws of Queensland.

7 DISPUTE RESOLUTION

7.1 Enquiries and complaints mechanism

The Trustee must effect arrangements to deal with enquiries and complaints from Members, Dependants or Beneficiaries in the circumstances and within the time limits required by the Superannuation Law.

7.2 Trustee to implement decision

Subject to the Trustee's rights to determine in its discretion to appeal against any decision of a court or tribunal, the Trustee must ensure it implements any decision of a court or tribunal as required by that court or tribunal.

8 STRUCTURE OF THE FUND

8.1 Fund vested in Trustee

The Fund is at all times vested in the Trustee and managed by the Trustee upon the terms and subject to the trusts, powers, authorities and discretions in this Deed.

8.2 Class of Members

The Trustee has the power to create any additional class or classes of Membership with rights, entitlements, conditions of eligibility and Benefits as the Trustee thinks appropriate.

8.3 Composition of the Fund

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

9 COVENANTS

The Trustee must perform and observe the covenants, trusts conditions and obligations of this Deed as and to the extent they are included in the Deed or deemed to be included in the Deed by the Superannuation Law.

10 TRUSTEE PROVISIONS

10.1 Purpose of the Fund

The Trustee must maintain the Fund solely for purposes permitted under the Superannuation Law.

10.2 The Trust Fund

The Trustee holds the Fund on the trusts set out in this Deed. The Fund consists of:

- (a) Contributions; and
- (b) amounts transferred or rolled over into the Fund for a Member; and
- (c) the proceeds of Policies held by or on behalf of the Trustee for the purposes of the Fund; and
- (d) all income, gains and other accretions derived from the assets of the Fund.

10.3 Statutory over-ride

- (a) Nothing in this Deed requires the Trustee or anyone else to do something that is a contravention of the Superannuation Law or prevents the Trustee or anyone else from doing anything that has to be done to comply with the Superannuation Law. The Trustee has power to do anything required or permitted by the Superannuation Law.
- (b) Where there is a requirement under the Superannuation Law which must be included in this Deed, such a requirement is deemed to be included in this Deed ('Deemed Provisions') to the extent and for the period so required. Any provision in this Deed that is inconsistent with the Deemed Provisions will be invalid, to the extent of the inconsistency.

10.4 Trustee may have regard to policy statements affecting the Fund

In acting in connection with the Fund, the Trustee may, but need not, have regard to:

- (a) guidelines, rulings, information circulars and policy statements issued by the Statutory Authority; and
- (b) statements by Ministers of State about proposed changes to laws affecting superannuation or tax.

10.5 Qualifications to be Trustee

The Trustee must be a company and an RSE Licensee.

10.6 Single Trustee of Registrable Superannuation Entity

Where the Fund is a Registrable Superannuation Entity, there must at all times be only one Trustee of the Fund unless the Superannuation Law permits or requires otherwise.

10.7 Member Directors

The Member Body shall nominate for appointment a person or persons to represent Members as Member Directors on the following terms:

- (a) each person nominated shall be aged at least eighteen years;
- (b) the procedure for nomination for appointment and removal of the Member Director shall be determined by the Trustee having regard to the Superannuation Law and shall include consideration of such matters as:
 - (i) the number of Member Directors to hold office and the term of that office;
 - (ii) the eligibility, nomination procedure and voting procedure for any election; and
 - (iii) the method of filling of any casual vacancies;

- (c) the procedure established under clause 10.7(b) shall be published by the Trustee as required by the Superannuation Law;
- (d) the number of persons to be appointed following nomination shall be the same number of persons as are appointed as Employer Directors.

10.8 Employer Directors

The Employer Body shall nominate a person or persons to represent the Employers as Employer Directors on such terms as they shall determine provided however that the number of persons to be appointed following nomination shall be the same number of persons as are appointed as Member Directors.

10.9 Appointment and removal of Member Directors

The person or persons nominated by the Member Body for appointment or removal as a Member Director under clauses 10.7 or 10.12 shall be advised to the existing Trustee (if any), and the Employer Directors within seven days of the nomination. The Trustee and the Employer Directors shall take such steps as are necessary to appoint or remove the person to or from the relevant position.

10.10 Appointment and removal of Employer Directors

The person or persons nominated by the Employer Body for appointment or removal as an Employer Director under clauses 10.8 or 10.13 shall be notified to the existing Trustee (if any) and the Member Directors within 7 days of the nomination. The Trustee and the Member Directors shall take such steps as are necessary to appoint or remove the person to or from the relevant position.

10.11 Independent Director

- (a) Where either the Employer Directors or the Member Directors wish to appoint a person to be an Independent Director of an Eligible Company, such appointment shall be made by the Directors of the Eligible Company provided that there shall only be one Independent Director at any time and provided further that an Independent Director shall not be entitled to a casting vote.
- (b) The Trustee shall ensure that the procedure for removal of an Independent Director is published to Members as required by the Superannuation Law.

10.12 Vacancy in Member Directorship

A person appointed as a Member Director shall immediately cease to be a Member Director:

- (a) in the event that the Member Director is removed from office in accordance with the procedure established by the Trustee or the constitution of an Eligible Company;
- (b) if that person resigns their office as a Member Director by notice in writing to the Trustee;
- (c) if the person is disqualified from holding office by operation of the Superannuation Law or is removed or suspended from office by the Statutory Authority;
- (d) if the Statutory Authority or the board of Directors are satisfied that the person is otherwise not a fit and proper person to hold office; or

- (e) if the person dies or in the opinion of the board of Directors becomes mentally or physically incapacitated to such an extent that the Director is unable to fulfil the role of a Director.

10.13 Vacancy in Employer Directorship

A person appointed as an Employer Director shall immediately cease to be an Employer Director:

- (a) if the Employer Body revoke the appointment of the Employer Director in writing;
- (b) if the person resigns their office as an Employer Director by notice in writing to the Trustee;
- (c) if the person is disqualified from holding office by operation of the Superannuation Law or is removed or suspended from office by the Statutory Authority;
- (d) if the person is removed from office in accordance with the constitution of an Eligible Company;
- (e) if the Statutory Authority or the board of Directors are satisfied that the person is otherwise not a fit and proper person to hold office;
- (f) if the person dies or becomes in the opinion of the board of Directors mentally or physically incapacitated to such an extent that the Director is unable to fulfil the role of a Director.

10.14 Appointment of Trustee

A Trustee of the Fund shall be appointed in writing in accordance with the provisions hereof by the Trustee provided that in the event that there is no Trustee of the Fund then the majority of Members shall determine who shall act as Trustee in accordance with the provisions of this Deed and the Superannuation Law and shall take such steps as are necessary to appoint the persons to the office of Trustee.

10.15 Continuity of office

Any person who acts as a Trustee shall on ceasing to be a Trustee under this clause do everything necessary to vest the Fund in the remaining or new Trustee and shall deliver all records and other books to the remaining or new Trustee.

10.16 Office of Trustee

- (a) The office of Trustee shall be filled at all times and in the event of a vacancy occurring a new Trustee shall be appointed within 90 days of such vacancy occurring in accordance with the provisions of this Deed.
- (b) If for any reason:
 - (i) there is no Trustee of the Fund, then the Statutory Authority will; or
 - (ii) if the Trustee is unable to fulfil its role as Trustee at any time, then the Trustee must,
 - (iii) appoint a person to undertake the duties of the Trustee to the extent that it is necessary to appoint a new Trustee in accordance with the provisions of this Deed or the Superannuation Law.

10.17 Member may be Trustee

No Director of an Eligible Company or officer or employee of an Employer shall by virtue of their office or the powers delegated to them by the Trustee be disqualified from being a Member of the Fund or from exercising rights or deriving any Benefits as a Member of the Fund.

10.18 Chairperson

- (a) The Directors of an Eligible Company shall appoint a person to be chairperson and such person shall hold office as chairperson until:
 - (i) any fixed term of appointment as chairperson expires;
 - (ii) the person retires as chairperson by written notice given to the other Directors;
 - (iii) the chairperson ceases to be a Director;
 - (iv) the chairperson is removed by resolution of the Directors of the Eligible Company.
- (b) The chairperson shall be responsible to chair each meeting but the chairperson shall not have a second or casting vote.

10.19 Retirement of Trustee

The Trustee:

- (a) may retire as trustee of the Fund at any time; and
- (b) must retire as trustee of the Fund if:
 - (i) it ceases to carry on business;
 - (ii) it is placed in liquidation or official management, other than for the purpose of amalgamation, reconstruction or a purpose of a similar kind;
 - (iii) a receiver or a receiver and manager, is appointed in relation to all of the property of the Trustee and is not removed or withdrawn within 30 days of the appointment;
 - (iv) it is no longer empowered to act as trustee;
 - (v) any licence required for the Trustee to act as trustee is revoked or withheld;
 - (vi) it is required to retire by law.

10.20 Other Retirement Arrangements

- (a) The retirement of the Trustee will not be effective until a new trustee is appointed.
- (b) The retirement of the Trustee does not affect the Trustee's entitlement to its accrued fees or expenses, reimbursement of liabilities or its rights of indemnity.
- (c) The retiring Trustee must do all things necessary to vest the Fund assets in the new Trustee, including by giving the new Trustee all books, documents and records relating to the Fund and transferring title to all property of the Fund to the new Trustee.

10.21 Remuneration of Trustee

The Trustee is entitled to remuneration payable from the Fund for acting as trustee determined from time to time. The Trustee may waive the remuneration to which it is entitled, either in whole or in part.

10.22 The Trustee's implied duties

Under the Superannuation Law, a number of duties by the Trustee are taken to be contained in this Deed.

10.23 Trustee may determine how to conduct meetings

The Trustee shall regulate the affairs of the Fund as it thinks appropriate. Decisions of the Trustee shall be by simple majority of its board of Directors, unless the Superannuation Law requires otherwise. The Trustee must keep minutes and records as required by the Superannuation Law, including records of changes of trustees.

10.24 Appointment of Custodians and Investment Managers

The Trustee may appoint any person permitted under the Superannuation Law to be custodian or investment manager. The form of appointment must comply with the Superannuation Law.

10.25 Trustee may engage other service providers

The Trustee may engage anyone, on terms the Trustee sees fit, to provide services of any kind to the Fund. Such services include without limitation administration services, distribution or promotional services, legal services, actuarial services and accounting services.

10.26 Trustee can rely on advice

The Trustee may act on the opinion, advice or information obtained from any service providers engaged by it.

10.27 Trustee may enter arrangements with Member advisers

Subject to the Superannuation Law and any terms or conditions imposed by the Trustee, the Trustee may pay fees (including commissions) to a Member's adviser from Contributions or Benefits of the Member upon the request of that Member.

10.28 Operational expenses

Subject to any policy of the board of Directors or any management agreements entered into by the Trustee, the Trustee is entitled to reimbursement of all fees, costs and expenses incurred in the operation of the Fund including fees, costs and expenses associated with the appointment of any service providers, marketing and advertising undertaken by the Trustee and compliance with the Superannuation Law or requirements of a Statutory Authority.

10.29 Power to delegate

The Trustee may delegate any of its powers or functions to any person and subject to any terms and conditions it thinks fit. The delegation must be evidenced in writing. Anything done by a delegate under a delegation is to be taken to have been done by the Trustee.

10.30 Power to carry on other businesses

Subject to the Superannuation Law, the Trustee may carry on any other business.

10.31 Trustee's discretion and directions

Subject to the other provisions of this Deed, the Trustee has an absolute and uncontrolled discretion in acting in connection with the Fund. The Trustee may exercise or not exercise any of its trusts, powers or discretions at any time. Without affecting its discretion, the Trustee must comply with any direction in relation to the Fund given by a Member or other person, where permitted by the Superannuation Law.

10.32 Other requirements relating to directions

In the case of a deceased Member, a direction may be given by the Beneficiary or Beneficiaries of the deceased Member's Benefit.

10.33 Trustee or Employer officer may be a Member

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

10.34 Trustee's personal interest

A Trustee or any responsible officer of the Trustee may:

- (a) exercise or concur in exercising all powers and discretions conferred by this Deed or Superannuation Law despite the person or an Associate of the person having a direct or indirect personal interest in the outcome;
- (b) enter into transactions with the Trustee or responsible officer in another capacity.

10.35 Dealings with Trustee in other capacities

Subject to the Superannuation Law, the Trustee may enter into transactions with the Trustee in another capacity:

- (a) including in the capacity as trustee of another Superannuation Entity; and
- (b) including transactions for the transfer of assets to or from another Superannuation Entity of which the Trustee acts as trustee.

10.36 Dealings with Associates

Except as prescribed under the Superannuation Law and subject to clause 11.4, nothing in this Deed restricts the Trustee from:

- (a) entering into transactions with Associates of the Trustee or of any responsible officer of the Trustee;
- (b) entering a contract or transaction in relation to which the Trust may become liable to pay fees, costs, brokerage, commissions or other remuneration to an Associate of the Trustee or an Associate of any responsible officer of the Trustee; or

- (c) acting in the same or a similar capacity in relation to any other Superannuation Entity.

10.37 Exclusion of liability

None of the Trustee and its Directors and Officers are liable for loss or damage arising out of anything they do or fail to do while acting in that capacity including loss or damage arising from a decision or policy of the Trustee to refuse to allow Members or a class of Members to do what the Superannuation Law permits.

10.38 Indemnity

The Trustee and its Directors and Officers are each indemnified out of the assets of the Fund for any liability incurred while acting in that capacity. This indemnity continues after the retirement of the Trustee pursuant to this Deed.

10.39 What the exclusion of liability and the indemnity do not cover

The Trustee and its Directors and Officers are not indemnified for, or released from, any of the following liabilities, which the Superannuation Law does not allow to be excluded:

- (a) a liability of the Trustee or Director or Officer if the person:
 - (i) fails to act honestly in a matter concerning the Fund; or
 - (ii) intentionally or recklessly fails to exercise, in relation to a matter affecting the Fund the degree of care and diligence that the person had to exercise;
- (b) liability for a fine, or a monetary penalty under a civil penalty order under the Superannuation Law.

10.40 Restriction on indemnity for operational risks

Clause 10.38 does not apply to allow the Trustee to indemnify itself:

- (a) out of the assets of the Fund for any amount expended out of the capital of the Trustee managed and maintained by the Trustee to cover the operational risk of the Fund; or
- (b) out of any assets of the Fund that do not form part of a Reserve Account maintained for the purpose of covering the operational risk relating to the Fund, any amount that relates to that risk, without first exhausting the reserve and any other financial resources managed and maintained by the Trustee to cover the risk.

10.41 Trustee's claims against benefits

The Trustee may if permitted by the Superannuation Law set off against Benefits payable for a Member any amounts due and payable by the Member to the Trustee as trustee of the Fund.

11 INVESTMENT POWERS OF TRUSTEES

11.1 Investment strategy

The Trustee must from time to time formulate and give effect to one or more investment strategies having regard to the Fund's circumstances and those investment strategies must be formulated and effected in accordance with the Superannuation Law.

11.2 Power of investment

Subject to the Superannuation Law and the Fund's investment strategy, the Trustee may invest the whole or any part of the Fund's assets in any one or more of the following investments as if the Trustee was the absolute owner beneficially entitled:

- (a) in the acquisition by original subscription or by purchase or otherwise of debentures, debenture stock, whether secured or unsecured, or secured or unsecured notes or other loan instruments of any corporation wheresoever situated or incorporated and payable or repayable in whatsoever currency and whether bearing interest or not;
- (b) in the acquisition by original subscription or by purchase or otherwise of the shares or stocks whether ordinary, preferred, deferred, redeemable or otherwise and whether partly or fully paid or having any liability thereon of any corporation wheresoever situated or incorporated and expressed in whatsoever currency;
- (c) in the purchase of or at interest upon the security of shares, stocks, funds, securities, land or other investment or property of whatsoever nature and wheresoever situated (other than an investment of a wasting or speculative nature) and whether income producing or not and whether fully or partly paid up or involving liabilities or not or in loans upon personal credit with or without security as the Trustee thinks fit and to the intent that the Trustee has the same power in all respects;
- (d) in the acquisition by original subscription or by purchase or otherwise of interests or rights, whether partly paid or not and whether having liability thereon or not, in corporations not having a share capital wheresoever situated or incorporated;
- (e) in the acquisition of securities of any Country or of any State, Territory or Colony whether by original subscription, purchase or otherwise;
- (f) in the acquisition of securities of any statutory or municipal body wheresoever situated and for any period whatsoever and whether by original subscription, purchase or otherwise;
- (g) in the acquisition by original agreement or by purchase or otherwise of options and rights to take up shares or stock whether ordinary, preferred, deferred, redeemable or otherwise and whether partly or fully paid or having any liability thereon of any corporation wheresoever situated or incorporated or to take up interests or rights whether having liability thereon or not in corporations not having a share capital wheresoever situated or incorporated;
- (h) in the acquisition of units or sub-units of any unit trust whether by original subscription, purchase or otherwise;
- (i) in the acquisition by any means whatsoever of land or interest in land of any tenure, improved or unimproved and wheresoever situated;
- (j) on loan to any person or deposited with any person whatsoever or wheresoever situated with or without security and for any period whatsoever;
- (k) on deposit with any Authorised Deposit-taking Institution for any period whatsoever;
- (l) in erection of buildings or structures or the making of improvements on land with any tenure improved or unimproved and wheresoever situated;
- (m) on any Policy or Annuity with an Insurer and any choses in action, interest for life or any lesser term or any reversion or otherwise arising and whether as original Policy holder or by assignment; and

- (n) in any other investments which the Trustee considers appropriate and which satisfy the Superannuation Law,
- (o) in the acquisition of any foreign currency exchange or derivatives including forwards, futures, options, warrants, swaps and other composites,

with full power to vary, replace, or otherwise deal with investments as fully and effectively as a person absolutely and beneficially entitled dealing with their own property may do so, however the Trustee must not invest in loans to or give any financial assistance to a Member or a Relative of a Member.

11.3 Power to hold investment in different names

An investment may be held in any name including the name of a nominee (whether an individual or a corporation) as the Trustee determines.

11.4 Disclosure of Trustee's interest in investment

The Trustee and any Director must disclose details of any interest in any investment in the manner prescribed under the Corporations Act and the Superannuation Law whenever they have a direct or indirect interest in the investment or may benefit directly or indirectly from it.

11.5 Investment strategy for the Fund

Subject to clauses 11.6 and 11.7, the Trustee must set investment objectives for the Fund, and formulate an investment strategy to achieve those objectives, in accordance with the Superannuation Law.

11.6 Beneficiary Investment Directions

- (a) The Trustee may set different investment objectives, and formulate different investment strategies to achieve those objectives, for different parts of the Fund or a sub-fund ('**Investment Portfolio**').
- (b) The Trustee may:
 - (i) set different investment objectives for two or more Investment Portfolios;
 - (ii) formulate an investment strategy for each Investment Portfolio;
 - (iii) divide the assets of the Fund or a sub-fund between the different Investment Portfolios;
 - (iv) invite Beneficiaries to nominate the Investment Portfolio, or combination of Investment Portfolios, to apply to them; and
 - (v) determine:
 - (A) which categories of Beneficiaries may make a nomination;
 - (B) when, how and in what manner Beneficiaries may change their nominations;
 - (C) the minimum amount which may be invested in an Investment Portfolio;
 - (D) any other matters which the Trustee considers appropriate.
- (c) The Trustee may from time to time change the investment objectives, strategies, Investment Portfolios and the assets of the Fund which comprise the Investment Portfolios.

11.7 Specific investments

Subject to clauses 11.1 and 11.2, the Trustee may, with or without the nomination of a Beneficiary under clause 11.6, make separate investments as the Trustee may determine in respect of certain Members or Beneficiaries or certain classes of Members or Beneficiaries of the Fund or in respect of different classes for certain Members or Beneficiaries.

11.8 No liability for Member nominations

The Trustee is not responsible or liable for:

- (a) the profitability of an Investment Portfolio or specific investment nominated by a Beneficiary, in comparison with any other Investment Portfolio or specific investment the Beneficiary, or any other Beneficiary, could have nominated; or
- (b) monitoring the performance or progress of the Investment Portfolio or specific investment of any Beneficiary, other than as required by the Superannuation Law.

12 TRUSTEES' POWERS GENERALLY

Subject always to the Superannuation Law and without prejudice to the powers vested in the Trustee by this Deed or otherwise, the Trustee may:

- (a) institute, conduct, defend, compound or abandon any legal proceedings by or against the Fund or the Trustee or otherwise concerning the affairs of the Fund and also to compound and allow time for payment or satisfaction of any debts due or of any claims or demands by or against the Fund, and to commence, carry on and defend legal proceedings in order to recover damages against any person arising out of any loss suffered by any Member or former Member or Beneficiary as a result of any negligence, default, remission, breach of duty or breach of the terms of this Deed;
- (b) refer any claims or demands by or against the Fund to arbitration and to observe and perform any awards arising from that arbitration;
- (c) make and give receipts, releases and other discharges for money payable to the Fund and for the claims and demands of the Fund;
- (d) open bank accounts and retain on current or deposit account at any bank any moneys as it considers proper and make procedures for the operation of those accounts including the signing and endorsing of cheques in connection therewith;
- (e) enter into a leasing arrangement with any person, including (but not limited to):
 - (i) a finance lease;
 - (ii) an operating lease; or
 - (iii) a hire-purchase agreement;
- (f) determine who may sign receipts, acceptances, endorsements, release, contracts and documents on the Fund's behalf;
- (g) pay Benefits out of the Fund to a Member or a Dependant;
- (h) decide who are Dependents for the purposes of this Deed;
- (i) in case of the mental or physical ill-health or incapacity of any person entitled to Benefits, pay or apply those Benefits or any part thereof at the Trustee's discretion to or for the benefit of any person and the Dependents of that person or any of them as

the case may be without being responsible for seeing to the application of payments under this clause or payments made in the exercise of any other power vested in the Trustee by this Deed;

- (j) indemnify or undertake to indemnify any person, company, government or institution in respect of any claims, matters or things relating to the Fund or to the rights of Members, former Members or Beneficiaries in respect of the Fund however that indemnity may only be given to the extent it is not limited by or contrary to the Superannuation Law;
- (k) pay and advance out of the Fund all costs, expenses and outgoings (including Taxation) of and incidental to the management and administration of the Fund;
- (l) pay and advance out of the Fund the professional fees (if any) in respect of the provision of its services as Trustee of the Fund;
- (m) take and act upon the opinion of any legal practitioner, whether about the interpretation of this Deed or any other document or statute or the administration of the trusts declared, without being liable to any Member or his or her Dependants for any act done by in accordance with that opinion;
- (n) insure and keep insured as it sees fit any liability of the Trustee or any of its Directors or Officers or the liability of the Fund to indemnify and reimburse the Trustee or any of its Directors or Officers;
- (o) insure or re-insure any risk, contingencies or liabilities of the Fund with any Insurer, mortgage insurance company or re-insurance company;
- (p) provide a full or partial release to any person in respect of matters that have arisen or may arise in respect of the Fund;
- (q) purchase an Annuity from an Insurer to provide all or a part of the Pension payable in respect of a Member and that Annuity must be in the name of the Trustee or, if the Trustee so determines, in the name of the Member or former Member;
- (r) enter into any agreement or provide any notice or make any election or undertake any other action whether revocable or irrevocable which would or may have the effect of committing the Trustee to conduct the Fund at all times as a Complying Superannuation Fund;
- (s) seek modifications of or exemptions from the application of the Superannuation Law to the Fund; and
- (t) accept Contributions and any Shortfall Component from any person authorised to make Contributions or pay the Shortfall Component in the Deed or in accordance with the Superannuation Law.

13 ACCUMULATION ACCOUNT

13.1 Establishment

The Trustee must establish an Accumulation Account for each Member or Beneficiary.

13.2 Amounts to be credited

The Trustee must credit to the Accumulation Account any amounts required by this Deed and the Superannuation Law including:

- (a) Contributions;
- (b) positive Earnings allocated to the Account under clause 16.4;
- (c) amounts received by transfer from Approved Benefit Arrangements;
- (d) proceeds of any Policy or Annuity attributable to the Member;
- (e) any Financial Assistance received by the Fund attributable to the Member;
- (f) any amounts transferred or Allotted from other Accounts;
- (g) any Levy or Shortfall Component paid in respect of the Member; and
- (h) any other amounts the Trustee determines which are permitted by the Superannuation Law.

13.3 Amounts to be debited

The Trustee must debit the Accumulation Account with any amounts required by this Deed and the Superannuation Law including:

- (a) Benefits paid to Members or Beneficiaries;
- (b) negative Earnings allocated to the Account under clause 16.4;
- (c) amounts transferred to Approved Benefit Arrangements;
- (d) any Taxation calculated in accordance with clause 20 attributable to the Member for whom the Accounts or Account has been established;
- (e) any amounts transferred or Allotted to other Accounts;
- (f) any costs or expenses attributable to the Member including the cost of any Policies effected by the Trustee in respect of the Member; and
- (g) any other amounts the Trustee determines and which are permitted by the Superannuation Law.

14 PENSION ACCOUNT

14.1 Establishment

Where the Trustee determines to pay all or any of the Benefits to the Member as a Pension, the Trustee must establish a Pension Account in respect of the Member.

14.2 Amounts to be transferred

The Trustee must transfer to the Pension Account any assets of the Fund or amounts as are determined in accordance with this Deed which the Trustee believes are necessary in order to provide the Member's Benefit as a Pension.

14.3 Amounts to be credited

The Trustee must credit to the Pension Account:

- (a) positive Earnings allocated to the Account under clause 16.4, and
- (b) any other amounts as the Trustee determines and which are permitted by the Superannuation Law.

14.4 Amounts to be debited

The Trustee must debit to the Pension Account all amounts required by this Deed and the Superannuation Law including:

- (a) Benefits paid to Members or Beneficiaries;
- (b) negative Earnings allocated to the Account under clause 16.4;
- (c) amounts transferred to Approved Benefit Arrangements;
- (d) any Taxation calculated in accordance with clause 20 attributable to the Member for whom the Account has been established;
- (e) any amounts transferred to other Accounts;
- (f) any costs or expenses attributable to the Member; and
- (g) any other amounts as the Trustee determines and which are permitted by the Superannuation Law.

15 FUND ACCOUNTS

15.1 Fluctuation Account

- (a) The Trustee may establish a Fluctuation Account.
- (b) The Trustee must transfer to the credit of the Fluctuation Account any Earnings not otherwise allocated under clause 16.4.
- (c) Amounts credited to the Fluctuation Account do not form part of any Member Account and any income earned by the Fund on the moneys held in the Fluctuation Account must be credited to the Fluctuation Account.

15.2 Use of Fluctuation Account

The Fluctuation Account must be used for the following purposes:

- (a) as part of a reserving strategy to stabilise investment earnings;
- (b) to supplement the Earnings allocated to Accounts; and
- (c) to pay any Taxation.

15.3 Reserve Accounts

Subject to the Superannuation Law, the Trustee may establish and maintain one or more Reserve Accounts and operate those accounts in accordance with rules the Trustee may specify from time to time for such purposes as the Trustee determines and Superannuation Law permits, including:

- (a) to separate:
 - (i) assets funding a Pension from assets that are needed for solvency reasons as instructed by an Actuary or as otherwise determined by the Trustee;
 - (ii) assets funding a Pension into various classes to comply with the rules of the relevant Pension or to obtain favourable taxation treatment; or
 - (iii) some assets of the Fund from other assets to establish any other type of reserve account permitted or required by the Superannuation Law;

- (b) to allocate any amount to Members' Benefits in a manner that is equitable to all Members in respect of whom the Reserve Account is maintained;
- (c) to allocate any amount to be applied in determining the amount of a net change in value of the assets of the Fund, or the sub-fund or Investment Portfolio or Investment Portfolios, which is available for allocation to Accounts;
- (d) to pay any costs or expenses (including Taxation) which are payable out of the Fund.

16 VALUATION AND EARNINGS

16.1 Valuation of Fund

At the end of each Fund Year or at any other time the Trustee considers it appropriate or the Superannuation Law requires, the Trustee must:

- (a) make a valuation of all of the assets of the Fund (including the value of any Policy held by the Fund);
- (b) ensure that the records and Accounts of the Fund reflect the valuation of each asset.

16.2 Segregation of assets

The Trustee may treat any part of the Fund as a separate fund, or separately account for the assets and liabilities of any part of the Fund, for any purpose.

16.3 Change in value of the Fund

- (a) The Trustee:
 - (i) must identify at least one date in each Fund Year for the purposes of this clause 16.3 (**Allocation Date**);
 - (ii) may determine a number of consecutive Allocation Periods for a Fund Year in respect of the Fund, a sub-fund or an Investment Portfolio, of any duration (for example, Allocation Periods may be each Month, each week or each day during the Fund Year); and
 - (iii) (to avoid doubt) may determine different Allocation Periods for different sub-funds or Investment Portfolios.
- (b) As at each Allocation Date, the Trustee must determine the net change in the value of the assets of the Fund, sub-fund or Investment Portfolio for the Allocation Period. A net change in value may be expressed in such manner as the Trustee determines (for example as a crediting rate or unit price), and may be expressed differently for different sub-funds or Investment Portfolios.
- (c) The Trustee may determine methodologies to allocate to Benefits paid during an Allocation Period an estimate of any net change in value for the period since the last Allocation Date (for example, an interim crediting rate).
- (d) In determining the net change in value of the assets of the Fund, a sub-fund or an Investment Portfolio for an Allocation Period, the Trustee may take into account, in relation to the Allocation Period:
 - (i) investment returns on the assets of the Fund, sub-fund or Investment Portfolio;
 - (ii) expenses, and any provision for expenses, in connection with the Fund, sub-fund or Investment Portfolio;

- (iii) capital gains and losses on realisation of any of the assets of the Fund, sub-fund or Investment Portfolio;
 - (iv) unrealised gains and losses arising on revaluation of any of the assets of the Fund, sub-fund or Investment Portfolio;
 - (v) allowance for capital appreciation and depreciation on any of the assets of the Fund, sub-fund or Investment Portfolio;
 - (vi) write-offs of bad debts;
 - (vii) the appropriateness of averaging the net earnings of the Fund, sub-fund or Investment Portfolio over two or more Allocation Periods;
 - (viii) any balance in the Fluctuation Account and any Reserve Accounts; and
 - (ix) any other factors which the Trustee considers appropriate.
- (e) A net change in value of the assets of the Fund, a sub-fund or an Investment Portfolio for an Allocation Period may be positive or negative.

16.4 Allocation of change in value to Accounts

The Trustee must on determining a net change in value of the assets of the Fund, a sub-fund or an Investment Portfolio determine the extent to which, and the manner in which, that change in value is to be allocated to Accounts as Earnings. A net change in value of a Sub-Fund or Investment Portfolio is to be allocated as Earnings among the Accounts that are invested in that sub-fund or Investment Portfolio.

16.5 Recording of specific investments

- (a) Where the Trustee invests separately in respect of certain Beneficiaries in accordance with clause 11.7, the Trustee must record on whose behalf those specific investments are made for the purposes of determining allocations of Earnings to the Member Accounts of those Beneficiaries.
- (b) The Member Account of the relevant Beneficiary must be credited with any net income and net profit as Earnings, and debited with any costs, charges or Taxation, in proportions applicable to any specific investment made under clause 11.7, in accordance with the Superannuation Law.

17 RECORDS, REPORTS AND AUDIT

17.1 Trustee obligations

The Trustee must:

- (a) keep accounts and may issue receipts for all money and other assets received into and disbursed from the Fund and of all dealings in connection with that money or assets;
- (b) collect and promptly pay to the credit of an account in the name of the Fund kept with a bank, building society, or other financial institution or into a trust account of a solicitor, accountant, investment manager or administration manager, all moneys due to or received on behalf of the Fund;
- (c) pay any premiums to Insurers as are required to maintain any Policies or Annuities;

- (d) keep and retain in safe custody all records, books, accounts, minutes, reports and other documents for any period required by the Superannuation Law;
- (e) prepare and lodge all documents required by the Superannuation Law;
- (f) ensure the Fund is audited at the end of each Fund Year or at any other time required by the Superannuation Law and ensure that the auditor provides any certificates required by the Statutory Authority under the Superannuation Law;
- (g) once in each Fund Year, report on the affairs of the Fund to the Member in the form required by the Superannuation Law;
- (h) produce any books or information relating to the Fund and make suitable arrangements for access to premises where the books or information are kept for the purposes of inspection in accordance with the Superannuation Law; and
- (i) record against a Member's Benefit or Benefit Entitlement, a Payment Flag that has been validly served on the Trustee under the Superannuation Laws until it is validly lifted.

17.2 Provision of information

The Trustee must give:

- (a) Employers;
- (b) the Statutory Authority;
- (c) the Actuary;
- (d) the auditor;
- (e) Members;
- (f) a court; and
- (g) any other persons specified in the Superannuation Law,

any information or documents required by the Superannuation Law.

17.3 Information and documents for Tribunal or court

The Trustee must do all things necessary to comply with its obligations to the Tribunal under the *Superannuation (Resolution of Complaints) Act 1993* (Cth) or to a court.

17.4 Directions of Statutory Authority

The Trustee must comply with any direction or requirement of the Statutory Authority, Tribunal or a court in relation to the Fund including, but not limited to, the acceptance of Contributions into the Fund, the disposal of assets of the Fund, the appointment of an investigator to the Fund and the conduct of an investigation into the Fund.

18 POLICIES OF INSURANCE

18.1 Member Policies

The Trustee may determine to effect Policies with an Insurer and may secure the Benefit of a Member by means of an individual Policy or Policies or a group Policy or Policies or partly in one and partly in another.

18.2 Member may request a specific Policy

Where a Member makes a written request to the Trustee in writing to effect a Policy of a specified type in respect of the Member, the Trustee may effect that Policy.

18.3 Trustee to effect Policy if required

If the Trustee has informed a Member that a Policy of a specified type will be effected in respect of a Member, the Trustee must effect the Policy except if the Member has requested the Trustee in writing not to effect the same.

18.4 Premiums

Any premiums for a Policy effected may, if the Trustee considers it appropriate, be debited to an Insured Member's Accumulation Account.

18.5 Limitation on liability of Trustee

Where a Trustee is not required to exercise the power to effect a Policy or Policies, the Trustee is not responsible or liable to a Member, a Member's Legal Personal Representative or Dependant if the Trustee decides not to exercise the power to effect that Policy or those Policies.

19 EMPLOYER CONTRIBUTIONS

If:

- (a) any person, firm or corporation representing Employees within the Hospitality Industry or such other industries as the Trustee in its absolute discretion shall determine makes Contributions to the Fund on behalf of Members or persons who wish to become Members;
- (b) the Trustee consents to the Contributions from the Employer; and
- (c) the Contributions or the acceptance of the Contributions are not otherwise prohibited by the Superannuation Law,

then the Trustee may accept the Contributions from the Employer subject to the terms, conditions and provisions of this Deed.

20 PAYMENT OF TAXATION AND LEVIES

20.1 Deduction of Taxation on Benefit

The Trustee may deduct from any Benefit payable to any Member or Beneficiary under this Deed any Taxation required to be deducted from it.

20.2 Taxation on Contributions and Shortfall Components

The Trustee or, with the agreement of the Trustee, any other appropriate organisation may deduct any Taxation payable in relation to a Contribution or Shortfall Component before the Contribution or Shortfall Component being credited to the Accumulation Account of the Member.

21 MEMBERSHIP

21.1 Eligibility for Membership

- (a) The Trustee may admit any person who applies for membership in the Fund unless his or her admission would cause the Fund to breach the Superannuation Law.
- (b) If the Trustee accepts a person's application for Membership, the person becomes a Member from the date and on the terms that the Trustee determines.

21.2 Application for Membership

Each application for Membership must be made by the relevant applicant in the form approved by the Trustee.

21.3 Admission to Membership without application

- (a) The Trustee may, subject to the Superannuation Law, admit a person as a Member even though he or she has not applied for membership in accordance with clauses 21.1 and 21.2.
- (b) The Member shall be deemed to have joined the Fund on the date the Member applies for membership, on the date a contribution is made to the Fund for the Member or as otherwise determined by the Trustee.
- (c) Subject to any other conditions which may be applied pursuant to the provisions of this Deed, the Trustee may impose such conditions on an applicant's admission and the rights and duties of the applicant as a Member as the Trustee shall determine and may limit and impose such conditions upon Benefits as it sees fit and the Trustee may remove or vary all or any of the aforesaid conditions at any time.

21.4 Members and Beneficiaries to provide information

Each applicant for Membership and any Beneficiary must whenever requested by the Trustee give any information the Trustee thinks necessary for the purposes of any investigations in connection with the Fund, however where the Trustee is or becomes aware that the information given is incorrect or misleading or any relevant information has been deliberately withheld, the Trustee may alter or amend the Benefits to amounts which would have been determined had full and accurate information been supplied.

21.5 Member bound by Deed

Each Member by virtue of his or her application is deemed to have consented to be bound by this Deed.

21.6 Member to be medically examined

To effect, increase or otherwise vary any Policy or Annuity, the Trustee may require any Member or any person who has applied to become a Member to be medically examined or to submit other evidence of health or to provide proof of age to the satisfaction of the Insurer or to take steps necessary for those purposes.

21.7 Member refusing to be medically examined

If any Member or person who has applied to become a Member refuses to undergo a medical examination or to undertake any other step which may reasonably be required for those purposes or if he or she fails to do anything which would or might prejudice the Policy or result in the Policy moneys or any part thereof not becoming payable, the Trustee may

adjust the Benefit to be provided by the Fund for and in respect of that Member or person in any manner the Trustee considers appropriate.

21.8 Ceasing to be a Member

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

- (a) the Trustee determines that the Member has been paid all of his or her Benefit from the Fund;
- (b) where the Member dies, the Trustee determines that the deceased Member's Benefit has been paid to the deceased Member's Dependants or Legal Personal Representative or as otherwise permitted under the Superannuation Law;
- (c) the Trustee determines that the Member's continued membership would cause the Fund to cease complying with the Superannuation Law; or
- (d) the Trustee determines, on reasonable grounds, that the Member should cease to be a Member.

22 MEMBERSHIP NOTIFICATION REQUIREMENTS

22.1 Product Disclosure Statements

The Trustee must give all new Members a Disclosure Document containing information and details of the Fund as required by the Superannuation Law.

22.2 Disclosure and reporting requirements

The Trustee must annually give Members, former Members and Beneficiaries, any information in writing and copies of accounts, records and documents of the Fund as required by the Superannuation Law.

22.3 Former Member notices

- (a) The Trustee must give former Members or their Legal Personal Representatives a written statement containing information and details about the Benefits of the former Member as is required to be given by the Superannuation Law.
- (b) No Member or Dependent of a Member is entitled to obtain information about the operation or the conduct of the Fund which, in the opinion of the Trustee, is inappropriate to disclose other than as set out in this clause.

22.4 Inspection of Deed and other Documents

- (a) A copy of this Deed and any other documents required by the Superannuation Law must be made available for inspection by any Member or Beneficiary on the request of that Member or Beneficiary.
- (b) Unless otherwise required by the Superannuation Law, it is sufficient for this clause 22.4 to make a copy of this Deed or the documents available to the Member or the Beneficiary for inspection at the office of the Trustee during hours when the office or business is open.

22.5 Meetings and Members

The Trustee must notify the Members from time to time of the manner, time and place in which meetings of the Members of the Fund held in accordance with the Superannuation Law and for the purposes of this Deed are to be called and conducted.

23 MYSUPER

23.1 MySuper classes

The Trustee may establish one or more classes of membership (**'MySuper Class'**) that must have the following terms and conditions:

- (a) the Trustee must determine the investment strategy applicable in respect of the MySuper Class as a single diversified investment strategy (**'MySuper Investment Strategy'**);
- (b) all Members who hold a MySuper Interest must be entitled to access the same options, benefits and facilities, except that:
 - (i) different terms and conditions may apply in respect of benefits under a Policy; and
 - (ii) access to options, benefits and facilities may otherwise be different if permitted under the Superannuation Law;
- (c) Earnings of the MySuper Investment Strategy must be allocated to MySuper Interests in a way that does not stream gains or losses to only some of those Members, except to the extent permitted under a Lifecycle Exception;
- (d) the same process is to be adopted in attributing amounts to Members in respect of their MySuper Interest, except to the extent that a different process is necessary to allow for fee subsidisation by Employers;
- (e) if fee subsidisation by Employers is permitted, that subsidisation does not favour one Member who holds a MySuper Interest and is an Employee of a subsidising Employer over another such Member who is an Employee of that Employer;
- (f) there are no limitations on the source or kind of Contributions made by or on behalf of Members who hold a MySuper Interest, other than Permitted Limitations;
- (g) a MySuper Interest cannot be replaced with an interest in another class of membership in the Fund unless:
 - (i) the replacement is with an interest in another MySuper Class within the Fund;
 - (ii) the Member consents in writing to the replacement within the time period prescribed under the Superannuation Law; or
 - (iii) the MySuper Interest is replaced with a beneficial interest of another class in the Fund of a kind, and in the circumstances, permitted under the Superannuation Law;
- (h) a Member's MySuper Interest cannot be replaced with a beneficial interest in another Superannuation Entity (**'New Interest'**) unless:
 - (i) the New Interest is a MySuper Product and the replacement with the New Interest is permitted under a law of the Commonwealth;

- (ii) the replacement is otherwise permitted, or is required, under a law of the Commonwealth; or
- (iii) the Member consents in writing to the replacement with the New Interest;
- (i) to the extent that assets of the Fund are attributable to the MySuper Class, a Pension is not payable out of those assets (other than an insured Benefit payable as an income on the Member's Temporary Disablement).

23.2 MySuper Class and other classes

- (a) No Member who holds a beneficial interest in a MySuper Class is precluded from holding a beneficial interest of another class in the Fund because of that fact.
- (b) No Member is precluded from holding a beneficial interest in a MySuper Class because the Member holds a beneficial interest of another class in the Fund.

23.3 Definitions in this clause 23

'**Lifecycle Exception**' means, in relation to a MySuper Investment Strategy, that gains and losses from different classes of asset may be streamed to different subclasses of Members who hold a MySuper Interest:

- (a) on the basis, and only on the basis, of the age of those Members;
- (b) on the basis of the age of those Members and other factors prescribed under the Superannuation Law; or
- (c) on the basis of the age of those Members and other factors prescribed in circumstances prescribed under the Superannuation Law.

'**MySuper Product**' has the meaning given to that term in the SIS Act.

'**Permitted Limitation**' means a limitation on the source or kind of Contributions that is:

- (a) a prescribed limitation for a MySuper Product under the SIS Act or SIS Regulations; or
- (b) imposed by or under the general law or another law of the Commonwealth.

24 CONTRIBUTIONS TO THE FUND

24.1 Eligibility to make Contributions

Subject to the consent of the Trustee and clause 25, Contributions to the Fund may be made by a Member, an Employer or any other Permitted Entity.

24.2 Superannuation Guarantee legislation

Where the Trustee accepts Contributions in accordance with the Guarantee Act, the Trustee must give all certificates, reports and other information required by the Guarantee Act.

25 GENERAL PROVISIONS CONCERNING CONTRIBUTIONS

25.1 Form of Contribution

- (a) A Contribution may be made either in cash or if the Trustee so determines by transfer of an asset or assets if the assets transferred are authorised investments and are transferred in accordance with the Superannuation Law and the acquisition of the assets is not prohibited by the Superannuation Law.
- (b) If the Trustee accepts assets, the Trustee may require the Member or other contributor to provide evidence of title and such other matters (including a valuation of the assets by a valuer approved by the Trustee) as the Trustee considers appropriate.

25.2 Obligations to contribute

Subject to the Superannuation Law:

- (a) in the absence of any agreement to the contrary, no Member, Employer or Permitted Entity is under an obligation to make a Contribution to the Fund in respect of any Fund Year; and
- (b) a Member may remain a Member of the Fund notwithstanding that no Contributions are made in respect of that Member for any Fund Year.

25.3 Limitation on commencing Contributions

The Trustee must refuse to accept Contributions to the Fund by or in respect of a Member if the Fund is not authorised by the Superannuation Law to accept Contributions made on the Member's behalf.

25.4 Limit on Contributions

The Trustee must refuse to accept any Contributions or Shortfall Component if:

- (a) the Contributions are not otherwise authorised to be made, or are in excess of the amount of Contributions that can be made, on the Member's behalf by the Superannuation Law;
- (b) acceptance of the Contribution or Shortfall Component would prevent the Fund from qualifying as a Complying Superannuation Fund; or
- (c) the Statutory Authority directs the Trustee not to accept any Contributions by an Employer or any Shortfall Component in accordance with the Superannuation Law.

25.5 Ineligible Contributions

If any Contribution or Shortfall Component is accepted by the Fund in breach of the Superannuation Law, the Trustee must refund the Contribution or Shortfall Component as required by the Superannuation Law, less any:

- (a) Taxation payable, or which the Member has validly authorised the Trustee to pay, to the Statutory Authority;
- (b) charge which an Insurer may have made in respect of any extra cover which it has provided in relation to those Contribution or Shortfall Components; and
- (c) reasonable administration charges,

and the Trustee must debit the Member's Account accordingly.

25.6 Contributions Splitting

- (a) If and to the extent permitted under Superannuation Law, the Trustee may permit Members to apply to the Trustee to Rollover or Transfer out of the Fund or Allot an amount of the Member's Benefits, for the benefit of the Spouse of the Member, that is equal to an amount of the Splittable Contributions made by, for, or on behalf of the Applicant in:
 - (i) the previous Financial Year; or
 - (ii) the Financial Year in which the application is made if the entire Benefit of the Member is to be Rolled over or Transferred in that Financial Year.

26 TRANSFERS FROM AND TO APPROVED BENEFIT ARRANGEMENTS

26.1 Transfers from Approved Benefit Arrangements

- (a) Subject to clause 26.1(b), the Trustee may make any arrangements it thinks fit with any Member or the trustee of any Approved Benefit Arrangement, to Transfer any assets to the Fund and may make arrangements about any other matter which, at the option of the Trustee, is incidental to or consequent upon the admission of a person to Membership of the Fund.
- (b) If an Approved Benefit Arrangement from which assets are transferred under clause 26.1(a) is one in which the payment of Benefits is otherwise required by the Superannuation Law to be deferred until the attainment of a particular age or the occurrence of a specified event, then the Member is not entitled to receive from the Fund any part of that Benefit that is attributable to those assets at a date earlier than that on which they would have been entitled to receive the same from that Approved Benefit Arrangement.

26.2 Transfers to Approved Benefit Arrangements

The Trustee may:

- (a) if requested by the Member, in lieu of part or all of any other Benefit to which the Member may be entitled under this Deed, Transfer to the Trustee of another Approved Benefit Arrangement that portion of the assets of the Fund as the Trustee determines not exceeding the amount the Trustee considers equivalent in value to the Benefit being provided to the Member to the extent that it has accrued;
- (b) Transfer a Benefit which has become payable to a Member to an Approved Benefit Arrangement selected by the Trustee where a Member has not given instructions to the Trustee on the payment or transfer of the Benefit within a reasonable period of the Benefit first becoming payable;
- (c) Transfer some or all of any amount which is the subject of an application by a Member under clause 25.6 that has been accepted by the Trustee to the trustee of an Approved Benefit Arrangement; and
- (d) Transfer any other asset or amount in the Fund that it approves including any reserves, surplus or unallocated amounts in the Fund to another account or reserve in the Fund or to another Approved Benefit Arrangement.

26.3 Rollovers

- (a) The Trustee may, upon receiving a written request from a Member to:
- (i) pay all or any of the Benefit of the Member in the Fund to any Approved Benefit Arrangement or back into the Fund in a manner permitted by the Superannuation Law; or
 - (ii) Rollover an amount which is the subject of an application by a Member under clause 25.6 that has been accepted by the Trustee to the trustee of an Approved Benefit Arrangement; or
 - (iii) retain or apply all or any of the Benefit of the Member within the Fund in a manner permitted by the Superannuation Law,
- pay, apply or retain the Benefit in accordance with that election or application.
- (b) The receipt of the Transferred or Rolled over Benefit by the proper officer of the Approved Benefit Arrangement is a complete discharge to the Trustee of all liabilities in respect of the transferred amount and the Trustee has no responsibility to see to the application of the Transferred or Rolled over Benefit.
- (c) Upon the completion of a payment in respect of a Member under this clause 26.3 all the rights and interest of that Member under this Deed (and all the rights and interest of any person otherwise entitled to claim in respect of the Member or on the occurrence of any event or circumstances affecting the Member) in respect of the amount paid are entirely extinguished.

26.4 Condition of Rollover

Where the Trustee accepts a Rollover back into the Fund of the Benefits under clause 26.3, those Benefits must be maintained and are only payable:

- (a) in accordance with this Deed; or
- (b) as permitted by the Superannuation Law.

26.5 Successor fund transfers

Subject to clause 26.6, the Trustee may Transfer the whole or part of the Member's Benefit to an Approved Benefit Arrangement without the request or consent of the Member where the Approved Benefit Arrangement is a successor fund within the meaning of the Superannuation Law. The Trustee may transfer the Member's Benefit to that Approved Benefit Arrangement whether or not the Member is at the time of the transfer a participant in that Approved Benefit Arrangement.

26.6 Eligible Rollover Funds

The Trustee may in accordance with the Superannuation Law and, where required by the Superannuation Law the Trustee must, transfer a Member's Benefit to an Eligible Rollover Fund and must give any information to the trustee of the Eligible Rollover Fund at the times and in the manner required by the Superannuation Law.

27 BENEFITS

27.1 Entitlement to Benefit

Where a Member becomes entitled, under this Deed and the Superannuation Law, to a Benefit and there are no cashing restrictions that apply to the Benefit under the Superannuation Law, the Member may elect in writing to the Trustee to be paid the Benefit in one or more of the forms permitted by the Superannuation Law or determined by the Trustee including:

- (a) one or more Superannuation Lump Sums; or
- (b) one or more Income Streams; or
- (c) any other form of Benefit permissible by the Superannuation Law.

27.2 Amount of Benefits

- (a) The amount of a Benefit payable in respect of a Member, other than on Temporary Disablement, is the balance in the Member's Member Account, or such part of that balance as the Superannuation Law permits for the type of Benefit that is payable.
- (b) The amount of and terms on which a benefit is paid on a Member's Temporary Disablement will be in accordance with the Policy under which the Benefit is paid.

27.3 Limitation on Benefits

Notwithstanding any other clauses of this Deed, the Trustee must not pay any Benefits, or Benefits in excess of a certain amount, to Members, Dependants or Beneficiaries if that payment would cause the Fund to breach the Superannuation Law.

27.4 Pension Entitlement before 1 July 2007

For the purposes of this clause where a Member was already receiving one or more of the following Pensions before 1 July 2007:

- (a) an Allocated Pension and/or non-commutable Allocated Pension in accordance with SIS Regulation 1.06(4);
- (b) a life expectancy pension under SIS Regulation 1.06(7);
- (c) a lifetime commutable pension under SIS Regulation 1.06(6); and
- (d) a Market Linked Pension in accordance with SIS Regulation 1.06(8),

that Member, and if applicable the persons entitled to the Benefit following the Member's death, may continue to receive the relevant Pension, or if applicable a Superannuation Lump Sum on commutation of the Pension, in accordance with the rules of the Pension and the Superannuation Law applicable to the Pension.

27.5 Election for Benefit type

- (a) Unless otherwise agreed to by the Trustee, the election given by the Member under clause 27.1 must be in writing and state the amount to be paid and the extent to which the amount is to be paid as any one or more types of Benefit permitted to be paid by the Superannuation Law and this Deed.
- (b) The election must be given to the Trustee before the Benefit commences to be paid to the Member, but is not binding on the Trustee.

27.6 Benefit with cashing restrictions

Subject to the Superannuation Law, where a Member becomes entitled to a Benefit in accordance with clause 28.5 or 28.6, and there are cashing restrictions that apply to the Benefit under the Superannuation Law, the Trustee must pay that Benefit in accordance with those cashing restrictions.

27.7 Transfer of Policy as Benefit

Where a Member or a Beneficiary is entitled to be paid a Benefit and that Benefit includes any interest in a Policy of any kind on the life of the Member or Beneficiary, the Trustee may transfer the Policy to the Member or Beneficiary or to the Dependants.

27.8 Transfer In-Specie as Benefit

The Trustee may, with the consent of a Member or Beneficiary to whom a Benefit is payable, transfer assets of the Fund of an equivalent value to that Member or Beneficiary in lieu of paying the whole or any part of the amount otherwise payable under this Deed.

28 PAYMENT OF BENEFITS

28.1 Preservation

The Trustee must Preserve Benefits in respect of Members or Beneficiaries as required by the Superannuation Law.

28.2 Payment of Unrestricted Non-Preserved Amount

A Member may elect at any time to withdraw the whole or any part of the Unrestricted Non-Preserved Amount of that Member by giving notice to the Trustee in the form and manner determined by the Trustee, subject to the Superannuation Law and clause 28.7.

28.3 Payment of additional Benefits

Where a Member ceases to be a Member of the Fund, the Trustee may pay, in addition to amounts otherwise payable under this Deed, that part of the Fluctuation Account, which the Trustee considers equitable, to the Member's Accumulation Account for purposes of payment of a Benefit.

28.4 Retention of Benefit in Fund

Where a Member or Beneficiary does not require Benefits to be paid immediately, the Trustee may retain all or any part of any Benefit in the Fund until the Member or Beneficiary entitled to the Benefit requests that the Benefit is paid to that Member or Beneficiary or until the Benefit is required to be paid under the Superannuation Law or this Deed, subject to the Superannuation Law and clause 28.7.

28.5 Compulsory payment of Benefits

The Trustee of the Fund must pay a Member's Benefits as soon as practicable after the occurrence of any of the following:

- (a) the Member dies; or
- (b) payment of the Benefit is required under this Deed or the Superannuation Law,

whichever occurs first.

28.6 Voluntary payment of Benefits

Subject to the Superannuation Law, a Member may elect to receive a Benefit on or after the occurrence of any of the following events:

- (a) if the Member Retires from Gainful Employment;
- (b) if the Member suffers Total and Permanent Disablement;
- (c) if the Member suffers Temporary Disablement, and the Member is covered under a Policy that provides Benefits on Temporary Disablement;
- (d) if the Member being a temporary resident permanently departs Australia in circumstances described in the SIS Regulations, including regulation 6.20A or 6.20B, and requests in writing the release of his or her Benefits;
- (e) if the Member's Gainful Employment with an Employer that had, or any of Associates of the Employer had, at any time, contributed to the Fund in relation to the Member, is terminated;
- (f) if the Member suffers Severe Financial Hardship;
- (g) if the Member attains age 65;
- (h) the Trustee determines that some or all of the Member's Benefit may be released on Compassionate Grounds;
- (i) if the Member attains Preservation Age; or
- (j) any other condition of release permitted by the Superannuation Law.

28.7 Restrictions on Benefit payments

Despite any other provision of this clause 28 but subject to Superannuation Law, the Trustee may:

- (a) impose conditions and restrictions on partial payment of Benefits and Unrestricted Non-Preserved Amounts, including, for example:
 - (i) limits on how often partial payments are made;
 - (ii) a minimum amount for a partial payment;
 - (iii) a minimum balance that must remain in the Member Account after a partial payment;
- (b) determine not to pay a Benefit, where a Member has not ceased employment with an Employer that contributes to the Fund in respect of that Member.

28.8 Unclaimed entitlements

The Trustee may, subject to the Superannuation Law, treat as unclaimed moneys any Member Account in respect of which the Member's whereabouts is unknown.

28.9 Transfer to Statutory Authority

The Trustee may Transfer a Member's Member Account to a Statutory Authority if required or permitted by the Superannuation Law.

28.10 Incapacity

Where a person to whom a Benefit is payable is incapable of managing their own affairs, the Trustee may, if the Superannuation Law permits:

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

28.11 Pension Benefit

The following provisions apply to the payment of a Pension (including a Transition to Retirement Income Stream) other than a Pension referred to in clause 27.4:

- (a) Where the whole or part of a Member's Benefit is payable in the form of a Pension, the Trustee may, subject to the Superannuation Law, provide a Benefit to the Member as any one or more types of Pension permitted by the Superannuation Law.
- (b) Subject to the Superannuation Law, where the whole or part of a Member's Benefit is payable in the form of a Pension, the Trustee must provide the Pension under the governing rules of the Fund (including, but not limiting, this Deed, trustee resolutions or any pension agreement) and the terms of the Pension must comply with the standards prescribed under the Superannuation Law for that type of Pension.
- (c) The Trustee may offer the person entitled to the Pension such options in relation to:
 - (i) the annual amount of the Pension;
 - (ii) the frequency of Pension payments;
 - (iii) the term for which the Pension is payable
 - (iv) nomination of a Reversionary Beneficiary:
 - (A) on commencement of the Pension; or
 - (B) if the Trustee permits, at any time during the term of the Pension,as the Superannuation Law permits for that type of Pension, and the person may select from the options offered.
- (d) The Trustee may vary the amount of and frequency of the instalments of a Pension, and the terms on which payment is made, from time to time in accordance with any standards prescribed by Superannuation Law for that type of Pension.
- (e) The Trustee may commute to a Superannuation Lump Sum all or part of a Pension as permitted by Superannuation Law for that type of Pension, but must comply with any standards prescribed by the Superannuation Law which impose restrictions on commutation of that type of Pension. On commutation on any part of a Pension, the Trustee must adjust the amount of the subsequent Pension payments to take account of the commutation.
- (f) Where an instalment of a Pension is payable in respect of a Member and the balance in the Pension Account is less than the instalment payable, the lesser amount must be paid and the Trustee's liability in respect of the payment of the Pension is discharged.
- (g) On the death of:

- (i) a Member in receipt of a Pension where there is no Reversionary Beneficiary;
or
 - (ii) a person in receipt of a Pension following the death of the Member,
the Trustee must pay the remaining balance in the Pension Account as a death Benefit of the Member.
- (h) Where a Benefit is payable as a Pension, instead of paying a Pension from the Fund the Trustee may at its discretion apply an amount representing the capital value of that Benefit in the purchase of an Annuity in the Trustee's name and may arrange for payments under that Annuity to be made directly to the Member but may assign the Annuity to the Member if requested and if permitted by the Superannuation Law.

29 DEATH BENEFITS

29.1 Form of payment

Subject to clause 29.4 and the Superannuation Law, a Member's Benefit may be paid or applied, on or following the death of the Member, as the Trustee decides by way of one or more Income Streams or one or more Superannuation Lump Sums or any combination of those methods of payment (in each case upon the terms the Trustee decides).

29.2 Payment if Non-Binding Death Benefit Nomination or no nomination

- (a) Unless clause 29.3 or clause 29.4 applies, any Benefit payable on or following the death of the Member must be paid by the Trustee to one or more of, and if more than one in the proportions that the Trustee decides:
- (i) the Nominated Beneficiaries (if any) designated in the most recent Non-Binding Death Benefit Nomination made by the Member;
 - (ii) other Dependants of the Member;
 - (iii) the Legal Personal Representative of the Member.
- (b) If the Trustee after making reasonable enquires is unable to identify any Dependants or Legal Personal Representative of a deceased Member, the Trustee may pay the Benefit to any individual, where the Benefit can be paid to that person in accordance with Superannuation Law.

29.3 Payment if Binding Death Benefit Nomination

- (a) The Trustee may if it so determines allow Members to make Binding Death Benefit Nominations as set out under clause 30.2.
- (b) If a Member made a Binding Death Benefit Nomination that at the date of death was valid under the Superannuation Law, any Benefit payable on or following the death of the Member must be paid by the Trustee in accordance with that Binding Death Benefit Nomination.

29.4 Payment if Reversionary Beneficiary

If at the date of the Member's death there is a Reversionary Beneficiary, any Benefit payable on or following the death of the Member must be paid by the Trustee to the Reversionary Beneficiary as a Pension.

29.5 Commutation of Income Stream

The Trustee may where permitted under the Superannuation Law, and must where required by the Superannuation Law, discharge the Trustee's liability to a Member, Dependant or Beneficiary in respect of a Pension by paying to the Member, Dependant or Beneficiary a Superannuation Lump Sum equal to the balance in the Pension Account.

29.6 Anti-detriment

The Trustee may (but is not obliged to) claim the benefit of anti-detriment provisions in the Taxation Act which allow tax paid on the Member's Contributions to be refunded to eligible Beneficiaries in the event of the Member's death.

30 DEATH BENEFIT NOMINATIONS

30.1 Non-Binding Death Benefit Nomination

A Member (other than a Member who has a nominated Reversionary Beneficiary) may at any time make a Non-Binding Death Benefit Nomination designating one or more Dependants or Legal Personal Representatives as a Nominated Beneficiary of any Benefit payable by the Trustee on or following the death of the Member however:

- (a) a Member wishing to designate a Nominated Beneficiary must give a written notice to the Trustee in a form as approved by the Trustee; and
- (b) subject to the Superannuation Law, that nomination is not binding on the Trustee.

30.2 Binding Death Benefit Nomination

- (a) A Member (other than a Member who has a nominated Reversionary Beneficiary) may make a Binding Death Benefit Nomination to the Trustee that:
 - (i) is in writing;
 - (ii) is signed, and dated, by the Member in the presence of 2 witnesses, being persons:
 - (A) each of whom has turned 18 years; and
 - (B) neither of whom is a person mentioned in the notice; and
 - (iii) contains a declaration signed, and dated, by the witnesses stating that the notice was signed by the Member in their presence.
- (b) Subject to the Superannuation Law, a Member may in a Binding Death Benefit Nomination nominate:
 - (i) the person or persons to whom their Benefit must be paid so long as that person is or each of those persons are a Legal Personal Representative or Dependant of the Member;
 - (ii) the proportions in which the Benefit is to be paid to that person or each of those persons; and
 - (iii) the manner in which those benefits must be paid to the person or each of those persons.
- (c) A Binding Death Benefit Nomination may be confirmed, amended or revoked at any time by the Member and is otherwise effective until revoked.

- (d) A Binding Death Benefit Nomination may be revoked by making a later valid Binding Death Benefit Nomination or by otherwise revoking it by notice in writing given to the Trustee.

30.3 Payment if Binding Death Benefit Nomination is invalid or ineffective

Subject to the Superannuation Law, if a Member had made a Binding Death Benefit Nomination that at the date of death is invalid or ineffective, the Binding Death Benefit Nomination is treated as a Non-Binding Death Benefit Nomination made at the date of making the Binding Death Benefit Nomination whether or not validly or effectively binding at that date.

31 FAMILY LAW

31.1 Information to Members and Non-Member Spouses

If a Member's Benefit or Benefit Entitlement becomes subject to a Payment Split, the Trustee must give the Member and the Non-Member Spouse with all notices and information, (in the appropriate form), required by the Superannuation Law.

31.2 Trustee may create new interest for Non-Member Spouse

- (a) The Trustee may admit a Non-Member Spouse in respect of a Payment Split as a Member:
 - (i) if the Non-Member Spouse requests the Trustee to do so in writing in accordance with the Superannuation Law and in the form prescribed by the Trustee; or
 - (ii) on its own initiative in the circumstances permitted by the Superannuation Law.
- (b) If the Trustee admits a Non-Member Spouse as a Member under clause 31.2, the Trustee must reduce the Member's Benefit Entitlement in respect of the Payment Split by the amount required by the Superannuation Law and otherwise as determined by the Trustee in accordance with the Superannuation Law.

31.3 Non-Member Spouse may request transfer of interest

If the Non-Member Spouse in respect of a Payment Split is not admitted as a Member under clause 31.2, the Trustee must:

- (a) either:
 - (i) transfer or roll over the entitlement of the Non-Member Spouse to an Approved Benefit Arrangement; or
 - (ii) pay the entitlement of the Non-Member Spouse to the Non-Member Spouse if permitted or required by the Superannuation Law; and
- (b) reduce the Member's Benefit Entitlement in respect of the Payment Split by the amount required by the Superannuation Law and otherwise as determined by the Trustee in accordance with the Superannuation Law.

31.4 Family Law fees

The Trustee may:

- (a) charge reasonable fees in respect of any action taken by the Trustee which is permitted or required by the Family Law and for which the Trustee is entitled to charge fees; and
- (b) may recoup those fees in accordance with the Superannuation Law from:
 - (i) a Member's Benefit Entitlement; or
 - (ii) the entitlements of the Non-Member Spouse.

31.5 Satisfaction of entitlement

- (a) The payment, transfer or roll over of the entitlement of a Non-Member Spouse in accordance with a Payment Split is a complete discharge of the Trustee in respect of any liability to that Non-Member Spouse and the Member in respect of that Non-Member Spouse for the amount paid, transferred or rolled over.
- (b) The Trustee may deduct from the amount to be paid, transferred or rolled over the amount of any Taxation that is calculated by the Trustee to be payable in respect of the entitlement of the Non-Member Spouse.

32 TERMINATION

32.1 Events of termination

The Fund is to be wound up in accordance with this clause upon the happening of any of the following events:

- (a) if there are no Members in the Fund and the Trustee resolves to terminate the Fund;
- (b) all Members agree to terminate the Fund;
- (c) the Trustee decides that it would not be reasonable to continue to operate the Fund; or
- (d) the Fund is required to be terminated to comply with the Superannuation Law.

32.2 Notice to Members and Closing Date

- (a) Upon the happening of an event under clause 32.1, the Trustee must give notice in writing to each Employer and the Members, if any, that the Fund shall be wound up on a specified date, that date being no later than any date on which the Fund is required by clause 32.1(d) to be terminated ('**Closing Date**').
- (b) From the Closing Date:
 - (i) no further Contribution may be made by any Employer or any Member, other than arrears of Contributions due to the Closing Date; and
 - (ii) arrears of Contributions, if any, must be called in immediately.

32.3 Order of payment

On or as soon as practicable after the Closing Date, the Trustee must make provision out of the Fund (after meeting expenses and liabilities) as necessary to provide for payment of the following Benefits in the following order of priority:

- (a) Benefits which on or before the Closing Date had become payable to Members or Dependents;

- (b) payments in respect of each Member, equal to his or her Member Account, other than amounts referred to in clause 32.3(a);
- (c) payments to each Member of that amount of the assets of the Fund then remaining as the Trustee considers equitable after taking into account payments determined under clauses 32.3(a) and 32.3(b) and any applicable requirements of the Superannuation Law.

32.4 Payment if Member Dies

Where a Member dies before receiving a Benefit to which he or she has become entitled under clause 32.3, that Benefit must be paid in accordance with clause 29.

32.5 Surplus

If a surplus remains after providing Benefits for Members and their Dependants under clause 32.3, that surplus must, subject to the requirements of the Superannuation Law, be paid by the Trustee to or for the benefit of:

- (a) any Members;
- (b) any former Members;
- (c) any Dependants of those Members or former Members;
- (d) the Legal Personal Representatives (in that capacity) of those Members, former Members or Dependants; or
- (e) any Employer,

as the Trustee determines and, if paid to or for the benefit of two or more persons, in the proportions as the Trustee determines, subject, in the case of clause 32.5(a) and 32.5(d), to clause 32.3.

32.6 Form of Payment

- (a) Subject to clause 32.6(b), the payments to be made under clauses 32.3 and 32.5 may be made in cash, Policies, participation in any other Approved Benefit Arrangement or otherwise as determined by the Trustee, but shall not be payable to or for the benefit of a Member unless and until the Member ceases to be in the employment of the Employer other than for personal maintenance and support in case of hardship.
- (b) If any Benefits payable under clauses 32.3 and 32.5 is required by the Superannuation Law to be Preserved, then the Trustee must provide the payment in respect of that Member by participation in an Approved Benefit Arrangement.

32.7 Receipt for distribution on termination

A person entitled to a distribution on termination of the Fund is entitled to that distribution only on delivery to the Trustee of such form of receipt and discharge as may be required by the Trustee.

32.8 Continuing effect of Deed

Subject to the Superannuation Law, despite the termination of the Fund the provisions of this Deed continue in effect to the extent that they are required to regulate any remaining rights or obligations.

33 AMENDMENT OF DEED

33.1 Amendment by Trustee

Subject to clause 33.2 and the Superannuation Law, the Trustee may at any time by resolution or by written instrument amend, alter, vary, modify or delete any provisions of the Deed with immediate, prospective or, to the extent allowed by the law and with retrospective effect from time to time.

33.2 Restrictions on amendment

- (a) No reduction of the accrued Benefit of a Member may be made without their written consent.
- (b) No amendment may be made under clause 33.1 that would cause the trusts contained in the Deed to fail by reason of the application of the rule against perpetuities.
- (c) No amendment may be made under clause 33.1 that would allow a person other than a Constitutional Corporation to be eligible to be appointed as a Trustee unless the governing rules provide and will continue to provide after the amendment that the Fund has as its sole or primary purpose, the provision of old-age pensions.

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DEED OF VARIATION

IS INDUSTRY FUND PTY LTD ABN 45 010 814 623

DEED OF VARIATION

Made on *22nd September 2016.*

BY

IS INDUSTRY FUND PTY LTD ABN 45 010 814 623 of Level 10, 270 Adelaide Street, Brisbane in the State of Queensland

(**'Trustee'**)

BACKGROUND

- A. Australian Liquor Hospitality and Miscellaneous Union (Liquor Division) (formerly Federated Liquor and Allied Industries Employees Union of Australia Queensland Branch Union of Employees) and Queensland Hotels Association Union of Employers as the Original Sponsors established a Superannuation Fund known as Host-Plus Queensland on 1 June 1988 for the purposes of providing superannuation benefits for such of the Employees of any Employers being eligible to participate in the fund and the dependants of such Employees pursuant to a deed dated 15 June 1988 (**'Fund'**).
- B. The Trust Deed of the Fund has been varied by deeds of variation dated 17 October 1990, 25 June 1992, 12 April 1994, 17 October 1994, 3 December 1998, 17 December 1999, 7 March 2001, 15 October 2003, 26 November 2004, 7 March 2006 and 20 November 2007.
- C. The name of the Fund was changed from 'Host-Plus Queensland' to 'Host-Plus Queensland trading as Host Super' on 3 December 1998.
- D. The name of the Fund was further changed from 'Host-Plus Queensland trading as Host Super' to 'Host-Plus Queensland trading as Intrust Super Fund' on 24 July 2003.
- E. Clause 52.1 of the Trust Deed of the Fund provides as follows:

'52.1 Method Of Amendment

- (a) Subject to clause 52.1(b) and 52.1(c) and the Superannuation Law, the Trustee may at any time by resolution or by written instrument amend, alter, vary, modify or delete any provisions of the Deed with immediate, prospective or, to the extent allowed by the law and with retrospective effect from time to time.
- (b) No reduction of the accrued Benefit of a Member may be made without their written consent.
- (c) No amendment may be made under clause 52.1(a) that would cause the trusts contained in the Deed to fail by reason of the application of the rule against perpetuities.

- (d) No amendment may be made under clause 52.1(a) that would allow a person other than a Constitutional Corporation to be eligible to be appointed as a Trustee unless the governing rules provide and will continue to provide after the amendment that the Fund has as its sole or primary purpose, the provision of old-age pensions.

- F. The Trustee wishes to amend, alter, vary, modify or delete the provisions of the Trust Deed of the Fund in the manner set out in this Deed of Variation, and is of the opinion that the amendments, alterations, variations, modifications and deletions are in accordance with the requirements specified in clause 52.1.

- G. The Trustee desires that the assets of the Fund be held on the trusts specified in the Trust Deed for the Fund as varied by this Deed of Variation.

- H. This Deed is made in pursuance of the powers in the Trust Deed for the Fund.

OPERATIVE PROVISIONS

1. VARIATION AND DATE OF EFFECT

Under the Trustee's power in clause 52.1 of the Trust Deed, the Trustee varies the Trust Deed in the manner set out in the Schedule on and from 1 July 2013.

2. CONFIRMATION

The Trustee confirms the terms of the Trust Deed of the Fund varied as set out in the Schedule.

EXECUTED as a deed in Queensland.

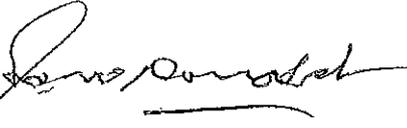
SIGNED SEALED AND DELIVERED

by

IS INDUSTRY FUND PTY LTD

ABN 45 010 814 623

on 19/12/16 by:


A Director


A Director/Secretary

A Stuart McDonald
Full name of Director

A Bronnyn Jane Proud
Full name of Director/Secretary

Schedule

Amendments

The Trust Deed is varied by inserting the following new clause 25A after clause 25, effective on and from 1 July 2013:

25A MYSUPER

25A.1 MySuper classes

The Trustee may establish one or more classes of membership (**'MySuper Class'**) that must have the following terms and conditions:

- (a) the Trustee must determine the investment strategy applicable in respect of the MySuper Class as a single diversified investment strategy (**'MySuper Investment Strategy'**);
- (b) all Members who hold a MySuper Interest must be entitled to access the same options, benefits and facilities, except that:
 - (i) different terms and conditions may apply in respect of benefits under a Policy; and
 - (ii) access to options, benefits and facilities may otherwise be different if permitted under the Superannuation Law;
- (c) Earnings of the MySuper Investment Strategy must be allocated to MySuper Interests in a way that does not stream gains or losses to only some of those Members, except to the extent permitted under a Lifecycle Exception;
- (d) the same process is to be adopted in attributing amounts to Members in respect of their MySuper Interest, except to the extent that a different process is necessary to allow for fee subsidisation by Employers;
- (e) if fee subsidisation by Employers is permitted, that subsidisation does not favour one Member who holds a MySuper Interest and is an Employee of a subsidising Employer over another such Member who is an Employee of that Employer;
- (f) there are no limitations on the source or kind of Contributions made by or on behalf of Members who hold a MySuper Interest, other than Permitted Limitations;
- (g) a MySuper Interest cannot be replaced with an interest in another class of membership in the Fund unless:
 - (i) the replacement is with an interest in another MySuper Class within the Fund;
 - (ii) the Member consents in writing to the replacement within the time period prescribed under the Superannuation Law; or
 - (iii) the MySuper Interest is replaced with a beneficial interest of another class in the Fund of a kind, and in the circumstances, permitted under the Superannuation Law;
- (h) a Member's MySuper Interest cannot be replaced with a beneficial interest in another Superannuation Entity (**'New Interest'**) unless:

- (i) the New Interest is a MySuper Product and the replacement with the New Interest is permitted under a law of the Commonwealth;
 - (ii) the replacement is otherwise permitted, or is required, under a law of the Commonwealth; or
 - (iii) the Member consents in writing to the replacement with the New Interest;
- (i) to the extent that assets of the Fund are attributable to the MySuper Class, a Pension is not payable out of those assets (other than an insured Benefit payable as an income on the Member's Temporary Disablement).

25A.2 MySuper Class and other classes

- (a) No Member who holds a beneficial interest in a MySuper Class is precluded from holding a beneficial interest of another class in the Fund because of that fact.
- (b) No Member is precluded from holding a beneficial interest in a MySuper Class because the Member holds a beneficial interest of another class in the Fund.

25A.3 Definitions in this clause 25A

'**Lifecycle Exception**' means, in relation to a MySuper Investment Strategy, that gains and losses from different classes of asset may be streamed to different subclasses of Members who hold a MySuper Interest:

- (a) on the basis, and only on the basis, of the age of those Members;
- (b) on the basis of the age of those Members and other factors prescribed under the Superannuation Law; or
- (c) on the basis of the age of those Members and other factors prescribed in circumstances prescribed under the Superannuation Law.

'**Permitted Limitation**' means a limitation on the source or kind of Contributions that is:

- (a) a prescribed limitation for a MySuper Product under SIS; or
- (b) imposed by or under the general law or another law of the Commonwealth."

DEED OF VARIATION

IS INDUSTRY FUND PTY LTD ABN 45 010 814 623