

CONSOLIDATED TRUST DEED OF LGIASUPER

IMPORTANT NOTICE: *This document consolidates the initial trust deed of the merged Queensland Local Government Superannuation Scheme which took effect on 1 July 2011 with Deed of Variation (No. 1) dated 1 February 2012, Deed of Variation (No. 2) dated 5 June 2012, Deed of Variation (No. 3) dated 5 December 2012, Deed of Variation (No. 4) dated 2 October 2013, Deed of Variation (No. 5) dated 3 June 2015, Deed of Variation (No. 6) dated 2 March 2016, Deed of Variation (No. 7) dated 7 December 2016, Deed of Variation (No. 8) dated 6 September 2017 and Deed of Variation (No.9) taking effect 5 March 2018. The initial merged trust deed was an amendment and consolidation of the original QLGSS trust deed, first made in 1995, consolidated in 1998, and amended by 32 further deeds of variation between 1998 and 2010.*

On 1 July 2017, the scheme was renamed LGIASuper, and the Board was renamed LGIASuper Trustee

This consolidation is believed to be accurate, but it is not a deed executed by the trustee and, in the event of any inconsistency between this document and the executed deed(s), the deed(s) prevail.

TABLE OF CONTENTS

	Page No.
CHAPTER 1 - ADMINISTRATIVE PROVISIONS FOR THE SCHEME GENERALLY	1
PART 1 - PRELIMINARY	1
1. General direction for interpretation	1
PART 2 - CONSTITUTION.....	2
<i>Division 1 - Continuation of trusts and funds.....</i>	<i>2</i>
2. Continuation of trust.....	2
3. Trusts of funds.....	2
4. Dealings between funds.....	2
5. Reserves.....	4
<i>Division 2 - Constitution of Scheme</i>	<i>4</i>
6. Name of Scheme	4
7. Commencement.....	4
8. Trustee	4
9. Board of directors	4
10. Appointment of employer representatives	5
11. Appointment of member representatives – preliminary steps.....	5
12. Electronic voting	7
13. Paper ballot voting.....	8
14. Counting of votes and result of election.....	9

15.	Appointment of independent directors	10
16.	Vacancy in office of director	11
17.	Removal of directors	12
18.	Publishing procedures for removal of directors	12
19.	Filling of vacancies - member representatives	12
20.	Filling of other vacancies	13
21.	Conflicts policy	13
PART 3 - MANAGEMENT AND ADMINISTRATION.....		14
22.	Control by Board	14
23.	Resolution without meeting.....	14
24.	General powers of the Board.....	15
25.	Officers	16
26.	Delegation	16
27.	Seal	16
28.	Auditor.....	17
29.	Board may act on advice	17
30.	Election under superannuation law	17
31.	Superannuation Law deemed to be included in deed.....	17
32.	Superannuation Law covenants deemed to be included in deed.....	17
33.	Covenant by directors.....	17
34.	Inconsistency of provisions	18
35.	Compliance with Superannuation Law	18
36.	Power to comply with administrative guidelines and government announcements	18
37.	Payment of levies	19
38.	Board not to be subject to direction.....	19
39.	Exercise of discretion by person other than the Board.....	19
40.	Board power to consent to exercise of discretion.....	19
41.	Compliance with directions made under Superannuation Law	19
42.	Board not in contravention in certain circumstances	19
43.	Modification or exemption	20
44.	Determination of disputes	20
45.	Costs, fees and directors' remuneration	20
46.	Indemnity and insurance	21
47.	Minutes	22
48.	Records and statistics	22
49.	Books of account and reports	22
50.	Actuarial review	23
51.	Information to members	23
PART 4 – MEMBERSHIP ELIGIBILITY AND INFORMATION		24
	<i>Division 1 - Eligibility.....</i>	<i>24</i>
52.	Eligibility set by LGAct	24
53.	Associated employers.....	24

<i>Division 2 - Enrolment and provision of information</i>	25
54. Membership details to be provided	25
55. Enrolment	26
56. Other information employer must provide	26
57. Enrolment of non-employee members	26
58. Insurance claim information.....	27
PART 5 - INVESTMENT	27
59. Investment powers	27
60. Fund may be invested as a whole	28
61. Limited power in respect of certain investments.....	29
62. Prohibited investments	30
63. Title to investments	30
64. Borrowing prohibited	30
65. Investment managers	30
PART 6 - MEMBER INVESTMENT CHOICE	30
66. Board to determine choice strategies.....	30
67. Member may nominate investment choices	32
68. Investment return rates	32
69. Separate physical portfolios not required.....	33
PART 7 - ENQUIRIES OR COMPLAINTS	33
70. Arrangements for dealing with enquiries or complaints	33
PART 8 - AMENDMENT POWERS AND PROCEDURES	33
71. Amendments to comply with superannuation law	33
72. Limitation on certain amendments	34
73. Additional limitation on amendments for Chapter 4 members	34
CHAPTER 2 - CONTRIBUTION AND BENEFIT PROVISIONS FOR MEMBERS GENERALLY	35
PART 1- PAYMENT OF CONTRIBUTIONS INTO SCHEME FUNDS	35
74. Required contributions	35
75. Voluntary and other contributions.....	36
76. Payment into Funds	37
PART 2 - MEMBER ACCOUNTS	37
<i>Division 1 - Accumulation accounts</i>	37
77. Contributions to be credited to accumulation account	37
78. Other Receipts to be credited to accumulation accounts.....	38
<i>Division 2 - Credits and debits to accumulation accounts</i>	38
79. Allocation of investment returns	38
80. Debiting of taxation.....	38

81. Debiting of insurance premium	38
PART 3 - EXTERNAL INSURANCE ARRANGEMENTS	38
82. External insurance may be arranged by the Board.....	38
83. Liability for externally insured benefits	39
84. Other provisions about insurance	39
PART 4 - SPLITTING OF INTERESTS UNDER FAMILY LAW	40
<i>Division 1 – Preliminary.....</i>	<i>40</i>
85. Purpose of Part	40
86. Interpretation	40
<i>Division 2 – Interests other than defined benefit interests</i>	<i>41</i>
87. Accumulation interests and pensions	41
88. Special Provision for calculation of temporary disability benefit.....	41
<i>Subdivision 3 – Defined benefit interests.....</i>	<i>42</i>
89. Application of subdivision	42
90. Board may create new interest	42
91. Alternate action if spouse already a member	42
92. Rollover etc to other fund.....	42
93. Adjustment of defined benefit interest	42
PART 5 – SPLITTING OF CONTRIBUTIONS AND BENEFITS FOR SPOUSES	43
94. Purpose of part.....	43
95. Splitting permitted.....	43
96. Approval and payment	44
PART 6 - BENEFIT ADMINISTRATION PROVISIONS	44
97. Provision of information	44
98. Adjustments for taxes etc	45
99. Receipt of benefit	45
100. Receipt a full discharge	45
101. Payment of benefits	45
102. Address for benefits.....	45
103. Persons under disability.....	46
104. Earnings accrual payable between due date and date of payment	46
105. Calculation of compound interest.....	47
106. Death benefits - nomination of beneficiary.....	47
107. Death benefits – rules for determining beneficiaries.....	48
108. Death benefits – rules for non-binding nominations	49
109. Discretionary powers of the Board about benefits	50
110. False information.....	51
111. Special arrangements for part-time employees	52
112. Benefits not to be assigned or charged	52

113. Minimum benefits	52
114. Recovery of surcharge tax	52
115. Preserved benefits.....	53
116. Non-preserved benefits - restrictions	53
PART 7 - BENEFIT PAYMENT PROVISIONS OF GENERAL APPLICATION	53
117. Benefits for non-employee	53
118. Other benefits may be provided under Superannuation Law	54
PART 8 - PORTABILITY AND SIMILAR PROVISIONS.....	55
119. Acceptance of benefits from other schemes	55
120. Payment of benefits or interests in Scheme to other schemes.....	56
121. Payment to eligible rollover funds	56
PART 9 - PRESERVATION AND RETENTION	57
122. Retained benefit accounts.....	57
123. Benefits required to be retained.....	57
124. Non-preserved benefits.....	57
125. Deferred benefits for certain Chapter 3 members	58
126. Draw-down and pension facilities	58
127. Investment earnings on retained benefit accounts.....	60
128. Contributions after ceasing employment.....	60
129. Fees on retained benefit accounts.....	60
130. Insurance for retained benefit accounts.....	61
131. Payment of retained benefits	61
CHAPTER 3 - CONTRIBUTION AND BENEFIT PROVISIONS FOR LG SUPER MEMBERS	62
PART 1 - APPLICATION.....	62
132. Application	62
133. Definition.....	62
PART 2 - CONTRIBUTIONS AND ACCOUNTS.....	62
<i>Division 1 - Contributions</i>	<i>62</i>
134. Required contributions	62
135. Requirements for salary package with no member contributions	63
<i>Division 2 - Other contribution provisions.....</i>	<i>65</i>
136. Contributions during disablement	65
137. Contributions during periods of absence or between employment – accumulation members.....	65
138. Contributions during periods of absence or between employment - defined benefit members	66
139. Maintenance of insurance benefits	67
140. Suspension of insurance benefits	69

141. Advice of contributions and payment of contributions	69
PART 3 - BENEFITS AND PAYMENTS	71
<i>Division 1 - Accumulation benefit members</i>	<i>71</i>
142. Ceasing employment	71
143. Total and permanent disablement.....	71
144. Death of member	72
145. Terminal illness	72
146. Pension on total and temporary disablement.....	73
<i>Division 2 - Defined benefit members.....</i>	<i>73</i>
147. Age retirement between ages 55 and 70 - defined benefit members.....	73
148. Age retirement after age 70 – defined benefit members	73
149. Total and permanent disablement.....	74
150. Failure of health.....	74
151. Death of member	75
152. Terminal illness	75
153. Pension on total and temporary disablement.....	75
154. Resignation and dismissal	76
155. Special benefit provision - former permanent employees who remain as casuals	78
<i>Division 3 - Other provisions about certain benefits.....</i>	<i>78</i>
156. Requirements for payment of cessation benefits.....	78
157. Disability established after retirement.....	78
158. Members continuing in employment after Age 65.....	79
159. Disability determinations of no effect unless employment terminated.....	79
160. Time limit for disability claims	80
161. Disability pensions	80
162. Disability pensioner to submit to medical examination etc.	80
163. Medical examinations generally.....	81
<i>Division 4 – Entitlement to insurance benefits</i>	<i>81</i>
164. Compulsory, default and voluntary insurance.....	81
165. Default, voluntary and additional cover	82
166. Cover may add to deed provisions	82
167. Cover not required if premium not paid.....	82
PART 4 - ONGOING SAVINGS PROVISIONS	83
<i>Division 1 - 2005 transfers to accumulation benefits fund.....</i>	<i>83</i>
168. Additional election to retain higher insurance cover.....	83
169. Insurance arrangements	83
<i>Division 4 - Transitional provisions for post 30 June 2007 insurance cover.....</i>	<i>83</i>
170. Existing claims	83

PART 5 - DEFINITIONS FOR CHAPTER 3	85
171. Defined terms for Chapter 3	85
172. Meaning of “final average salary”	91
173. Meaning of “superannuation scheme accumulation”	92
174. Meaning of “superannuation scheme multiple”	93
175. Meaning of “reserve superannuation scheme multiple”	93
CHAPTER 4 - CONTRIBUTION AND BENEFIT PROVISIONS FOR CITY SUPER MEMBERS	95
PART 1 - APPLICATION	95
176. Application	95
177. Definition.....	95
PART 2 - DEFINED BENEFITS PLAN	95
<i>Division 1 - Membership.....</i>	<i>95</i>
178. Eligibility.....	95
179. Restriction on further eligibility	95
<i>Division 2 - Contributions</i>	<i>95</i>
180. Employer contributions	95
181. Basic member contributions	96
182. Temporary absence from employment.....	96
183. Additional contributions.....	96
184. Board may excuse contributions	97
185. Additional employer contributions.....	97
186. Additional voluntary benefits	97
187. Employer funding of benefits during maternity leave.....	97
188. Accumulation account	97
189. Payment of surplus from contributions to BCC or other employer	98
190. Other application of CS Defined Benefits Fund	98
<i>Division 3 - Defined benefits for full-time employees.....</i>	<i>99</i>
191. Entitlement to retirement benefits	99
192. Amount of retirement benefits	99
193. Late retirement benefits.....	99
194. Amount of late retirement benefits.....	99
195. Death benefit - death prior to normal retirement date	100
196. Death benefit - death after normal retirement date.....	100
197. Total and permanent disablement benefit	100
198. Amount of TPD benefit.....	100
199. Terminal illness	100
200. Temporary disablement benefit.....	101
201. Amount of temporary disablement benefit.....	101
202. Benefits on other cessation of employment	101

203. Minimum statutory benefit.....	101
<i>Division 4 - Provisions for part-time employees and employees on unpaid leave</i>	<i>101</i>
204. Definition of part-time multiple	101
205. Becoming a part-time employee and going on leave	102
206. Benefits for part-time employees	102
207. Death and TPD benefits on or after parental leave	102
208. Recommencement to full-time employment	103
209. Death or TPD benefits on unpaid leave.....	103
<i>Division 5 - Councillors' pension benefits</i>	<i>104</i>
210. Entitlement to benefits for Councillors' Fund pensioners.....	104
211. No other benefits payable.....	104
212. Brisbane City Council must fund benefits	104
213. Definitions for division 5	104
214. Entitlement to pension benefit.....	105
215. Councillor's length of service	105
216. Refund where pension not paid	106
217. Suspension of pension where refund not paid.....	106
218. Right of councillor to convert entitlement to lump sum entitlement	106
219. Entitlement of surviving spouse to pension	107
220. Refund of contributions for eligible spouse pension.....	107
221. Re-commencement of pension on death of subsequent spouse	107
222. Pension through one councillor only.....	107
223. Adjustment of pensions	108
224. Determination of Index percentage	108
225. Annual percentage	108
226. Implementation of annual adjustment	108
227. Adjustment for new pensions	109
228. Prescribed formula	109
229. No adjustment for fractional percentage	109
230. Fractional percentages in successive years	110
231. No decrease below basic rate	110
232. Adjustments from basic rate.....	110
233. Pensions accrue from compliance	110
234. Pensions payable fortnightly	110
235. Pensions apportionable.....	110
236. Proof of age	110
237. Pensions not capable of disposition.....	111
PART 3 - ACCUMULATION BENEFITS PLAN	111
<i>Division 1 - Membership.....</i>	<i>111</i>
238. Eligibility.....	111
239. Defined benefit members may transfer by agreement.....	111
<i>Division 2 - Contributions and accounts</i>	<i>112</i>

240. Permanent employees' own contributions	112
241. Other employees	112
242. Contributions during temporary absence	112
243. Additional member contributions.....	112
244. Board may excuse contributions	112
245. Employer contributions for permanent employees	112
246. Employer contributions for other employees	113
247. Employer contributions during maternity leave	113
248. Additional employer contributions.....	113
249. Employer contributions to age 70	113
250. Contributions for permanent employees of the Board	113
251. Board to keep member accounts	114
<i>Division 2 - Accumulation benefits.....</i>	<i>114</i>
252. Retirement benefits.....	114
253. Death or TPD before normal retirement date	114
254. Terminal illness	114
255. Calculation of insured benefit	115
256. Insured benefits for part-time employees.....	116
257. Insured benefits for employees other than permanent employees	116
258. Insured benefits during unpaid leave.....	116
259. Death or TPD after normal retirement date	117
260. Entitlement to temporary disablement benefit	117
261. Terms of temporary disablement benefit.....	117
262. Withdrawal benefit	117
PART 4 - DEFINITIONS AND GENERAL PROVISIONS FOR CHAPTER 4	117
263. Time limit for disability claims	117
264. Defined terms for Chapter 4.....	118
CHAPTER 5 - TRANSITIONAL PROVISIONS FOR MERGER ...	123
PART 1 - EXISTING ENTITLEMENTS NOT AFFECTED	123
265. Existing entitlements	123
266. Accounts and entitlements deemed established for continuing members..	123
267. Investment strategies for former members of City Super	124
268. Run-off of LG Super growth-smoothed strategy	124
PART 2 - SUCCESSOR FUND DEED.....	125
269. Board must perform deed obligations	125
PART 3 - TRANSITIONAL BOARD OF DIRECTORS	125
270. Constitution of transitional board.....	125
271. Additional independent directors in transitional period.....	125
272. Filling vacancies during transitional period	126

273. Vacation of office for transitional Board	126
274. First non-transitional board	127
CHAPTER 6 - INTERPRETATION (GENERAL).....	128
275. Defined terms	128
276. General interpretation.....	134
277. Severance of void provisions	135
BENEFIT RELATED TABLES	136

CHAPTER 1 - ADMINISTRATIVE PROVISIONS FOR THE SCHEME GENERALLY

PART 1 - PRELIMINARY

General direction for interpretation

1.

- (a) The structure of this deed involves:-
 - (i) prescribing provisions governing the operation and administration of the Scheme which apply generally to all members (Chapters 1 and 2);
 - (ii) prescribing separate provisions about contributions and benefits for members who are employees of local governments (other than Brisbane City Council), local government entities, Associated Employers (other than those who were Associated Employers of Brisbane City Council at the time of the merger) or the Board (Chapter 3);
 - (iii) prescribing separate provisions about contributions and benefits for members who are employees of Brisbane City Council and entities who were Associated Employers of Brisbane City Council at the time of the merger (Chapter 4).
- (b) That structure recognises that contribution and benefit provisions for members of City Super were different from the contribution and benefit provisions of the former LG Super, and that the differences need to be maintained in order to ensure that the merger does not result in any member having benefit entitlements after the merger which are not at least equivalent to those held before the merger.
- (c) Transitional provisions are included in Chapter 5 to further ensure that outcome.
- (d) If a provision in Chapter 1 or 2 has, or could be interpreted as having, the effect that a member does not have benefit entitlements after the merger which are at least equivalent to those held before the merger:-
 - (i) that outcome is unintended;
 - (ii) the relevant provision must be read down, if possible, to avoid that outcome;
 - (iii) if the relevant provision cannot be so read down, it does not operate to the extent that it produces that outcome; and
 - (iv) a provision contained in the former LG Super trust deed or former City Super trust deed may be taken to be incorporated by reference into this deed, and applied accordingly, to the extent necessary to avoid that outcome.

PART 2 - CONSTITUTION

Division 1 - Continuation of trusts and funds

Continuation of trust

2. The Board hereby declares and covenants that it will continue to hold the monies and assets of the Scheme including contributions received, investment earnings and other moneys or assets acquired on or after the date of this deed, and including assets transferred to it as successor fund of City Super, upon the trusts expressed or implied in the LGAct and stated in this deed, to apply the same in the manner set out in this deed, and that it will otherwise perform all duties and obligations imposed on it by this deed or otherwise under law.

Trusts of funds

3. Without otherwise limiting clause 2, the Board declares that it holds:-
 - (a) the Accumulation Benefits Fund on trust to provide for the payment of benefits to persons who are or may become entitled to the payment of accumulation benefits under Chapter 3 or Chapter 4;
 - (b) the LG Defined Benefits Fund on trust to provide for the payment of benefits to persons who are or may become entitled to the payment of defined benefits under Chapter 3;
 - (c) the CS Defined Benefits Fund on trust to provide for the payment of benefits to persons who are or may become entitled to the payment of defined benefits under Chapter 4;
 - (d) the LG Insurance Fund on trust to provide for:-
 - (i) the payment of insurance benefits to members under Chapter 3 in respect of which the Board is not indemnified by external insurance;
 - (ii) in respect of amounts which the Board determines, after considering advice from the actuary and having regard to the level and extent of external insurance or reinsurance, to be surplus to requirements for that purpose, such other purposes benefiting members as the Board determines.

Dealings between funds

4.
 - (a) This clause:-
 - (i) operates despite clause 3;
 - (ii) authorises transfers between the Accumulation Benefits Fund, LG Defined Benefits Fund and LG Insurance Fund; and

- (iii) authorises transfers between the Accumulation Benefits Fund and CS Defined Benefits Fund¹; but
 - (iv) does not authorise any transfer between a fund mentioned only in clause 4(a)(ii) and a fund mentioned only in clause 4(a)(iii).
- (b) Subject to clause 4(a)(iv), the Board may transfer monies between funds if, after considering advice from the actuary, the Board is satisfied that:-
- (i) the transfer of monies to a fund is necessary to ensure that the amount in that fund is adequate to meet the value of the liabilities of the fund in respect of accrued benefits for members whose benefits are to be paid from that fund (or, in the case of the insurance fund, insurance benefits); and
 - (ii) after the transfer of those monies, the amount remaining in the fund from which the monies are transferred will be adequate to meet the value of the liabilities of the fund in respect of accrued benefits for members whose benefits are to be paid from that fund (or, in the case of the insurance fund, insurance benefits).
- (c) A transfer referred to in clause 4(b) may be made on such terms and conditions, including terms as to repayment and the payment of interest, as the Board determines.
- (d) The Board may also transfer monies from a defined benefits fund to the Accumulation Benefits Fund (without provision for repayment) if, after considering advice from the actuary, the Board is satisfied that:-
- (i) the transfer of monies is appropriate having regard to a reduction in the number of members whose benefits are to be paid from the defined benefits fund or (for the CS Defined Benefits Fund) the extent to which the value of the CS Defined Benefits Fund exceeds the accrued benefits of the members entitled to benefits from that fund; and
 - (ii) after the transfer the amount remaining in the defined benefits fund will be adequate to meet the value of the liabilities of the fund in respect of accrued benefits for the remaining members whose benefits are to be paid from that fund.
- (e) The Board may also transfer monies from the LG Insurance Fund:-
- (i) to the Accumulation Benefits Fund (without provision for repayment) where an insurance benefit is payable into that fund, rather than direct to a member; and
 - (ii) to the LG Defined Benefits Fund (without provision for repayment) if, after considering advice from the actuary and having regard to insurance claims experience for defined benefit members, the Board is satisfied that the monies

¹ See also clause 189 which authorises payments from the CS Defined Benefits Fund to Brisbane City Council or another employer of CS defined benefit employees.

remaining in the LG Insurance Fund after the transfer will be adequate to meet the value of the liabilities of that fund in respect of insurance benefits.

Reserves

5. The Board may, in respect of any fund referred to in clause 3 or in respect of the Scheme or any part of the Scheme, create and maintain a reserve or reserves, and apply the amount in any reserve or reserves, in any manner in which the Board sees fit so long as:-
- (a) the purpose of the creation or use of the reserve is:
 - (i) to provide protection against funding shortfalls or investment return fluctuations for the members whose benefits are to be paid from the fund for which the reserve is created; or
 - (ii) a purpose otherwise permitted under Superannuation Law;
 - (b) the creation or use of the reserve is equitable to all members, having regard to the source of funds in the reserve; and
 - (c) the creation or use of the reserve otherwise complies with Superannuation Law.

Division 2 - Constitution of Scheme

Name of Scheme

6. The Scheme governed by this deed is known as LGIASuper.

Commencement

7. The provisions of this deed take effect on the merger date, and the Scheme continues under the provisions of this deed on and from the merger date.

Trustee

8.

- (a) The Board is the trustee as at commencement of this deed.
- (b) The trustee must be a constitutional corporation.

Board of directors

9. The directors of the trustee must consist of:-
- (a) 3 employer representatives;
 - (b) 3 member representatives; and
 - (c) 3 independent directors.

Appointment of employer representatives

10.

- (a) The employer representatives must be persons qualified under Superannuation Law, each appointed on the nomination of LGAQ Ltd.
- (b) Before a person is appointed under this clause, the person must make a declaration that he or she is qualified to be a director under Superannuation Law.
- (c) The term of appointment is 4 years ending on 30 June in the year of a quadrennial local government election².
- (d) Subject to clause 10(e), an employer representative whose term has ended may be reappointed under clause 10(a).
- (e) A person is not eligible to be appointed or reappointed as an employer representative if the sum of the term of appointment and the terms of all previous service by that person as a director (appointed or nominated in any capacity), whether continuous or broken, exceeds 12 years.

Appointment of member representatives – preliminary steps

11.

- (a) The member representatives must be persons nominated by members of the Scheme.
- (b) An employee of the Board is not eligible for nomination as a member representative.
- (c) Also, a person is not eligible for nomination as a member representative:-
 - (i) if he or she is not a member of the Scheme; or
 - (ii) if the sum of the term of appointment (if the person were appointed) and the terms of all previous service by that person as a director (appointed or nominated in any capacity), whether continuous or broken, exceeds 12 years.
- (d) For the purpose of carrying out and overseeing the appointment of member representatives, the Board must appoint an independent person as returning officer.
- (e) The procedures for appointment of the member representatives are as follows:-
 - (i) the returning officer must give notice to members (“**election notice**”) stating:-

² This clause will not apply in full until 2016. Clause 270 deals with the employer representative directors who will form part of the transitional board of directors until 30 June 2014. New employer representatives will be appointed on 1 July 2014, under this clause otherwise, but only for a 2 year term ending on 30 June 2016, being the next year of quadrennial local government elections.

- (A) that nominations for appointment as member representatives will be received by the Board up to a specified date (which must be not earlier than 14 days after the date of giving of notice);
 - (B) the way in which a member wishing to nominate for appointment as a member representative may obtain the required form of nomination and accompanying documents, and information about the way in which those documents must be completed and submitted in order to make a valid nomination;
 - (C) that voting in the election will primarily take place electronically, via the web site page or portal stated in the notice, stating the first and last dates on which votes may be cast;
 - (D) that a member eligible to vote may nevertheless elect to vote by way of a paper ballot, and may ask the Board, in the way stated in the notice, for the issue of a paper ballot; and
 - (E) for a paper ballot, the date by which a paper ballot must be received by the Board in order to be counted in the ballot.
- (ii) the election notice:
- (A) must be published on the Board's web site, by being placed on the home page for the web site, or by way of a link to the notice that is placed prominently on the home page for the web site; and
 - (B) may otherwise be given in such manner as the Board approves as being adequate to bring it to the attention of all members³;
- (iii) a person who is:-
- (A) qualified under Superannuation Law; and
 - (B) eligible under clauses 11(b) and 11(c),
- and wishes to be appointed as a member representative, must be nominated by 6 other persons who are members;
- (f) a nomination must include or be accompanied by:-
- (i) the consent in writing of the person nominated;
 - (ii) written nomination of the person by 6 other persons who are members; and
 - (iii) a declaration by the person nominated that he or she is qualified to be a member representative under Superannuation Law and is eligible under clauses 11(b) and 11(c),

³ See clause 12(c) for the certificate about operation of the electronic voting system which must be obtained before the notice is given.

and those documents must be sent to the Board in a manner stated in the election notice;

- (g) if the number of nominations exceeds the number of member representatives to be appointed, the returning officer must conduct a ballot of all members to determine the appointment of member representatives;
- (h) if a ballot is required, the returning officer must determine a cut-off date for compilation of a list of members to vote in the ballot and compile (from information supplied by the Board) a list of all persons who are members as at that date.
- (i) the order in which the names of candidates appear on the system for electronic voting referred to in clause 12, or on a paper ballot referred to in clause 13, must be determined by the returning officer by lot.

Electronic voting

12.

- (a) Except where clause 13 applies, voting in a ballot of all members to determine the appointment of member representatives must be conducted electronically.
- (b) For that purpose, the Board must provide or arrange for an electronic voting system accessed via the web site page or portal stated in the election notice by which:
 - (i) a member wishing to vote may access the voting page using an appropriate form of identification as a member (so as to ensure integrity of the ballot);
 - (ii) upon establishing identification as a member entitled to vote, the member is taken to a voting page on which the names of the candidates are listed in the order determined under clause 11(i);
 - (iii) the voting page provides (or a prominent link on that page directs the voter to) information concerning the candidates in a form approved by the Board,
 - (iv) a member may vote for member representatives required by placing a mark in a check box beside the names of up to the number of member representatives required;
 - (v) a member is permitted by the system to place marks for fewer than the number of member representatives to be elected;
 - (vi) a member is not permitted by the system to place marks for greater than the number of member representatives to be elected; and

- (vii) upon submission of the vote, it is transmitted within the system for electronic counting in such a way that the identity of the member who has cast the vote cannot be ascertained⁴;
- (viii) votes may be cast (only) on and between the dates stated in the election notice.
- (c) Before an election notice is given under clause 11(e), the Board or the returning officer must obtain a written certificate and warranty from the supplier of the electronic voting system software (and any system specific hardware) that the functions and interface of the electronic voting system meet all requirements of clause 12(b).
- (d) The returning officer (and any other person with access to vote recording or counting information in the system) must keep all information about votes cast electronically confidential until after 5:00 pm on the day nominated in the election notice as the last day for receipt of paper ballots.

Paper ballot voting

13.

- (a) If a member applies to the Board for the issue of a paper ballot as referred to in clause 11(e)(i)(D), the Board must issue the member with a paper ballot.
- (b) For that purpose, the Board:
 - (i) must cause to be prepared and printed paper ballots containing the names of all persons nominated as member representatives listed in the order determined under clause 11(i);
 - (ii) must forward a paper ballot, together with information concerning the candidates in a form approved by the Board, to each member to whom clause 13(a) applies;
- (c) the Board may also:-
 - (i) give or forward a paper ballot to a person whose name is not on the list of members as at the cut off date if that person satisfies the Board that his or her name has been left off the list through mistake or inadvertence and, as a result, that person is unable to vote electronically;
 - (ii) give or forward a replacement paper ballot to a person if the Board is satisfied, on the basis of such evidence as the Board reasonably requires, that a paper ballot forwarded or given to that person has been mislaid, misdirected or destroyed;
- (d) on a paper ballot, a member may vote for member representatives required by placing a single mark (such as a "1" [or any other number], a tick or a "x") in a

⁴ That is, the system will record the identity of members who have voted, and will record votes cast for counting, but will not permit cross-referencing between those datasets so that, once a member has identified himself or herself as eligible to vote, the vote itself is anonymous.

square on the ballot paper beside the names of up to the number of member representatives required;

- (e) a paper ballot is valid if marks are placed beside the names of fewer than the number of member representatives required, but is invalid if marks are placed beside the names of more than the number of member representatives required such that the intention of the voter is rendered unclear;
- (f) a paper ballot is valid if, despite a mark or endorsement being placed on the ballot paper otherwise than in a square beside the name of a candidate, the intention of the voter is clear and the ballot paper is not otherwise invalid;
- (g) a completed paper ballot (including one given under clause 13(c) must be actually received at the address stated on the ballot paper by 5:00 pm on the day nominated in the election notice, and is invalid if received after that time, regardless of the reason;
- (h) votes recorded on paper ballots must be counted as directed by, and under the supervision of, the returning officer:-
 - (i) with the assistance of such other persons as the returning officer considers necessary or convenient; and
 - (ii) in the presence of any candidate who wishes to be present (or the nominee of any such candidate)⁵.

Counting of votes and result of election

14.

- (a) The persons with the highest number of votes cast in their favour, up to the number of representatives required, are the persons elected as member representatives.
- (b) In the event of equality of votes for 2 or more nominees such that one or more of them must be eliminated in order to have the required number of member representatives, the returning officer must decide on the elimination by lot.
- (c) Upon completion of counting of votes, the returning officer must prepare and deliver a report to the Chief Executive Officer certifying as to:-
 - (i) the number of votes cast for each candidate and the number of informal votes; and
 - (ii) the names of the candidates who have been elected.

⁵ The count of paper ballots may not take place in Brisbane (or Queensland) if the Board contracts a service provider to administer the voting system, and the contracted provider has no substantial physical presence in Queensland.

- (d) The returning officer may give all such directions and make all such rulings as may be necessary for the conduct of the nomination process and/or the conduct of a ballot.
- (e) An election is valid despite the fact that:-
 - (i) one or more members are omitted from the list of members at the cut off date compiled by the returning officer and are for that reason unable to vote electronically or receive a paper ballot;
 - (ii) a member is otherwise unable to vote electronically because of a failure of access to or function of the electronic voting system for reasons external to the voting system itself⁶;
 - (iii) a member entitled to a paper ballot otherwise fails to receive it; or
 - (iv) for a paper ballot, a completed ballot is not received by the Board by the time specified in the election notice,

regardless of the reason (unless due to dishonesty or wilful default on the part of the Board or the returning officer).
- (f) The term of appointment is 4 years⁷.

Appointment of independent directors

15.

- (a) 3 independent directors must be appointed to the Board.
- (b) Independent directors must be appointed in accordance with procedures determined by the Board which conform to this clause and Superannuation Law.
- (c) Before a person is appointed under this clause, the person must make a declaration that he or she is qualified to be a director under Superannuation Law.
- (d) The term of appointment:-
 - (i) is the term, not exceeding 4 years, decided by the Board when the appointment is made; and
 - (ii) need not be the same for each director.
- (e) At the expiration of the term of appointment, subject to clause 15(f), an independent director whose term has ended may be reappointed;
- (f) A person is not eligible to be appointed or reappointed as an independent director if the sum of the term of appointment and the terms of all previous service by that

⁶ For example, an inability to access the voting system because of loss of internet access due to an outage or similar event for which a carrier or service provider is responsible.

⁷ The first election using electronic voting will be for a term of appointment of 4 years from 1 July 2018.

person as a director (appointed or nominated in any capacity), whether continuous or broken, exceeds 12 years.

- (g) An independent director appointed under this clause does not have, and must not purport to exercise, a casting vote in any proceedings of the Board.

Vacancy in office of director

16.

- (a) A director's office is vacated, by force of this clause and without the need for any further notice or action, upon:-
- (i) the death of the director;
 - (ii) expiration of the term of appointment of the director (unless the director is reappointed);
 - (iii) resignation (by notice in writing) by the director;
 - (iv) the director suffering from mental or physical incapacity which prevents him or her from practicably or effectively carrying out his or her duties;
 - (v) the director becoming a disqualified person under Superannuation Law;
 - (vi) the director ceasing to be a person eligible for nomination or appointment under clauses, 10(e), 11(b), 11(c) or 15(f);
 - (vii) the director no longer meeting one or more of the criteria for fitness and propriety relevant to the director under Superannuation Law; or
 - (viii) the suspension or removal of the director under Superannuation Law.
- (b) For clause 16(a)(vii), a director is conclusively taken to no longer meet one or more of the relevant criteria if:-
- (i) an assessment carried out in accordance with the Board's policy relating to the fitness and propriety of its responsible persons concludes that the director no longer meets one or more of the criteria;
 - (ii) a copy of the assessment is provided to the director;
 - (iii) the director is given not less than 14 days to make written submissions about the assessment or any other matter which the director considers relevant to his or her fitness or propriety; and
 - (iv) the Board, after giving proper and genuine consideration to both the assessment and any written submissions from the director, resolves that it is satisfied that the director no longer meets one or more of the criteria for fitness and propriety relevant to the director under Superannuation Law.

- (c) A decision under clause 16(b)(iv) must state the criterion or criteria on which the decision is based.
- (d) A director to whom a current or proposed process under clause 16(b) relates must not be present at or otherwise participate at a meeting of the Board:-
 - (i) at which the Board considers whether to commence the process under clause 13(b) for the director; or
 - (ii) at which the Board makes a decision under clause 16(b)(iv).

Removal of directors

- 17.** Apart from the circumstances under which a position as director becomes vacant under clause 16:-
- (a) employer representative directors nominated by LGAQ Ltd may be removed by it;
 - (b) member representative directors may be removed pursuant to a ballot of members in which the majority of members vote in favour of such removal;
 - (c) an independent director may be removed in accordance with the procedure adopted by the Board (which procedure must comply with any requirements under Superannuation Law for removal of an independent director).

Publishing procedures for removal of directors

- 18.** The Board must publish the procedures for the removal of member representative directors and independent directors in such a way that members of the Scheme are aware of those procedures.

Filling of vacancies - member representatives

19.

- (a) If there is a vacancy in a position of member representative director (otherwise than by expiry of the term of appointment), that vacancy may be filled by the appointment of the unsuccessful candidate at the last election of member representatives who received the highest number votes if he or she is qualified under Superannuation Law, eligible under clauses 11(b) and 11(c), and willing to accept appointment.
- (b) Where the unsuccessful candidate who received the highest number of votes at the last election:-
 - (i) is not qualified under Superannuation Law, not eligible under clauses 11(b) or 11(c) or not willing to accept appointment; or
 - (ii) has previously been appointed as member representative under clause 19(a) to fill a previous vacancy,

the vacancy may be filled by the appointment of the unsuccessful candidate at the last election of member representatives who received the next highest number of votes if he or she is qualified under Superannuation Law, eligible under clauses 11(b) and 11(c) and willing to accept appointment.

- (c) Clause 19(b) may continue to be applied to successive candidates in descending order of number of votes received at the last election until the vacancy is filled.
- (d) This clause does not prevent the Board from filling a vacancy in a position of member representative by nomination and election in accordance with clause 11 (with any adaptations or modifications to those provisions considered necessary by the Board) in any case where the Board, in its absolute discretion, decides not to apply this clause.
- (e) A vacancy in a position of member representative must be filled within 90 days after the vacancy occurs.
- (f) Before a person is appointed under this clause, the person must make a declaration that he or she is:-
 - (i) qualified to be a member representative under Superannuation Law; and
 - (ii) eligible under clauses 11(b) and 11(c).
- (g) The term of appointment of a person appointed to fill a vacancy is the balance of the term of the original appointee.

Filling of other vacancies

20.

- (a) A vacancy in a position of employer representative must be filled in the manner set out in clause 10.
- (b) A vacancy in a position of employer representative must be filled within 90 days after the vacancy occurs.
- (c) A vacancy in the position of independent director must be filled in the manner set out in clause 15.
- (d) Before a person is appointed under this clause, the person must make a declaration that he or she is qualified to be a director under Superannuation Law.
- (e) The term of appointment of a person appointed to fill a vacancy is the balance of the term of the original appointee.

Conflicts policy

- 21.** The Board must adopt a policy for managing conflicts of interest or conflicts of duty that may arise as a consequence of a director also being a director of another superannuation scheme. This policy is in addition to, but may form part of, any other policy adopted by the Board to comply with requirements of Superannuation Law or otherwise.

PART 3 - MANAGEMENT AND ADMINISTRATION

Control by Board

22.

- (a) The general control management and administration of the Scheme is vested in the Board which must administer the Scheme in accordance with this deed, the LGAct and Superannuation Law.
- (b) The Board acts by resolution of its directors.
- (c) A resolution is taken not to be made by the directors, and has no effect, if fewer than two-thirds of the total number of directors vote for it.
- (d) No director of the Board who is a councillor, member or officer of an employer, or who is a member, is for that reason disqualified from voting on any matter or from taking part in the exercise of any power authority or discretion vested in the Board.

Resolution without meeting

23.

- (a) The directors of the Board may pass a resolution without a meeting being held if:-
 - (i) all directors who are able to be contacted are given notice of the terms of the proposed resolution;
 - (ii) sufficient directors entitled to vote on the resolution communicate their assent to the proposed resolution; and
 - (iii) no director states that he or she requires the proposed resolution to be dealt with at a meeting.
- (b) The resolution is passed:-
 - (i) when at least two thirds of the total number of directors have communicated their assent to the proposed resolution; and
 - (ii) if no director has, within a reasonable time after being given notice under clause 23(a), stated that he or she requires the proposed resolution to be dealt with at a meeting.
- (c) Notice of the terms of a proposed resolution may be given to a director by:
 - (i) facsimile or email, to a facsimile number or email address notified by the director to the CEO for the purpose of this clause; or
 - (ii) use of an electronic document distribution and collaboration system approved by the Board for the purposes of this clause.
- (d) A director may communicate assent to a proposed resolution by:

- (i) facsimile containing a copy of the proposed resolution and a signed assent by the director, if the facsimile copy is sent to and actually received by the Chief Executive Officer;
- (ii) email from a director stating the director has read and agrees with the proposed resolution if the email:-
 - (e) is sent to an email address advised to the director by the Chief Executive Officer for the purpose of this clause; and
 - (f) when received by the Chief Executive Officer, indicates that it was sent from an email address advised to the Chief Executive Officer by the director as an email address used by the director; or
 - (g) use of an electronic document distribution and collaboration system approved by the Board for the purposes of this clause.

General powers of the Board

- 24.** In addition to the powers and discretions conferred on it by law, the LGAct and the provisions of this deed, the Board has the power to act as it considers necessary in managing the Scheme. In particular, it has the following powers exercisable in its discretion:-
- (a) to settle, compromise or submit to a court of law, any doubts, disputes, claims, controversies or difficulties whatsoever arising out of or relating to this deed or its construction, the Scheme, or the rights of members, former members and beneficiaries;
 - (b) to commence, carry on or defend proceedings relating to the Scheme or to the rights of members, former members and beneficiaries;
 - (c) to insure or re-insure any risks, contingencies or liabilities of the Scheme;
 - (d) to retain the services of professional advisers whether persons, firms or companies, in relation to the management, administration or investment of the Scheme and to determine the fees payable to those professional advisers;
 - (e) to indemnify, or undertake to indemnify, any person, company, government or institution in respect of any claims, matters or things relating to the Scheme or the rights of members, former members and beneficiaries;
 - (f) to adopt procedures and requirements for notification of information to the Board by employers and members;
 - (g) to prepare and issue forms for the purposes of the Scheme and to require those forms to be completed and submitted as determined by the Board;
 - (h) to make determinations or to adopt procedures not inconsistent with the provisions of this deed in relation to the calculation and rounding-off of contributions or benefits or interest, or to the determination of periods of time and other matters as

appropriate to facilitate the management, operation, control and administration of the Scheme;

- (i) to make any determination about a person relating to that person's membership of the Scheme, or events or circumstances occurring during the period of that person's membership, despite the fact that the person is no longer a member at the time the decision is made;
- (j) generally to do all acts and things (including incidental or consequential acts and things) as the Board may consider necessary or expedient for the management, operation, control and administration of the Scheme and for the exercise and performance of its powers, functions and duties in respect of the Scheme.

Officers

25.

- (a) The Board must appoint a Chief Executive Officer who will be responsible to the Board to:-
 - (i) implement the decisions of the Board;
 - (ii) manage and administer the Scheme day-to-day.
- (b) The Board must from time to time determine the remuneration and other terms and conditions of employment of the Chief Executive Officer.
- (c) The Board may appoint such other employees as the Board from time to time considers necessary for the Scheme's proper administration and determine the remuneration and other terms and conditions of employment of such employees.

Delegation

26. The Board may delegate its powers to—

- (a) a committee of its directors; or
- (b) an employee of the Board.

Seal

27. The Chief Executive Officer has the custody of the Board's seal and has power to affix the seal to any document:-

- (a) pursuant to a direction of the Board;
- (b) for the purpose of giving effect to a decision of the Board; or
- (c) in order to comply with a law that requires the Board to issue or authenticate a document under seal.

Auditor

28. The Board must appoint an auditor of the scheme under and in accordance with the requirements of Superannuation Law.

Board may act on advice

29. The Board may act and rely on the advice or opinion of any actuary, consultant, barrister, solicitor, broker, accountant, medical practitioner or other professional person, whether or not the advice or opinion is or has been obtained by the Board.

Election under superannuation law

30.

- (a) The Board must elect, in such form and within such period as may be required by Superannuation Law, to become a regulated fund within the meaning of Superannuation Law.
- (b) An election made pursuant to this clause may be irrevocable if so required or provided by Superannuation Law.

Superannuation Law deemed to be included in deed

31. Notwithstanding any provision of this deed, any provision of Superannuation Law that is required to be included in this deed for the Scheme to remain or to be a complying superannuation fund or a regulated superannuation fund, or for the Scheme to comply with or satisfy other requirements of Superannuation Law, is deemed to be included in this deed as if every such provision was set out in this deed on and from the date that the provision is required to be so included.

Superannuation Law covenants deemed to be included in deed

32. Notwithstanding any provision of this deed (including any provision which purports to apply notwithstanding other provisions of this deed):-

- (a) the Board covenants to comply with the covenants required from time to time by Superannuation Law to be contained in this deed; and
- (b) those covenants are deemed to be contained in this deed,

subject to any exemption granted, or modification made, by the Regulator (to the extent such exemption or modification, as the case may be, is available in respect of this deed, the Scheme or the Board or all or any of them).

Covenant by directors

33.

- (a) Each covenant specified in clause 32 operates:-

- (i) as a covenant by each of the directors to exercise a reasonable degree of care and diligence for the purposes of ensuring that the Board carries out the covenant; and
 - (ii) as if each of the directors were parties to this deed.
- (b) By accepting appointment or election as a director, a director gives the covenant in clause 33(a).
- (c) The reference in clause 33(a) to “a reasonable degree of care and diligence” is a reference to the degree of care and diligence that:-
- (i) unless clause 33(c)(ii) applies - a reasonable person in the position of director of the Board would exercise in the Board’s circumstances; or
 - (ii) where Superannuation Law specifies a meaning different to that specified in clause 33(c)(i) - that meaning.

Inconsistency of provisions

- 34.** In the event of any inconsistency between any of the provisions deemed by any clause in this Part to be included in this deed and the other terms of this deed, the provisions deemed to be included prevail.

Compliance with Superannuation Law

35.

- (a) The Board must comply with all relevant operating standards prescribed by or under Superannuation Law in order that the Scheme is and remains a complying superannuation fund.
- (b) The Board has power to comply with any other requirement or provision of Superannuation Law.
- (c) However, clause 35(b) does not confer a power on the Board to comply with or give effect to a provision of Superannuation Law if:-
- (d) under Superannuation Law the Board may comply with the relevant provision, but is not obliged to do so; and
- (e) compliance with the provision would require the Board to act in a way which is directly inconsistent with an express provision of this deed.

Power to comply with administrative guidelines and government announcements

- 36.** The Board has power to comply with:-

- (a) any administrative guidelines, rulings or determinations made or laid down by the Regulator; and

- (b) directions or recommendations contained in statements by the government of the Commonwealth or, if applicable to the Scheme, any State or Territory (as the case may be) advising changes or proposed changes to Superannuation Law.

Payment of levies

- 37. The Board may make any levy payment or other payment out of the Scheme which is required to be made by Superannuation Law.

Board not to be subject to direction

- 38. Notwithstanding any provision of this deed (including any provision of this deed which purports to apply notwithstanding other provisions of this deed), a provision of this deed must not be construed as permitting the Board to be subject, in the exercise of any of the Board's powers under this deed, to direction by any other person to the extent that, in the opinion of the Board, such provision will or may contravene Superannuation Law.

Exercise of discretion by person other than the Board

- 39. Notwithstanding any provision of this deed (including any provision of this deed which purports to apply notwithstanding other provisions of this deed), a provision of this deed must not be construed as permitting a discretion under this deed that is exercisable by a person other than the Board to be exercised without the consent of the Board to the extent that, in the opinion of the Board, such provision will or may contravene Superannuation Law.

Board power to consent to exercise of discretion

- 40. To the extent that any provision of this deed provides for the exercise of a discretion by a person other than the Board, the exercise of which discretion without the consent of the Board would or might contravene Superannuation Law:-
 - (a) that discretion may be exercised by that person with the consent of the Board, but not otherwise; and
 - (b) the Board has power to give its consent to the exercise of such discretion.

Compliance with directions made under Superannuation Law

- 41. The Board must comply with any direction in relation to the Scheme made under Superannuation Law by the Regulator or the Superannuation Complaints Tribunal.

Board not in contravention in certain circumstances

- 42. The Board is not in contravention of this deed or in breach of trust if it does anything, or fails to do anything, in contravention of Superannuation Law if:-
 - (a) the contravention is approved by the Regulator or the person or persons (if any) specified for that purpose, in accordance with Superannuation Law; or

- (b) the contravention is rectified within 30 days, or (where applicable) such other period allowed by Superannuation Law from the date the Board became aware of the contravention.

Modification or exemption

43.

- (a) Subject to Superannuation Law, the Board may seek modification of, or exemption from, the requirements of Superannuation Law.
- (b) If any modification or exemption in respect of this deed, the Scheme and/or the Board:-
 - (i) is granted by the Regulator; or
 - (ii) otherwise becomes available pursuant to Superannuation Law,

whether in consequence of an application by the Board under clause 43(a) or otherwise, the Board is relieved from compliance with any relevant provisions of this deed and/or Superannuation Law in accordance with the modification or exemption, but subject to any conditions in the modification or exemption.

Determination of disputes

44.

- (a) If any question arises in relation to the existence, meaning, application or effect of:-
 - (i) Superannuation Law;
 - (ii) a provision deemed by this Part to be included in this deed; or
 - (iii) a fact relevant to a determination to be made by the Board,the Board must determine that question.
- (b) Any determination made by the Board pursuant to this clause is, to the extent permitted by Superannuation Law, final and binding on all interested persons.

Costs, fees and directors' remuneration

45.

- (a) The Board must pay out of the Scheme:-
 - (i) the remuneration and other expenses properly attributable to the employment of the Chief Executive Officer and other employees;
 - (ii) fees payable to the auditor and other professional consultants; and

- (iii) generally, all expenses and costs which may be incurred by it in relation to the administration of the Scheme.
- (b) Directors of the Board are entitled to be paid from the Scheme such:-
 - (i) remuneration (if any); and/or
 - (ii) reimbursement of losses suffered or expenses incurred in attending meetings of directors and carrying out their duties,
as may from time to time be determined by resolution of the Board.
- (c) Amounts paid pursuant to this clause must be debited:-
 - (i) where the amount is specifically attributable to a particular fund mentioned in clause 3, to that fund; and
 - (ii) in other cases to the Accumulation Benefits Fund, LG Defined Benefits Fund and the CS Defined Benefits Fund:-
 - (A) on a pro rata basis in the same proportion as the amount of each of those funds bears to the total amount of those funds; or
 - (B) on such other basis as is determined by the Board to be equitable in all of the circumstances.

Indemnity and insurance

46.

- (a) The Board and each director of the Board are entitled to be indemnified to the extent of the assets of the Scheme against all liabilities incurred by it or them or any of them in the execution or attempted execution, or arising from the non-execution, of the trusts authorities powers and discretions conferred upon the Board by this deed.
- (b) Without affecting the generality of this clause, the indemnity provided by this clause applies to any payment made to any person whom the Board bona fide believed to be entitled to the same even if such person was not entitled to the same or all of the same.
- (c) Despite clauses 46(a) and 46(b), any exemption from, or indemnification against, liability provided in this clause (or any other provision of this deed) does not apply to the extent prohibited by Superannuation Law.
- (d) The Board has power to effect or take out at the expense of the Scheme from time to time one or more policies or contracts with one or more insurance companies or reinsurance companies to protect:-
 - (i) the Scheme; and
 - (ii) each of the directors and employees of the Board,

in respect of liabilities incurred by them or any of them in the execution or attempted execution, or arising from the non-execution, of the trusts, authorities, powers and discretions conferred upon the Board by or under this deed, and to continue or renew or arrange for the continuance or renewal of all or any of such policies or contracts for such period or periods as the Board may think fit.

- (e) The Board may also agree from time to time with any such insurance company or reinsurance company for any policy or contract to be varied or modified.

Minutes

- 47. The Board must cause proper minutes of all resolutions and proceedings of all meetings of directors to be kept and entered in a book or books to be provided for those purposes.

Records and statistics

- 48. The Board must keep a complete record of all members and all other matters information and data necessary or expedient for the proper and efficient working of the Scheme and the carrying out of this deed in the manner and for the period necessary to comply with any relevant requirement of Superannuation Law relating to the maintenance and retention of records.

Books of account and reports

49.

- (a) The Board must keep such accounting records:-
 - (i) as are required by Superannuation Law; and
 - (ii) if necessary, as are otherwise required to correctly record and explain the transactions and financial position of the Scheme.
- (b) Without limiting clause 49(a), the Board must establish and maintain accounting records such that it is possible at all times to determine the ongoing accumulation entitlements standing to the credit of Members in the following accounts:-
 - (i) accumulation accounts; and
 - (ii) retained benefit accounts.
- (c) The Board must also establish and maintain accounting records within the books of account of the Scheme to record the ongoing dealings with and balances of:-
 - (i) the Accumulation Benefits Fund;
 - (ii) the LG Defined Benefits Fund;
 - (iii) the CS Defined Benefits Fund; and
 - (iv) the LG Insurance Fund.

- (d) The Board must in respect of each year prepare from the accounting records:-
 - (i) such accounts and statements as are required by Superannuation Law; and
 - (ii) if necessary, such other accounts and statements as are necessary to show the results of operations during each year and the financial position of the Scheme and each fund mentioned in 49(c) at the end of each year.
- (e) The accounts and statements must be audited by the auditor in accordance with Superannuation Law.

Actuarial review

50.

- (a) In respect of each defined benefits fund and the insurance fund, the Board:-
 - (i) must cause the actuary to conduct an actuarial review at the times required by Superannuation Law; and
 - (ii) may cause to be conducted additional actuarial reviews at other times.
- (b) The Board may also from time to time cause the actuary to conduct an actuarial or other review of an accumulation benefits fund.
- (c) Without limiting the matters which may be included in an actuarial review, a review must:-
 - (i) examine the state and adequacy of the relevant fund, with respect to the value and sufficiency of fund assets, and contributions and other revenue paid or payable to that fund, to fund the provision of benefits generally or any particular benefit or benefits to be provided from that fund; and
 - (ii) report as to surpluses or deficiencies and include recommendations as to:-
 - (iii) if a surplus exists, the manner in which the surplus should be dealt with; and
 - (iv) if a deficiency exists, any steps which can or should be taken to remedy the deficiency,

which recommendations may refer to actions which the Board may take under clause 4.
- (d) The Board may take such action (if any, and including action under clause 4) as it sees fit in consequence of an actuarial review, but must give due consideration to the report, advice and recommendations of the actuary.

Information to members

- 51.** The Board must comply with the requirements of Superannuation Law in relation to the provision of information and documents to members and other persons entitled to receive the same.

PART 4 – MEMBERSHIP ELIGIBILITY AND INFORMATION

Division 1 - Eligibility

Eligibility set by LGAct

52.

- (a) The persons who are eligible to be members of the Scheme are those who are stated to be eligible by the LGAct.
- (b) A person who becomes a member on or after the merger date:-
 - (i) becomes a Chapter 4 member if the person is eligible as an employee of Brisbane City Council or an Associated Employer referred to in clause 49(a)(i);
 - (ii) becomes a Chapter 3 member if the person is eligible as an employee of a local government (other than Brisbane City Council), a local government entity, an Associated Employer referred to in clause 49(a)(ii) or the Board.
- (c) A person who was a member of the Scheme before the merger date, and is an employee of a local government other than Brisbane City Council, a local government entity or the Board, is a Chapter 3 member.
- (d) Despite clause 52(b)(i), an employee of the Board who was a member of City Super immediately before the merger date becomes a Chapter 4 member on the merger date.

Associated employers

53.

- (a) The Board may make an arrangement with an entity (an “**Associated Employer**”) for the entity to make employer contributions to the scheme for the benefit of all or any of the entity’s employees (or the employee’s dependents in the event of death of the employee).
- (b) The terms of an arrangement entered into under clause 53(a) may be negotiated between the Board and the entity in each case, and need not be the same terms for each entity with which an arrangement is made.
- (c) An entity which is an Associated Employer under this clause ceases to be an Associated Employer:-
 - (i) if the Board gives the employer at least 30 days written notice of termination of the arrangement (whether or not the arrangement expressly makes that provision); and
 - (ii) otherwise upon the date of effect of termination of the arrangement in accordance with its terms.

- (d) An agreement:
- (i) made with an employer formerly identified in Item 8 in Schedule 7 of the *Local Government Regulation 2012* (by reference to the former City Super scheme); or
 - (ii) otherwise made before the commencement of this clause in its current form⁸, continues in force, on the agreed terms and conditions, as though it were an agreement made under this clause.
- (e) To avoid doubt:-
- (i) an employee of an Associated Employer referred to in clause 53(d)(i) remains a Chapter 4 member with the same benefit entitlements as the member had before the commencement of this clause in its current form;
 - (ii) an employee of an Associated Employer referred is otherwise a Chapter 3 member and an accumulation member;
 - (iii) upon termination of an arrangement with an Associated Employer, contributions may continue to be paid into the Scheme by or for the benefit of a member who is or was an employee of the entity, to the extent permitted by Superannuation Law (but not otherwise); and
 - (iv) the accrued benefits of an employee of an entity that is no longer an Associated Employer may be retained in the Scheme or transferred or rolled over to another superannuation entity under clauses 120, 121 or 123.

Division 2 - Enrolment and provision of information

Membership details to be provided

54.

- (a) When a person becomes a member, the person's employer must provide the Board with the member's details.
- (b) The details:-
 - (i) must contain the relevant information about the member required by the Board; and
 - (ii) may be provided electronically by such process or processes as the Chief Executive Officer from time to time decides to be acceptable.

⁸ This clause was substituted, and commenced in its current form, with effect on 6 September 2017 by Deed of Variation No. 8.

- (c) However, the Board may, by written notice to an employer, require a person who has become a member to complete and sign a Form 1⁹ (membership details), and give the form to the person's employer within a time stated in the notice¹⁰.
- (d) If the Board gives a notice under clause 54(c), the employer must:-
 - (i) give the member the Board's notice and a Form 1 for completion; and
 - (ii) give the completed Form 1 to the Board on receipt of the form from the member.

Enrolment

55.

- (a) A person who becomes a member is taken to be enrolled as a member at the time the Board receives the details referred to in clause 54(a).
- (b) However, the enrolment is effective from:-
 - (i) the time the person's employment commenced; or
 - (ii) the first day of the first pay period for which contributions are made in respect of the member,whichever is the later.

Other information employer must provide

56. An employer must:-

- (a) notify the Board promptly upon becoming aware of the resignation, retirement, dismissal, death, disability or change in employment status of a member; and
- (b) otherwise provide all information in the employer's possession about a member which the Board trustee reasonably requires in order to administer the Scheme in relation to the member.

Enrolment of non-employee members

57. For a person who applies for enrolment as a non-employee member:-

- (a) the person must provide such details and information as is required by the Board, in such form as is required by the Board;

⁹ The Board may use more than one version of the Form 1. Under clause 276, the specific requirements and content of a form, and the number of derivatives or variants of a form, are determined by the Board from time to time.

¹⁰ As examples, a Form 1 may be required if the Board has some uncertainty about the authenticity of a new member's identity or for a member who wishes to become permanent employee under Chapter 3 after less than 12 months of service.

- (b) the enrolment is effective from the date the membership is accepted by the Board or at such other time as is determined by the Board.

Insurance claim information

- 58.** An insured member who submits a claim for a permanent disablement benefit or a disability pension must also submit all information in support of or in relation to that claim, including details of the member's medical and general health history, as the Board requires for the purpose of assessing the claim and for the purpose of claiming payment or indemnity from an external insurer in relation to that claim.

PART 5 - INVESTMENT

Investment powers

- 59.** Subject to the requirements of Superannuation Law including, without limitation, requirements relating to formulation and implementation of an investment strategy, the Board may invest moneys of the Scheme in any manner in which a trustee is authorised by an Act to invest trust moneys and also has power, by way of investment, to:-
- (a) purchase, acquire, take on lease, hire, sell, improve, subdivide, amalgamate, dispose of, exchange, lease, let, mortgage, charge, encumber, grant licences and other rights in connection with, and otherwise deal in any way with, real or personal property of any kind whatsoever and wheresoever situated and any interest therein, on such terms as the Board thinks fit;
 - (b) deposit money with any bank, authorised dealer in the short term money market with lines of credit with the Reserve Bank of Australia or a lender of last resort, or other financial institution or other person whatsoever;
 - (c) carry on any business, enterprise or undertaking whatsoever;
 - (d) invest moneys in investments of any kind whatsoever, whether secured or unsecured, including capital market investments, debentures, securities or other obligations of governments, government authorities and corporations, shares, stock, notes, certificates, provident funds, bonds, units or other interests in trusts, options, futures and other derivative securities, currency transactions, secondary mortgage securities, mortgages over real or personal property and bills of exchange;
 - (e) trade in any commodities;
 - (f) construct, demolish, improve, maintain, develop, restore, work, manage, carry out, control or otherwise deal with any buildings, fixtures, works, roads, bridges, ways, services, earthworks, infrastructure or any other structure or improvement whatsoever or to assist in any of the foregoing; and
 - (g) enter into partnership or any arrangement for sharing of profits, union of interest, cooperation, joint venture, reciprocal concession or otherwise with any statutory body or other person in any undertaking, business, transaction or other investment, or act as a principal, agent, contractor, trustee or beneficiary in respect of any such undertaking, business, transaction or investment,

with full power to vary, replace, encumber and otherwise deal with such investments as fully and effectively as a person absolutely and beneficially entitled dealing with his or her own property may do.

Fund may be invested as a whole

60.

- (a) To avoid doubt:-
 - (i) monies of the funds mentioned in clause 3 may be mixed and invested as though they constituted a single fund; but
 - (ii) the assets which represent the investment of the total amount held in the accumulation accounts of MySuper members must be capable of separate identification to the extent required by Superannuation Law.
- (b) Where clause 60(a) is applied, the Board must determine:-
 - (i) an appropriate basis for allocating a proportion of net investment earnings, or net investment loss, to the LG Insurance Fund;
 - (ii) an appropriate basis for allocating a proportion of net investment earnings, or net investment loss, to each defined benefits fund;
 - (iii) where the rate of net investment return, whether positive or negative, differs from the investment return rate for a member investment strategy¹¹, an appropriate basis for allocating the difference to a reserve, or drawing the difference from a reserve (as the case requires).
- (c) In making its determination under clause 60(b), the Board must have regard to:-
 - (i) the investment return rates determined for the year for each member investment strategy, and the balance amount of the net investment earnings, or net investment loss, which remains to be allocated after debiting or crediting members' accounts in accordance with the rate for each strategy;
 - (ii) the necessity to allocate the balance net investment earnings or net investment loss, so as to achieve, overall, an equitable result for all members.
- (d) Net investment earnings, or net investment loss, must be allocated:-
 - (i) to member accounts in an accumulation benefits fund in accordance with the investment return rates determined for the year for each member investment strategy; and
 - (ii) otherwise in accordance with the Board's determination under clause 60(b).

¹¹ See Part 7.

Limited power in respect of certain investments

61. Despite clause 59:-

(a) Except for:-

- (i) investment in cash deposits, cash securities and other cash investments;
- (ii) contracts for the purpose of hedging or otherwise protecting the Scheme in respect of movements in currency, for investments denominated in currencies other than Australian dollars;
- (iii) investments described in clause 61(b)(ii); and
- (iv) direct investment in another asset, made after considering advice from one or more appropriately qualified and experienced professional advisers who have no financial or other personal interest in the asset (directly or through entities related to the adviser or to the asset issuer or vendor), and will take no financial or other valuable benefit from a decision by the Board to invest in the asset (other than ordinary professional fees, determined on a basis unrelated to the outcome of the Board's decision or the success or otherwise of the investment),

an investment must only be made through the agency of an investment manager appointed under clause 65.

(b) The Board must not invest in futures, derivatives or any similar investment the value of which depends on (or is derived from) other assets, liabilities or indexes unless the investment is made:-

- (i) for the purpose of hedging or otherwise protecting the Scheme against the consequences of adverse movements in other (physical) investments;
- (ii) for the purpose of increasing transactional efficiency in achieving or maintaining asset allocation, in circumstances where the use of futures or derivatives is more advantageous than transacting in physical investments; or
- (iii) by way of swap contracts for the purpose of increasing transactional efficiency for investment strategies which comprise or include a combination of short and long positions in equity investments.

(c) An investment described in clause 61(b)(i) or clause 61(b)(iii) may only be made by an investment manager appointed under clause 65, and must only be undertaken in accordance with a Part B Derivative Risk Statement¹² provided to the Board by the investment manager concerned and accepted by the Board in writing.

(d) An investment described in clause 61(b)(ii):-

¹² As required by APRA guidelines contained in superannuation Circular No. II.D.7 dated February 1997, as amended from time to time.

- (i) may be undertaken by the Board directly subject to:-
 - (A) the Board being satisfied that it is impractical or inappropriate to effect the investment through the agency of an investment manager; and
 - (B) the investment being undertaken strictly in accordance with The Board's own Part A and Part B Derivative Risk Statements,¹³ and
- (ii) must otherwise be undertaken by an investment manager in accordance with clause 61(c).

Prohibited investments

62. Despite clause 59, the Board must not invest in:-

- (a) loans to members; or
- (b) loans to or investments in LG employers or other employers of members, or associates of such employers, except to the extent, if any, permitted by Superannuation Law.

Title to investments

63. Any investments may be held in such names including the name of a nominee (whether an individual or a corporation) as the Board determines from time to time.

Borrowing prohibited

64. The Board must not borrow money except in the circumstances and subject to the restrictions specified in Superannuation Law.

Investment managers

65.

- (a) Without limiting the generality of the Board's powers, the Board may appoint investment managers to invest and manage, as agent of the Board, monies and assets of the Scheme.
- (b) Every appointment of an investment manager must be by way of written investment management agreement and all such agreements must comply with Superannuation Law.

PART 6 - MEMBER INVESTMENT CHOICE

Board to determine choice strategies

66. The Board from time to time:-

¹³ See previous footnote

- (a) may determine a range of 2 or more investment strategies from which a member may choose for the investment of the whole amount credited to an accumulation account held in the name of the member;
- (b) may determine choices which are available to:-
 - (i) all members;
 - (ii) only to Chapter 3 members or members who were otherwise members of LG Super before the merger;
 - (iii) only to Chapter 4 members or members who were otherwise members of City Super before the merger;
 - (iv) persons who become members on or after commencement of this deed¹⁴;
- (c) may change any available choices applicable to members or any group of members, including for example by determining that:-
 - (i) no new choices can be made in respect of a particular investment strategy; or
 - (ii) a particular investment strategy is no longer offered;
- (d) must determine one of the strategies referred to in clause 66(a), being a diversified investment strategy consistent with Superannuation Law, to be the investment strategy applying for the investment of the whole amount credited to an accumulation account held in the name of a MySuper member;
- (e) may include as part of the strategy for MySuper members provisions or arrangements which allow for differential crediting rates, based on the crediting or debiting of gains and losses from different classes of asset within the strategy, to be streamed to different classes of MySuper members on the basis of the age of those members;
- (f) may otherwise determine one or more of the strategies referred to in clause 66(a) to be default investment strategies for the investment of the whole amount credited to an accumulation account held in the name of the member (other than a MySuper member) where the member does not make a choice, in respect of:-
 - (i) all members; or
 - (ii) any group of members, for example:-
 - (A) Chapter 3 members or members who were otherwise members of LG Super before the merger;
 - (B) Chapter 4 members or members who were otherwise members of City Super before the merger;

¹⁴ 1 July 2011 - see clause 7

- (C) persons who become members on or after commencement of this deed;
- (D) members who have attained a prescribed age;
- (g) must not change the investment strategy for a MySuper member, except pursuant to the consent in writing of the member to that change given no more than 30 days before it occurs;
- (h) may otherwise change a default investment strategy applicable to members or any group of members, including for example by determining that:-
 - (i) no new members will be invested in a particular default investment strategy;
or
 - (ii) a particular default investment strategy no longer applies for any members.

Member may nominate investment choices

67.

- (a) Where the Board offers members (or any group of members) a choice of investment strategies, the Board may from time to time determine rules in relation to the exercise of choice, for example:-
 - (i) the maximum number of strategies which a member may nominate;
 - (ii) when, how and in what manner a member may change their nomination of investment strategies, and any limitations on the number of times a member may change their nomination;
 - (iii) the minimum amount that may be invested in any investment strategy;
 - (iv) the availability of choice in relation to the member's accumulation account balance and future contributions;
 - (v) how a member may change their choice.
- (b) The Board may determine different rules for different groups of members in relation to all or any of the matters referred to in clause 67(a).
- (c) The Board must give effect to a member's choice that is made in accordance with the rules determined by the Board. However, to avoid doubt, this does not prevent the Board from changing the available choices in respect of any member under clause 66.

Investment return rates

68.

- (a) In respect of each investment strategy, the Board must determine the investment return rates for the strategy on a daily basis or at such other times and in respect of such periods during a year as the Board considers appropriate.

- (b) To avoid doubt, rates determined under clause 68(a) are final and, to the extent it is necessary for the Board to determine or publish rates for a financial year or other period, it must do so by compounding the rates fixed under clause 68(a) over the relevant year or period.

Separate physical portfolios not required

69. To avoid doubt:-

- (a) nomination of an investment strategy by a member does not oblige the Board to invest separate identifiable assets or monies on the member's behalf in accordance with that strategy;
- (b) however, despite clause 69(a), the assets which represent the investment of the total amount held in the accumulation accounts of MySuper members must be capable of separate identification to the extent required by Superannuation Law;
- (c) the investment return rates referred to in clause 68:-
- (i) will be determined on the basis of market interest rates, market indices, and other indicators of investment performance as applied to a notional portfolio comprising the total of the amounts nominated for investment under each strategy allocated in accordance with the asset allocation relevant to the strategy;
- (ii) may therefore be either positive or negative depending upon investment performance.

PART 7 - ENQUIRIES OR COMPLAINTS

Arrangements for dealing with enquiries or complaints

70.

- (a) The Board must determine arrangements for handling enquiries or complaints from members in accordance with Superannuation Law.
- (b) Information relating to the arrangements determined under clause 70(a) must be provided to members in accordance with Superannuation Law.

PART 8 - AMENDMENT POWERS AND PROCEDURES

Amendments to comply with superannuation law

71. The Board may amend this deed as it considers necessary or desirable from time to time:-

- (a) in order to comply with any applicable requirement of Superannuation Law; or
- (b) for any other purpose not inconsistent with Superannuation Law or the LGAct.

Limitation on certain amendments

72. Despite clause 71:-

- (i) an amendment made to this deed which directly or indirectly affects the benefits which are or may be payable to a member does not take effect in respect of that member unless:-
 - (ii) the actuary certifies that, in the actuary's opinion, that amendment will not reduce the amount of any benefit which has accrued to or in respect of the member up to the date on which the amendment is made; or
 - (iii) the amendment is approved in writing by the Regulator; or
 - (iv) the amendment is approved in writing by that member;
- (b) an amendment must not be made which would:-
 - (i) contravene mandatory requirements of Superannuation Law;
 - (ii) cause the Scheme to be maintained for purposes which do not comply with the sole purpose test under Superannuation Law; or
 - (iii) cause the trustee to not be a constitutional corporation.

Additional limitation on amendments for Chapter 4 members

73. Despite clause 71, an amendment must not be made which would impose an increase in liability to contribute to the Scheme upon:

- (a) Brisbane City Council or an Associated Employer referred to in clause 53(d)(i), unless that employer consents in writing; or
- (b) a Chapter 4 member, unless that member consents in writing.

CHAPTER 2 - CONTRIBUTION AND BENEFIT PROVISIONS FOR MEMBERS GENERALLY

PART 1- PAYMENT OF CONTRIBUTIONS INTO SCHEME FUNDS

Required contributions

74.

- (a) The required contributions payable in respect of members are specified in Chapters 3 and 4.
- (b) However, if:-
 - (i) the total of the following (the “**pre-agreement contributions**”) would be more than an member’s concessional contributions cap for a financial year—
 - (A) the yearly contribution to the Scheme required by the LG Act to be made by an employer for the member; and
 - (B) the yearly contribution to the Scheme, if any, made by the employer under a salary sacrifice arrangement with the member¹⁵;
 - (ii) the employer and member have agreed in writing—
 - (A) to reduce the pre-agreement contributions to the amount equal to the member’s concessional contributions cap for the financial year; and
 - (B) if the pre-agreement contributions include contributions made under a salary sacrifice arrangement, on the extent, if any, to which the required and salary sacrificed contributions will respectively be reduced; and
 - (iii) the employer or the member has given the Board a copy of the agreement within 2 months after the agreement is made,then, despite anything in Chapters 3 and 4, the required contributions (and any salary sacrificed contributions) referred to in the agreement will be reduced, as specified in the agreement, to an amount equal to the member’s concessional contributions cap¹⁶.
- (c) Also, the Board may excuse an accumulation member from making all or a stated part of the contributions otherwise required to be made by the member if:-
 - (i) the member and the employer have agreed in writing:-

¹⁵ See clause 135

¹⁶ Section 220B of the LGAct deals with payment to the member, as additional salary (but not for superannuation purposes) of an amount equal to the reduction in required contributions.

- (A) that the member is exempt, on the grounds of the member's financial hardship, from paying all, or a stated part, of the contributions; and
- (B) on the period, of not more than 1 year, of the exemption; and
- (ii) the employer or the member has given the Board a copy of the agreement within 2 months after the agreement is made¹⁷.
- (d) In this clause, “**concessional contributions cap**”, for a member, means the member's concessional contributions cap within the meaning of the *Income Tax Assessment Act 1997* (Cwlth), section 292-20(2), subject to the *Income Tax (Transitional Provisions) Act 1997* (Cwlth) section 292-20(2).

Voluntary and other contributions

75.

- (a) Contributions other than those referred to in clause 74 may be made to the Scheme by or in respect of a member:-
 - (i) if permitted by Superannuation Law;
 - (ii) subject to and in accordance with any other provisions of this deed which deal with contributions of any particular kind; and
 - (iii) otherwise in accordance with terms and conditions determined by the Board.
- (b) Without limiting clause 75(a), contributions may be made:-
 - (i) by or in respect of a former LG employee¹⁸;
 - (ii) otherwise after the date on which a member ceases employment with any employer; and
 - (iii) in other circumstances while a member is not actually working for an employer,but only to the extent permitted by Superannuation Law.
- (c) Also, contributions made under clause 75(a) may consist of or include:-
 - (i) contributions paid to reduce an employer's liability for the superannuation guarantee charge, to the extent that they are calculated by reference to entitlements which are not part of a member's salary¹⁹;

¹⁷ Under s 220C(2) of the LGAct, a member and the employer may make more than one agreement referred to in this subclause.

¹⁸ See clause 275 (definitions). This is a member who no longer works for local government, but has not taken his or her money out of the scheme. Such a person may direct his or her employer contributions to be paid to the scheme.

¹⁹ That is, not part of “salary” as defined in chapter 3 or Chapter 4 as relevant; ie, contributions based on any component of the member's “ordinary time earnings” that are not included in “salary”.

- (ii) spouse contributions; and
- (iii) contributions transferred from a member to a member's spouse under a contribution split.

Payment into Funds

76. The Board must:-

- (a) pay into the LG Defined Benefits Fund all contributions paid under Chapter 3 as required contributions in respect of defined benefit members;
- (b) pay into the CS Defined Benefits Fund all contributions paid under Chapter 4 as required DB contributions in respect of defined benefit members;
- (c) pay into the Accumulation Benefits Fund all contributions and other monies, except those referred to in clause 76(a), paid to the Scheme by or in respect of a Chapter 3 member;
- (d) pay into the Accumulation Benefits Fund all contributions and other monies paid to the Scheme by or in respect of a Chapter 4 member, except:
 - (i) those referred to in clause 76(b);
 - (ii) any contributions in respect of accumulation benefits for Chapter 4 members that are invested through the CS Defined Benefits Fund.
- (e) The Board may also pay into the LG Insurance Fund such amounts, from the Accumulation Benefits Fund or LG Defined Benefits Fund, as determined by the Board from time to time as necessary to provide for the benefits referred to in clause 3(d)(i).

PART 2 - MEMBER ACCOUNTS

Division 1 - Accumulation accounts

Contributions to be credited to accumulation account

77.

- (a) The Board must establish and maintain an accumulation account for every member of the Scheme.
- (b) For an accumulation benefit member, all contributions paid to the Scheme by or in respect of the member must be credited to the member's accumulation account.
- (c) For a defined benefit member, all contributions which are paid into the Scheme by or in respect of the member, other than:
 - (i) for Chapter 3 members, required contributions;
 - (ii) for Chapter 4 members, required DB contributions,

must be credited to the member's accumulation account.

- (d) To avoid doubt:-
- (i) spouse contributions must be credited to the accumulation account of the spouse of the person who made the contribution; and
 - (ii) contributions transferred from a member to a member's spouse under a contribution split must be credited to the accumulation account of the spouse of the member who directed the contribution split.
- (e) The accumulation account of a Chapter 4 member is subdivided into the accounts referred to in clauses 188 and 251.

Other Receipts to be credited to accumulation accounts

- 78.** Preserved and non-preserved benefits accepted into the Scheme from other funds by or in respect of a member must also be credited to the member's accumulation account.

Division 2 - Credits and debits to accumulation accounts

Allocation of investment returns

- 79.** A member's accumulation account must be credited or debited with the investment earning rate or rates applicable to the member determined under clause 68.

Debiting of taxation

- 80.** A member's accumulation account must, where applicable, be debited with taxation imposed on the member or the account in accordance with Superannuation Law, and without regard to any taxation credits, rebates or other concessions that may reduce the tax actually paid by the Board below that assessed on contributions.

Debiting of insurance premium

- 81.** For an insured member, the member's accumulation account must, at such times and in such manner as is determined by the Board, be debited with the member's insurance premium with effect from the date of commencement of insurance cover.

PART 3 - EXTERNAL INSURANCE ARRANGEMENTS

External insurance may be arranged by the Board

82.

- (a) The Board may enter into a contract or contracts of insurance with an insurer registered under the *Life Insurance Act 1995* or the *Insurance Act 1973* to:-
- (i) indemnify the Board in respect of its liability for insurance benefits; or
 - (ii) provide for the payment by the insurer of insurance benefits for a member.

- (b) Subject to clause 82(c), the Board is not obliged to act under clause 82(a), and may, subject to Superannuation Law:-
 - (i) enter into a contract or contracts referred to in that clause on such terms as the Board sees fit; and
 - (ii) enter into different contracts in respect of Chapter 3 members and Chapter 4 members;
 - (iii) terminate any such contract or contracts on any lawful ground; and
 - (iv) in its sole discretion, decline to renew any such contract or contracts upon their expiry.
- (c) However, the Board must enter into a contract of insurance under clause 82(a) in respect of its liability for insurance benefits payable to a MySuper member.

Liability for externally insured benefits

- 83.** Where a member becomes entitled to an insurance benefit for which the Board is indemnified in whole or in part by an external insurer, or which is payable by the insurer for a member:-
- (a) the Board must make a claim against the policy providing the insurance cover;
 - (b) despite anything else in this deed:-
 - (i) subject to clause 83(b)(ii), the benefit payable to or in respect of the member consists of or includes the insurance benefit only to the extent that the Board is entitled to indemnity from an external insurer for the benefit or to the extent that a benefit is payable under the policy for the member; and
 - (ii) the Board is not liable to make payment of the insurance benefit until (and unless) the Board has received that amount from the insurer.

Other provisions about insurance

- 84.** Without limiting clauses 82 and 165, and to avoid any doubt:-
- (a) insurance may be taken out to indemnify the Board for a part or component of a defined benefit payable on death or disability, in which case clause 83 applies to the part or component insured;
 - (b) the terms and conditions of insurance benefits referred to in this Part, other than compulsory insurance for defined benefit members, may vary from member to member, or from class of member to class of member; and
 - (c) to the extent that the terms and conditions upon which the Board is entitled to indemnity from an external insurer, or upon which a benefit is payable for a member, under a policy of insurance referred to in this Part are inconsistent with a

provision of this deed, including a definition provision²⁰, the terms of the policy prevail for any matter relating to that cover, to the extent of the inconsistency, to the intent that the Board is not ever liable to make payment of any insurance benefit for which insurance has been taken out to the extent that it exceeds the Board's right of indemnity from an external insurer for the benefit or the entitlement to payment of the benefit for the member under the policy;

- (d) the effecting of external insurance under this Part does not constitute a contract of insurance between the Board and the member;
- (e) so long as the Board has:-
 - (i) acted in good faith and without negligence; and
 - (ii) in relation to any dispute with an external insurer, also acted reasonably in deciding whether to contest the dispute, having regard to legal and other professional advice received about its prospects for success in any litigation or other dispute resolution process,

the Board incurs no other liability to a member by through or in connection with insurance referred to in this Part, including the failure at law of a policy of insurance or the refusal, whether lawful or otherwise, of an external insurer to indemnify the Board for, or make payment of, any claim under any policy of insurance.

PART 4 - SPLITTING OF INTERESTS UNDER FAMILY LAW

Division 1 – Preliminary

Purpose of Part

85. The purpose of this division is to:-

- (a) expressly recognise the relationship between the trust deed and relevant provisions of Superannuation (Family) Law which provide for the creation of a new interest in the Scheme in order to satisfy a non-member spouse's entitlement under a superannuation agreement, flag lifting agreement or splitting order in respect of an accumulation interest in the Scheme; and
- (b) make provision, as permitted by Superannuation (Family) Law, for the creation of a new interest in the Scheme in order to satisfy a non-member spouse's entitlement under a superannuation agreement, flag lifting agreement or splitting order in respect of a defined benefit interest in the Scheme.

Interpretation

86. In this Part, and in any other provision of this deed which applies to any aspect of a payment split:-

²⁰ For example, if there is a difference between the insurance policy definition of "total and permanent disablement" and the trust deed definition, the policy definition will prevail for any claim against the insurance cover.

- (a) **“Superannuation (Family) Law”** means:-
- (i) Part VIIIIB of the *Family Law Act 1975*;
 - (ii) *Family Law (Superannuation) Regulations 2001*;
 - (iii) Part 7A of the *Superannuation Industry (Supervision) Regulations 1994*;
 - (iv) any other subordinate legislation made for the purposes of Part VIIIIB of the *Family Law Act 1975*,
- all as amended and in force from time to time.
- (b) A word or expression which is defined in Superannuation (Family) Law has the same meaning as in that law.

Division 2 – Interests other than defined benefit interests

Accumulation interests and pensions

- 87.** The Board may exercise any power conferred on it under Superannuation (Family) Law for the creation of a new interest in the Scheme in order to satisfy a non-member spouse’s entitlement under a superannuation agreement, flag lifting agreement or splitting order in respect of:-
- (a) an accumulation interest in the Scheme; or
 - (b) the interest of a member who is being paid a pension under the Scheme.²¹

Special Provision for calculation of temporary disability benefit

- 88.** If:-
- (a) the Board exercises a power referred to in clause 87(a); and
 - (b) the member who held the original interest later is a Chapter 3 member and becomes entitled to a disability pension,

then, for the purpose of calculating the amount of the disability pension, the amount standing to the credit of the member’s accumulation account is taken to be the amount, determined as nearly as practicable, that would have been the amount standing to the credit of the member’s accumulation account if there had been no payment split.

²¹ This clause is merely for information. The Board may exercise such powers in any event under Part 7A of the *Superannuation Industry (Supervision) Regulations 1994*.

Subdivision 3 – Defined benefit interests

Application of subdivision

89. This division applies if the interest of a defined benefit member (apart from the interest represented by the member's accumulation account) is subject to a payment split.

Board may create new interest

90.

- (a) The Board may create a new interest for the non-member spouse in the Scheme.
- (b) Upon creation of that interest, the non-member spouse becomes a member of the Scheme.
- (c) The starting value of the new interest is the amount of non-member spouse's entitlement in respect of the relevant defined benefit interest at the time the new interest is created.
- (d) The new interest is an accumulation interest and the new account is an accumulation account.

Alternate action if spouse already a member

91. In applying clause 90 to a case where the non-member spouse is (independently of anything done under Superannuation (Family) Law) already a member of the Scheme:-

- (a) clause 90(b) does not apply; and
- (b) the Board may credit the amount which would otherwise be the starting value of the new interest to the member's accumulation account.

Rollover etc to other fund

92. Alternately to applying clause 90, and if so requested by the non-member spouse, the Board may transfer or roll over to another superannuation entity an amount, to be held for the benefit of the non-member spouse, equal to the value of the non-member spouse's entitlement in respect of the defined benefit interest at the time the amount is transferred or rolled over.

Adjustment of defined benefit interest

93.

- (a) If the Board:-
 - (i) creates a new interest under clause 90 (including where it acts under clause 91); or
 - (ii) acts under clause 92; or

- (iii) as permitted by Superannuation (Family) Law, pays to the non-member spouse an amount equal to the value of the non-member spouse's entitlement in respect of the defined benefit interest at the time of the payment,²²

then, despite anything else in this deed, any benefit payable to the defined benefit member (other than a disability pension) is the amount:-

- (iv) first calculated under all relevant provisions of this deed as they would apply if this division did not exist; and
 - (v) then reduced by the amount of the member's family law set-off account.
- (b) For clause 93(a), the amount of a defined benefit member's family law set-off account is:-
- (i) the starting value of the new interest created under clause 90; or
 - (ii) the amount transferred, rolled over or paid under clause 92 or clause 93(a)(iii),

(as the case requires), together with compound interest from the date of that creation or payment, to the date of payment of the defined benefit, at the accumulation comparison rate or such other rate as the Board determines.

PART 5 – SPLITTING OF CONTRIBUTIONS AND BENEFITS FOR SPOUSES

Purpose of part

- 94.** The purpose of this part is to authorise the Board to give effect to Division 6.7 (Spouse contributions-splitting amounts) of the *Superannuation Industry (Supervision) Regulations 1994*.

Splitting permitted

95.

- (a) Subject to clause 95(b), a member may make an application (a “**splitting application**”) to the Board under Superannuation Law to roll over or transfer an amount of benefits for the benefit of the member's spouse that does not exceed the amount of the splittable contributions made by or on behalf of the member in:-
 - (i) the last financial year that ended before the application; or
 - (ii) the financial year in which the application is made, where the member's entire benefit is to be rolled over or transferred in that year.
- (b) A splitting application must not be made:-

²² This is permitted if the non-member spouse has satisfied a relevant condition of release in relation to the interest.

- (i) in respect of contributions made by or on behalf of a defined benefit member, other than voluntary contributions or other contributions credited to the member's accumulation account;
 - (ii) in respect of a financial year prior to the year commencing on 1 July 2007;
 - (iii) in respect of a financial year for which a previous splitting application has been made, regardless of the status or outcome of that application;
 - (iv) in respect of an amount which is less than the minimum amount (if any) determined by the Board from time to time for the purposes of this division; or
 - (v) in any other circumstances where the application would be invalid under Superannuation Law.
- (c) A purported application made contrary to clause 95(b) is invalid for the purposes of this deed, and must not be considered or approved by the Board.

Approval and payment

96.

- (a) The Board may approve a valid splitting application where so permitted by Superannuation Law.
- (b) Where a splitting application is approved, the approved amount of benefits:-
 - (i) where the member's entire benefit is to be rolled over or transferred in that year, or otherwise if so directed by the member or if the member's spouse is not admitted as a spouse member, must be rolled over or transferred to another superannuation entity nominated by the member and permitted under Superannuation Law to receive benefits on behalf of the member's spouse;
 - (ii) if not rolled over or transferred and the member's spouse is admitted as a spouse member, must be credited to the spouse member's accumulation account.

PART 6 - BENEFIT ADMINISTRATION PROVISIONS

Provision of information

97.

- (a) A person entitled to the payment of a benefit, or claiming a benefit, from the Scheme must give the Board such information and evidence or perform such action as required by the Board for the purpose of:-
 - (i) verifying the identity of the member; and
 - (ii) assessing the type and level of benefit entitlement.

- (b) The Board may withhold or suspend payment of a benefit until clause 97(a) has been complied with to its reasonable satisfaction.

Adjustments for taxes etc

98. The Board may:-

- (a) deduct from any benefit and remit to the appropriate authority –
- (i) any tax, duty or other governmental impost payable in respect of any benefit payable from the Scheme; and
 - (ii) subject to written authority from the member, any monies for which a member is liable to an employer under the LGAct or this deed which have not been paid to that employer;
- (b) add to any benefit, and pay to the person entitled to the benefit, the amount of any taxation rebate or reduction in tax payable received or enjoyed by the Board specifically in relation to that benefit.

Receipt of benefit

99. Any person to whom a benefit is payable must, if so required by the Board, furnish to the Board a duly completed receipt or duly completed receipt and discharge.

Receipt a full discharge

100. Whether or not a formal receipt and discharge is required under clause 99, the receipt of any person to whom the Board is authorised to make payment is a full and sufficient discharge to the Board and the Board is not bound or concerned to see to the application of such payment.

Payment of benefits

101. Benefits are payable in Australian currency at the principal office for the time being of the Board or otherwise as determined by the Board. The Board may forward benefits to the postal address last notified under clause 102 or to any other place the Board at the written request of the beneficiary approves.

Address for benefits

102. Every person to whom a benefit is or will become payable must notify the Board in writing:-

- (a) of the person's place of residence and full postal address at the time the benefit becomes payable; and
- (b) of any change of residence or postal address prior to full payment of the benefit.

Persons under disability

103. If it appears to the Board that a beneficiary is a minor or is otherwise under any legal disability:-

- (a) where the beneficiary has a legal personal representative, the whole of the relevant benefit must be paid to the legal personal representative;
- (b) if the beneficiary does not have a legal personal representative, the Board may pay or apply the whole or such part of the benefit as the Board thinks fit (by payment of a lump sum or instalments) to the beneficiary.

Earnings accrual payable between due date and date of payment

104.

- (a) A benefit payable in respect of:
 - (i) the death of an accumulation benefit member or a retained benefit member (including a retained benefit member who received payments under a pension or draw-down facility established under clause 120, but excluding a person who is in receipt of a reversionary pension consequent upon the death of a member initially receiving the pension);
 - (ii) the death of a defined benefit member in relation to the member's accumulation account (if any),

must be calculated (with accrued earnings) up to the date on which the Board is notified of the death of the member and, after that date and until the benefit is paid, must be credited or debited with interest at the delayed payment rate.

- (b) Clauses 104(c) and 104(d) apply to:-
 - (i) a defined benefit payable to or in respect of a member; and
 - (ii) the insurance benefit for total and permanent disablement payable to or in respect of an accumulation benefit member.
- (c) A benefit referred to in clause 104(b) is to accumulate with interest at the delayed payment rate during the period from the date on which the benefit becomes payable until the date on which the benefit is paid or otherwise dealt with under this deed²³.
- (d) An accumulation benefit payable to or in respect of a member under this deed (other than a benefit or component referred to in clauses 104(a) or 104(b)) continues to accumulate after the date on which the benefit becomes payable (“**benefit date**”) until the benefit is paid or otherwise dealt with under this deed:-

²³ See Chapter 2, Part 9.

- (i) if the member has chosen one or more investment strategies under Chapter 1, Part 5 - at the investment return rate that applies to the chosen investment strategy or strategies; and
 - (ii) otherwise, at the investment return rate that applies to the default strategy for the member after the benefit date.
- (e)
- (i) In this clause, “**delayed payment rate**” means the rate of interest determined by the Board from time to time for the purposes of this clause to provide reasonable compensation to members for being held out of money to which they had an entitlement to payment from the date on which the benefit became payable;
 - (ii) The Board must from time to time determine a delayed payment rate of general application, but may determine a specific rate (higher or lower than the general rate) for a particular case where, in the opinion of the Board, the special circumstances of that case make it just to do so.

Calculation of compound interest

105. Where it is necessary for any purpose of this deed to calculate compound interest in respect of a principal sum (at a rate made applicable by a provision of this deed), that interest will be calculated as follows:-

- (a) for moneys which were paid to the former LG Super on 1 January 1986 or which are to accrue interest on and from that date, interest will commence to accrue from 1 January 1986;
- (b) for all other monies, interest will commence to accrue from the date upon which the moneys are credited to the relevant account;
- (c) interest accrued must be added to or, in the case of a negative amount, subtracted from, the principal sum on 30 June in each year after the interest has commenced to accrue and the relevant sum or difference thereafter comprises the principal sum for the purpose of calculating future interest;
- (d) any amount payable to or in respect of a member with compound interest prior to 30 June in any year includes the interest on the principal sum thereof, accrued under clause 105(b), not yet added to or subtracted from the principal sum, from the preceding 1 July (or date of commencement of membership) to the date on which the amount is payable.

Death benefits - nomination of beneficiary

106.

- (a) A member may at any time nominate any one or more of their dependants and legal personal representative to whom the member wishes the Board to pay a benefit arising from his or her death, which nomination may:-

- (i) where more than one recipient is nominated, specify how the benefit is to be apportioned between them; and
- (ii) be revoked at any time.
- (b) The notice must be in the form prescribed by the Board, and otherwise comply with form and content requirements prescribed by the Board.
- (c) The Board may prescribe:-
 - (i) form and content requirements for the notice; and
 - (ii) provisions limiting the classes of person who may be nominated; and
 - (iii) provisions requiring a notice to be given a minimum time before a member's death,

differently for Chapter 3 members and Chapter 4 members, and differently in respect of binding and non-binding nominations.
- (d) A nomination ceases to be of effect:-
 - (i) on its revocation by notice in writing given to the Board by the member; or
 - (ii) so far as it relates to the nomination of a dependant who predeceases the member, on the death of that dependant.
- (e) The Board is not bound by a nomination made by a member other than as set out in clause 106(f), and a nomination does not derogate in any way from the powers of the Board under this deed in respect of a death benefit payable in respect of a member.
- (f) If a nomination made by a member complies with the matters prescribed by the Board under clause 106(c) for binding nominations, at the date the nomination is lodged and at the date of death, the Board is bound by the nomination and must pay the benefit to the persons and in the proportions set out in the nomination.
- (g) The preceding paragraphs of this clause 106 do not apply:-
 - (i) to a nomination of a reversionary beneficiary; or
 - (ii) where a valid nomination of a reversionary beneficiary is in force.

Death benefits – rules for determining beneficiaries

107.

- (a) A death benefit must be paid by the Board to one or more of the following:-
 - (i) a dependant of the deceased;
 - (ii) the legal personal representative of the deceased.

- (b) However, if there is no person to whom payment can be made under clause 107(a), payment must be made to some other person to whom payment is authorised by Superannuation Law.
- (c) Where on a member's death:
 - (i) a binding nomination under clause 106(f) is in force, the Board must pay the death benefit in accordance with clause 106(f);
 - (ii) there is a reversionary beneficiary of the deceased, the Board must pay the death benefit to the reversionary beneficiary,otherwise clause 108 applies.
- (d) On the death of a reversionary beneficiary, or other beneficiary of a deceased member while in receipt of a pension benefit, the Board must pay the remaining balance of the benefit as a death benefit of the member in accordance with clause 108 (or as the rules applicable to the pension under clause 126(g) otherwise permit in accordance with Superannuation Law).

Death benefits – rules for non-binding nominations

108. Where on a member's death there is no binding nomination in force and no reversionary beneficiary:

- (a) the Board must consider a nomination of beneficiary made by the deceased under clause 106;
- (b) the benefit may be paid to any one or more of the dependants and legal personal representative of the deceased, or if applicable persons identified under clause 107(b), in such proportions as the Board determines;
- (c) the Board may, prior to making the Board's final determination about payment of a benefit under this clause 108, pay the whole or any part of the amount of the benefit to one or more of the dependants and legal personal representative of the deceased, or if applicable a person identified for the purposes of clause 108, as an advance against a benefit which may ultimately be payable subject to:-
 - (i) the recipient(s) of the payment entering into such agreements or other arrangements as the Board shall reasonably require to secure repayment of any amount by which the advance made to that recipient exceeds the final benefit actually payable to that recipient (as finally determined by the Board under this clause or as finally determined, where relevant, by the Superannuation Complaints Tribunal or a court);
 - (ii) if so required by the Board, provision by the recipient(s) or some other person of such security as the Board reasonably requires in respect of the obligations referred in clause 108(c)(i); and/or
 - (iii) if so required by the Board, provision of an indemnity in favour of the Board from the recipient(s) or some other party acceptable to the Board

indemnifying the Board against any loss suffered by the Scheme in the event that:-

(A) the Board's actual decision on payment of the benefit after investigation of all relevant circumstances; or

(B) a decision of the Superannuation Complaints Tribunal or a court,

requires all or part of the advance payment to the recipient(s) to be paid to some other person, and the Board is unable for any reason to recover the advance payment or part from the recipient(s).

Discretionary powers of the Board about benefits

109.

(a) Subject to Superannuation Law, the Board may in its discretion permit a member to exercise a right or grant a member a privilege or benefit even though:-

(i) a relevant condition prescribed in this deed has not been fulfilled;

(ii) a procedural requirement in this deed has not been complied with; or

(iii) the time prescribed for taking any relevant action may have expired.

(b) The Board may, in the exercise of its powers under clause 109(a), impose such conditions and requirements as it may determine just.

(c) Despite anything contained in this deed, where an application, election or notice under the Scheme has been or is made or given to the Board before commencement, or after the expiration, of a period prescribed by or under this deed and the Board is satisfied that:-

(i) hardship would accrue to a person or dependants if the same were not recognised; and

(ii) in all the circumstances of the case it is desirable that the same should be recognised,

the Board may recognise the application, election or notice, as the case may be, as if it had been made within the prescribed period.

(d) However, clause 109(c) does not apply to:-

(i) any matter relating to documents or information required to be given to the Board under clauses 58, 162, or 163²⁴; or

²⁴ These provisions relate to information relevant to a member's medical condition required in connection with a determination about insurance benefits.

- (ii) a claim made outside the time prescribed by clauses 160, 170 or 263²⁵.
- (e) The Board is not under any obligation to exercise any power explicitly or implicitly given to it in any part of the LGAct or this deed or to seek or act on any information relevant to any such power, whether or not the power is expressed to be absolute.

False information

110.

- (a) Where, after such inquiry as it thinks fit, the Board is satisfied that a member or former member has:-
 - (i) in any notice or document given, sent to or lodged with, the Board by or on behalf of the member for any of the purposes of the Scheme:-
 - (A) failed to fully and honestly disclose any information that he or she was required to give; or
 - (B) furnished false or misleading information; or
 - (C) failed to comply with an obligation of disclosure under clause 58; or
 - (ii) in respect of a medical examination for the purpose of the Scheme:-
 - (A) failed to fully and honestly disclose any information that the member was requested to give to the medical practitioner making the examination; or
 - (B) furnished to such medical practitioner false or misleading information,
- the Board in its discretion may make an order in respect of and/or make changes to:-
- (iii) for a defined benefit member, the member's accrued benefit multiple;
 - (iv) other benefits, rights, privileges and liabilities under the Scheme (other than rights relating to monies required by Superannuation Law to be vested in the member),
- for the purpose of restoring matters to the situation which would have existed had the member fully and/or honestly disclosed the relevant information.
- (b) Any such order takes effect from such day as is specified by the Board which day may precede the date of the determination by the Board.
 - (c) If as a result of an order under this clause, benefits or other monies paid to a member exceed the amount to which the member is or was entitled, the excess:-

²⁵ These clauses provide for an absolute 6 year time limit for certain disability claims, unless external insurance cover is still available despite notification out of time.

- (i) may be deducted by the Board from any moneys standing to the credit of the member in the Scheme; and
- (ii) may be deducted by the Board from any benefit which subsequently becomes payable to or in respect of the member; and
- (iii) may otherwise be recovered by the Board from the member as a liquidated debt.

Special arrangements for part-time employees

111.

- (a) To the extent not specifically dealt with in Chapter 3 or Chapter 4, the Board is to determine special terms and conditions in respect of benefits relating to any period when a member is employed in other than a full-time capacity.
- (b) The terms and conditions must achieve the result that, as nearly as is practicable, the benefits payable bear the same proportion to the benefits which would have been payable to the member if he or she was in full time employment as the contributions paid by or in respect of the member bear to the contributions which would have been paid if the member was in full time employment.

Benefits not to be assigned or charged

112.

- (a) The rights of members and beneficiaries to benefits under this deed are strictly personal and no such benefit is capable of assignment (and the Board must not recognise any such assignment), whether absolute or conditional.
- (b) The Board must not create, recognise or give effect to any lien over benefits except in the circumstances permitted by Superannuation Law.

Minimum benefits

113. Despite anything in this deed, the minimum benefit requirements of Superannuation Law apply to benefits payable from the Scheme and the provisions of this deed must be construed accordingly.

Recovery of surcharge tax

114.

- (a) In this clause, “**surcharge tax**” means tax imposed and payable in respect of a member under the *Superannuation Contributions Tax (Imposition) Act 1997* and the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*.
- (b) The Board may determine the basis upon which the Scheme will be reimbursed in respect of the whole or part of surcharge tax paid by the Scheme in respect of a member.

- (c) Without limiting clause 114(b), the terms and conditions may include or involve:-
- (d) charging of interest on amounts paid before reimbursement occurs (from the time of payment until the time of reimbursement); and
- (e) making a reduction in, or a deduction from, a benefit otherwise payable equal to the amount to be reimbursed to the Scheme, at the time of payment of the benefit.

Preserved benefits

115.

- (a) Benefits must be preserved to the extent required by Superannuation Law or this deed and the provisions of this deed about payment of benefits must be construed accordingly.
- (b) Benefits so preserved must not be paid out of the Scheme until the release provisions of Superannuation Law and/or this deed are satisfied.

Non-preserved benefits - restrictions

116.

- (a) The amounts of a member's restricted and unrestricted non-preserved benefits in the Scheme must be determined in accordance with Superannuation Law.
- (b) Where unrestricted non-preserved benefits are transferred into the Scheme from another superannuation entity:-
 - (i) the benefits remain unrestricted non-preserved benefits in the Scheme;
 - (ii) the Board may nevertheless determine reasonable terms and conditions in relation to dealings with those benefits including, without limitation, the imposition of a fee for withdrawals.

Example for (ii): The Board may determine that cashing of unrestricted non-preserved benefits will be subject to payment of a fee calculated as a percentage of the amount being withdrawn.

PART 7 - BENEFIT PAYMENT PROVISIONS OF GENERAL APPLICATION

Benefits for non-employee

117.

- (a) The provisions prescribing benefits in Chapters 3 and 4 do not apply to a benefit payable to or in respect of a person who is a member of the Scheme only because of:-
 - (i) the making of spouse contributions for the benefit of the person;

- (ii) the creation of an interest in the Scheme for the person because the person received an entitlement to a payment split under Superannuation (Family) Law;
 - (iii) the transfer of contributions from a member to the person under a contribution split; and/or
 - (iv) the person making application and being accepted for membership of the Scheme where Chapter 3 or 4 does not apply to them.
- (b) The benefit for a member referred to in clause **Error! Reference source not found.** may be:-
- (i) paid to or in respect of the member when the relevant release conditions under Superannuation Law are satisfied; or
 - (ii) paid to another superannuation entity in accordance with clause 120.
- (c) The benefit for a member referred to in clause **Error! Reference source not found.** is:-
- (i) the amount standing to the credit of the member in the member's accumulation account at the date of payment; and
 - (ii) any insurance benefit payable as a consequence of the member taking out insurance, if any, available to the member.

Other benefits may be provided under Superannuation Law

118.

- (a) Despite any other provision, a benefit may be paid to a member who is not otherwise entitled to be paid a benefit under a provision of this deed if:-
- (i) the Board is required to pay the benefit in order to comply with Superannuation Law; or
 - (ii)
 - (A) payment of the benefit is authorised by Superannuation Law; and
 - (B) the Board has resolved to pay the benefit.
- (b) A resolution under clause 118(a)(ii)(B) may be made in respect of a benefit payment to an individual member, or a class or type of benefit payment.
- (c) Subject to Superannuation Law, for an accumulation benefit member, the amount of a benefit paid under clause 118(a) must be debited to the member's accumulation account or other relevant account to which monies are credited for the member.
- (d) Subject to Superannuation Law, for a defined benefit member:-

- (i) the amount of a benefit paid under clause 118(a) must be debited in accordance with clause 118(c) to the extent of the balance of all accumulation accounts to which monies are credited for the member;
- (ii) if the balance of that account or those accounts is less than the amount paid:-
 - (A) the Board must calculate the benefit to which the member would have been entitled under the relevant clause;
 - (B) the amount of that benefit must be credited to the member's accumulation account;
 - (C) so much of the amount of a benefit paid under clause 118(a) as was not debited in accordance with clause 118(c) must then be debited to the member's accumulation account; and
 - (D) the member ceases to be a defined benefit member, and becomes an accumulation benefit member, on the date the benefit under clause 118(a) is first paid to the member.
- (e) In clause 118(d)(ii)(A), **“relevant clause”** means the provision of Chapter 3 or Chapter 4²⁶ under which the member's defined benefit would be calculated:-
 - (i) for a member who has not reached the age at which a retirement benefit may be paid on the date the benefit is first paid, as though the member had ceased employment on that date;
 - (ii) for a member who has reached the age at which a retirement benefit may be paid on the date the benefit is first paid, as though the member had retired on that date.
- (f) To avoid doubt, **“amount of a benefit paid under clause 118(a)”** includes, in the case of an allocated pension or similar benefit, the total amount required to establish the pension or similar facility²⁷.

PART 8 - PORTABILITY AND SIMILAR PROVISIONS

Acceptance of benefits from other schemes

119.

- (a) The Board may, subject to such terms and conditions as it determines, accept a benefit in relation to a member from another superannuation entity.
- (b) An amount accepted by the Board under clause 119(a):-

²⁶ See clause 126.

²⁷ Explanatory Note: Thus, if the total amount required to “purchase” an account based pension or similar benefit available under this clause for a defined benefit member exceeds that member's accumulation account balance, clause 118(d) will apply, even though initial payments of the pension would not, in themselves, exhaust the member's accumulation account balance.

- (i) is vested in the member.
- (ii) must be credited to the member's accumulation account.

Payment of benefits or interests in Scheme to other schemes

120.

- (a) Subject to Superannuation Law:-
 - (i) on cessation of employment with any LG employer, a member's preserved and/or non-preserved benefits can be paid to another superannuation entity, if so requested by the member.
 - (ii) preserved and/or non-preserved benefits which a member has elected to retain in the Scheme on cessation of employment with any LG employer may be paid to another superannuation entity;
 - (iii) where permitted or required under any other law, a member's interest in the Scheme (not being a benefit as such, and as determined by or under that other law or by agreement between the Board and the trustee of another superannuation entity) may be paid to another superannuation entity,in any case subject to such terms and conditions as the Board determines.
- (b) However, except where otherwise expressly permitted by Superannuation Law, no part of the interest held by a MySuper member can be paid or transferred to another superannuation entity unless the member consents in writing to the payment or transfer not more than 30 days before it occurs.

Payment to eligible rollover funds

121.

- (a) The Board:-
 - (i) must where required by Superannuation Law; and
 - (ii) may when otherwise permitted by Superannuation Law, pay benefits payable (but not paid) in respect of a member to an eligible rollover fund within the meaning of Superannuation Law.
- (b) However, except where otherwise expressly permitted or required by Superannuation Law, no part of the interest held by a MySuper member can be paid or transferred to such a fund unless the member consents in writing to the payment or transfer not more than 30 days before it occurs.

PART 9 - PRESERVATION AND RETENTION

Retained benefit accounts

122. All moneys referred to in this Part must be credited to a retained benefit account in the name of the member.

Benefits required to be retained

123.

- (a) Where a benefit:-
 - (i) becomes payable to a member under Chapter 3 or Chapter 4; and
 - (ii) is nevertheless required by Superannuation Law to be preserved,
and the relevant member:-
 - (iii) does not request that the benefit be rolled over to another superannuation entity by the notified date; or
 - (iv) is or becomes a “lost member” as defined under Superannuation Law,
the benefit must be preserved in the Scheme as required by Superannuation Law.
- (b) In this clause, the “**notified date**” is the date stated in a written notice from the Board to the member which:-
 - (i) tells the member that a benefit has become payable to the member under Chapter 3 or Chapter 4 (but that the benefit is required to be preserved, and has been placed in a retained benefit account); and
 - (ii) requests instructions from the member about dealing with the benefit; and
 - (iii) tells the member that, in the absence of other instructions by the stated date, the amount of the benefit will remain in a retained benefit account in the name of the member.

Non-preserved benefits

124.

- (a) Where a benefit:-
 - (i) becomes payable to a member under Chapter 3 or Chapter 4; and
 - (ii) is not required by Superannuation Law or this deed to be preserved; and
 - (iii) is not otherwise subject to any restriction on payment to the member,
and where:-

- (iv) the member has not provided any instructions regarding payment of the benefit by the notified date; or
- (v) the member is or becomes a “lost member” as defined under Superannuation Law; or
- (vi) the amount of the benefit is, by virtue of a determination made by the Board under clause 126(b), less than the minimum amount which the Board is prepared to accept for retention in the Scheme under a draw down or allocated pension facility,

the benefit must be retained as a non-preserved benefit in the Scheme.

- (b) In this clause, the “**notified date**” is the date stated in a written notice from the Board to the member which:-
 - (i) tells the member that a benefit has become payable to the member under Chapter 3 or Chapter 4; and
 - (ii) requests instructions from the member as to the payment of, or other dealing with, the benefit; and
 - (iii) tells the member that, in the absence of other instructions by the stated date, the amount of the benefit will be credited to a retained benefit account in the name of the member.

Deferred benefits for certain Chapter 3 members

125.

- (a) Where a Chapter 3 member has made an election under Article 8(6A)(d)(ii) of the Articles as in force immediately prior to 1 July 1995, the amount of the benefit becomes preserved by force of this deed, and is a deferred benefit under the Scheme with effect from the date on which the benefit was payable.
- (b) An amount preserved under clause 125(a) is payable to or in respect of the member when the member satisfies a condition of release for preserved benefits under Superannuation Law.

Draw-down and pension facilities

126.

- (a) Where a benefit:-
 - (i) becomes payable to a member under Chapter 3 or Chapter 4, or under Part 7 of Chapter 2; and
 - (ii) is not required by Superannuation Law or this deed to be preserved (or, having previously been required to be preserved, is no longer required to be preserved); and

- (iii) is not otherwise subject to any restriction on payment to the member,
the member may elect to leave all or part of the benefit within the Scheme under a draw down facility or pension facility provided by the Board.
- (b) A member may also elect to establish a draw down or pension facility in any other circumstances where Superannuation Law and this deed permit such a facility to be established.
- (c) For avoidance of doubt, where a member retires between ages 55 and 60 but has not retired within the meaning of a relevant provision of Superannuation Law, and that member makes an election under clause 126(a):-
- (i) so much of the benefit payable to that member as is not required by Superannuation Law to be preserved may be made subject to an election under clause 126(a); and
- (ii) the benefit must otherwise be preserved as required by Superannuation Law.
- (d) However:-
- (i) a MySuper member may only make an election under clause 126(a) if the member also chooses an investment strategy (which may be a positive choice to remain in the default investment strategy for MySuper members) and form of account within the Scheme appropriate to the pension prior to or at the same time as the member makes the election²⁸; and
- (ii) if, for a MySuper member, only a part of the benefit represented by the member's account balance is to be applied to fund the pension, the election in clause 126(d)(i) need be made only in respect of that part²⁹;
- (iii) generally, the Board may from time to time determine terms and conditions for the making of an election under clause 126(a) such as, for example and without limitation, requirements for the minimum amount which must be left within the Scheme pursuant to such an election.
- (e) The Board may offer a member who elects to receive a pension the option of nominating a reversionary beneficiary on commencement of the pension.
- (f) The benefit payable to a reversionary beneficiary, on the death of the member, is a pension of the same type as the pension payable to the member or such other type of pension as the Board determines and Superannuation Law permits.
- (g) The Board may from time to time make rules for the operation of draw down and pension facilities including, without limitation, provisions for terms and conditions

²⁸ Having made a positive choice, the member will cease to be a MySuper member

²⁹ If SGC employer contributions continue to be made for the member, and the member makes no choice in respect of the balance of his or her account, he or she will still be a MySuper member, but one with an additional product or benefit under the Scheme.

governing withdrawal of amounts from a draw down facility, such as requirements for the minimum amount of partial withdrawals.

- (h) A benefit (or part of a benefit) is payable as a pension where the person entitled to the benefit requests payment of the benefit (or part) as a pension and the Board agrees to payment of the benefit (or part) as a pension.
- (i) The pension rules may contain different provisions for Chapter 3 members and Chapter 4 members.
- (j) In this clause, “**pension**” means an account based pension, allocated pension, market linked pension and any other form of pension which may lawfully be provided or paid under Superannuation Law.

Investment earnings on retained benefit accounts

127.

- (a) A retained benefit account must be credited or debited with the investment earning rate or rates applicable to the member determined under clause 68.
- (b) The relevant rate applied to pension accounts may be adjusted by the Board to reflect the tax treatment of pension income in accordance with Superannuation Law.

Contributions after ceasing employment

128.

- (a) The Board may accept contributions in respect of a member who has ceased employment with any employer as permitted by Superannuation Law.
- (b) However, the Board may from time to time determine terms and conditions for the receipt of such contributions, such as, for example and without limitation, requirements for the minimum amount of contributions which will be accepted.

Fees on retained benefit accounts

129.

- (a) The Board may determine separate fees for amounts referred to in clauses 123 to 126 having regard to the costs or additional costs involved in maintaining and operating the retained benefit account for those amounts.
- (b) The Board may fix fees under clause 129(a) on such basis as it thinks fit and may, without limitation:-
 - (i) fix such fees as a proportion of the balance of the retained benefit account or as a fixed amount for the account; and
 - (ii) fix different fees for retained benefit accounts holding the different types of amount referred to clauses 123 to 126.

- (c) However, the Board must not determine a fee contrary to the requirements of Superannuation Law and, to the extent that any fee would otherwise contravene the requirements of Superannuation Law, the fee actually charged to the relevant account must not exceed the amount (if any) which may be charged to that account in accordance with Superannuation Law.

Insurance for retained benefit accounts

130. The Board may from time to time determine:-

- (a) the type or types and level or levels of default insurance cover, if any, which apply for members who have a retained benefit account unless they opt to reduce or cancel their cover³⁰;
- (b) the types and levels of voluntary insurance cover, if any, available to members who have a retained benefit account; and
- (c) terms and conditions for:-
 - (i) obtaining cover other than default insurance cover; or
 - (ii) exercising an option to reduce or cancel cover.

Payment of retained benefits

131. Amounts standing to the credit of member in a retained benefit account must:-

- (a) where relevant, be paid to the member in accordance with the mandatory age payment limits specified by Superannuation Law;
- (b) not be paid in contravention of any requirement of Superannuation Law; and
- (c) otherwise be paid to the member on demand, subject to any restrictions on payment under the terms of a pension being paid from the retained benefit account.

³⁰ The levels of cover for defined benefit Member are prescribed in Part 3, Division 2 of this deed.

CHAPTER 3 - CONTRIBUTION AND BENEFIT PROVISIONS FOR LG SUPER MEMBERS

PART 1 - APPLICATION

Application

132. This Chapter applies only to:-

- (a) members who were members of LG Super immediately prior to the merger with City Super; and
- (b) persons who have become members of the Scheme since the merger, other than persons referred to in clause 176(c)³¹,

other than retained benefit members or non-employee members.

Definition

133. The members to whom this Chapter applies are referred to in other Chapters of this deed as “**Chapter 3 members**”.

PART 2 - CONTRIBUTIONS AND ACCOUNTS

Division 1 - Contributions

Required contributions

134.

- (a) Employers must make and remit to the Board contributions on behalf of each permanent employee who is a defined benefit member at the following rates:-
 - (i) if the employee is a special permanent employee—16% of the employee’s salary;
 - (ii) if the employee is a standard permanent employee—18% of the employee’s salary.
- (b) The contributions include or form part of contributions required to be paid:-
 - (i) to the Scheme for the member under an industrial agreement or award; and
 - (ii) in order to avoid liability for the superannuation guarantee charge.
- (c) The contributions also include the member’s own contribution required by the LGAct, and which the member is liable to reimburse the employer under the LGAct.

³¹ Clause 176(c) applies Chapter 4 to persons who become new members of the merged Scheme, but who would have been eligible to join City Super if the merger had not occurred.

- (d) Employers must make and remit to the Board contributions on behalf of each permanent employee who is an accumulation benefit member at the rate required by the LGAct. Each permanent employee who is an accumulation benefit member must also make contributions at the rate required by the LGAct.
- (e) Contributions must be remitted to the Board in accordance with the LGAct and this deed and any procedures (not inconsistent with the LGAct and this deed) determined by the Board.
- (f) The Board may alter the contributions payable for a permanent employee who is a defined benefit member (but the alteration may only be made by alteration to this deed).
- (g) Also, an alteration referred to in clause 134(f) may only be made:-
 - (i) for the purpose of ensuring that the yearly contributions paid by employers for defined benefit members are sufficient to (but no more than is reasonably necessary to³²) support the defined benefits to which those members are or may become entitled, including provision of a reasonable reserve in the LG Defined Benefits Fund to provide for fluctuations in investment performance; and
 - (ii) in accordance with the advice and recommendations of the actuary received pursuant to instructions by the Board to the actuary to provide advice about appropriate ways of achieving that purpose, including ways, if any, in which the purpose might be achieved without altering contributions by employers.

Requirements for salary package with no member contributions

135.

- (a) This clause applies where, as part of the terms of employment between an employer and a member relating to remuneration, the employer and the member have agreed that the member is not required to reimburse the employer under the LGAct.
- (b) Where this clause applies:-
 - (i) there is a **“salary sacrifice arrangement”**; and
 - (ii) clauses 135(c)(i) and 135(d) to 135(g) apply to all members; and
 - (iii) clauses 135(c)(ii), 135(c)(iii) and 135(h) to 135(j) apply to defined benefit members (only).
- (c) Where this clause applies, the employer must advise the Board in writing:-

³² The power to vary contributions for defined benefit members might, in appropriate circumstances, be exercised to reduce those contributions, as well as to increase them. For example, if adverse investment returns which resulted in an increase in an earlier year had turned to become strongly positive, a contribution reduction may be appropriate to “refund” some or all of the previous increase to employers.

- (i) that this clause applies; and
 - (ii) for a defined benefit member, of the amount of the member's salary for the purposes of 135(a); and
 - (iii) for a defined benefit member, that it agrees to pay the additional contribution mentioned in either of clauses 135(h) and 135(i).
- (d) The employer must also advise the Board in writing of the date of commencement and, where applicable, the date of termination, of each salary sacrifice arrangement.
- (e) If an employer complies with clause 135(c) and, where relevant, pays the additional contribution under either of clauses 135(h) and 135(i), the Board will recognise the salary sacrifice arrangement (from the date notified under clause 135(d)) and:-
- (i) the salary notified under clause 135(c)(ii) will be the member's salary for the purpose of calculating benefits; and
 - (ii) the whole of the contribution received in respect of the member must be treated as an employer contribution (with no part being treated as a member contribution), for the purposes of Superannuation Law.
- (f) If an employer does not comply with clause 135(c), the Board will not recognise the salary sacrifice arrangement³³.
- (g) The Board will cease to recognise a salary sacrifice arrangement with effect from a date notified under clause 135(d).
- (h) For a defined benefit member to whom this clause applies, but subject to 135(i), the employer must pay an additional contribution to the Board calculated as follows:-
- (i) for a standard permanent employee, 1.05882% of the member's salary; and
 - (ii) for a special permanent employee, 0.88235% of the member's salary³⁴.
- (i) Despite clause 135(h), if the income tax payable by the Board in respect of employer contributions made in respect of any defined benefit member is greater than 15%, the additional contribution payable in respect of that member must be increased in proportion to the additional tax, so that the total contribution less income tax is the same as if the income tax were 15% (and the additional contribution were that payable under clause 135(h)).

³³ This would mean that 6% of salary would be a member's own contribution and may subject the employer to fringe benefits tax on that amount (if not recovered out of the member's taxable salary) on the basis that the employer has waived a debt due to it from the member.

³⁴ Member contributions deducted from after-tax salary are treated as a member's own contributions for the purposes of Superannuation Law and are not subject to tax in the hands of the Board. As there are no member contributions under a salary sacrifice arrangement to which this clause applies, all contributions are employer contributions and are subject to 15% tax. The additional payment reimburses the Board for that tax so that the net amount received by the Board in respect of the member is the same as would occur if there were member contributions being paid.

- (j) In addition, if by reason of an employer failing to comply with clause 135(c) the Board is assessed to any tax, additional tax or penalty which:-
- (i) would have been offset by the additional contribution under clauses 135(h) and 135(i); or
 - (ii) would not have been assessed,
- if the employer had complied with clause 135(c), the employer must indemnify the Board in respect of the tax or penalty.

Division 2 - Other contribution provisions

Contributions during disablement

136. No contributions are payable by the employer in respect of any period during which a member:

- (a) is receiving a disability pension; and
- (b) is not receiving any salary from the employer³⁵.

Contributions during periods of absence or between employment – accumulation members

137.

- (a) If an accumulation benefit member employed by an employer (other than a member receiving a disability pension) is absent due to illness or injury, and is receiving payments under the *Workers Compensation and Rehabilitation Act 2003* and:-
 - (i) the member notifies the employer that the member wishes contributions to continue to be paid to the Scheme by the employer as though the member were not absent; and
 - (ii) the member agrees in writing with the employer to pay the employer the amounts which would be payable to the employer under the LGAct if the member were not absent,

then contributions must continue to be paid to the Scheme by the employer as though the member were being paid by the employer during the period of absence.

- (b) To the extent that a member referred to in clause 137(a) is an insured member, the member's entitlement to insurance benefits as it existed immediately prior to the absence continues.
- (c) However, where the Board has taken out external insurance in respect of its liability for, or the provision of, insurance benefits referred to in clause 137(b), that clause applies only to the extent, if any, to which the Board has indemnity from the

³⁵ If a member is receiving a partial disability pension but remains employed (eg in reduced or lighter duties), contributions remain payable by the employer in respect of the actual salary being paid.

external insurer, or is entitled to payment from the insurer, in respect of a claim by the member.

- (d) An employer is not otherwise required to make contributions to the Scheme for an accumulation benefit member for any period during which the employer does not pay salary to the member³⁶.

Contributions during periods of absence or between employment - defined benefit members

138.

- (a) This clause applies:-

(i) only to defined benefit members³⁷; and

(ii) where a member (other than a member receiving a disability pension):-

(A) is absent without pay for any reason (including by reason of illness or injury); or

(B) is absent on parental leave that is wholly or partly paid leave; or

(C) has terminated employment with an employer in circumstances where the termination does not constitute cessation of employment,

the time during which any such circumstance exists being a **“period of absence”**.

- (b) If:-

(i) the period of absence does not exceed 4 weeks; and

(ii) where relevant, the employer has granted leave of absence,

the period of absence forms part of the member’s superannuation scheme membership for the purposes of calculating the member’s accrued benefit multiple, even though no contributions have been paid to the Scheme by an employer for that period.

- (c) Where clause 138(b) does not apply and:-

(i) a member is absent due to illness or injury and is receiving payments under the *Workers Compensation and Rehabilitation Act 2003*;

³⁶ See definition of “salary” in clause 171 which excludes payment for parental leave, meaning that no contributions are payable for a period of paid parental leave.

³⁷ This clause deals with the continuity, or otherwise, of superannuation scheme membership during breaks in employment when no contributions are paid. The period of superannuation scheme membership is not relevant to determination of accumulation benefits.

- (ii) the member notifies the employer that the member wishes contributions to continue to be paid to the Scheme by the employer as though the member were not absent; and
- (iii) the member agrees in writing with the employer to pay the employer the amounts which would be payable to the employer under the LGAct if the member were not absent,

then:-

- (iv) contributions must continue to be paid to the Scheme by the employer as though the member were being paid by the employer during the period of absence; and
 - (v) the period of absence forms part of the member's superannuation scheme membership for the purposes of calculating the member's accrued benefit multiple.
- (d) in all other cases where this clause applies:-
- (i) no employer is required to make contributions to the Scheme for the period of absence; and
 - (ii) the period of absence:-
 - (A) does not form part of the member's superannuation scheme membership for the purposes of calculating the member's accrued benefit multiple; but
 - (B) does not otherwise interrupt the continuity of the member's superannuation scheme membership over the periods before and after the period of absence; and
 - (iii) clauses 139 and 140 apply in relation to maintenance or suspension of the member's insurance benefits.
- (e) The employer must notify the Board of the dates of beginning and end of an absence to which this clause applies.

Maintenance of insurance benefits

139.

- (a) This clause applies where an insured member (other than a member receiving a disability pension):-
 - (i) is absent without pay for any reason (including by reason of illness or injury);
or
 - (ii) is absent on parental leave that is wholly or partly paid leave; or

- (iii) has terminated employment with an employer in circumstances where the termination does not constitute cessation of employment.
- (b) However, this clause:-
 - (i) does not apply if clause 137(a) or clause 138(c) applies; and
 - (ii) applies only to the extent that, the Board, by paying or continuing to pay a premium to an external insurer, has or continues to have indemnity from the external insurer, or the right to payment from the insurer, for any relevant claim for insurance benefits.
- (c) The member may notify the Board in writing that he or she does not wish to maintain an entitlement to insurance benefits, in which case clause 140 applies;
- (d) If the member does not give notice under 139(c), and until any such notice is given:-
 - (i) for an accumulation benefit member:-
 - (A) the Board must continue to deduct the member's insurance premium under clause 81 for each year of the absence or broken period, and pro rata for periods shorter than 1 year; and
 - (B) the member continues to be entitled to insurance benefits in respect of death or disability which occurs during the period of absence; and
 - (ii) for a defined benefit member:-
 - (A) the member is liable to pay to the Board the prescribed amount for each year of the absence or broken period, and pro rata for periods shorter than 1 year;
 - (B) the prescribed amount:-
 - (1) may be deducted from the member's accumulation account;
 - (2) if not so deducted³⁸ will be debited to a separate account in the member's name;
 - (3) if so debited, bears interest (from the date debited) at the relevant rate which would apply to the member's accumulation account if it contained a positive balance;
 - (C) the member continues to be entitled to insurance benefits in respect of death or disability which occurs during the period of absence;³⁹
 - (D) the amount owing to the Board under clause 139(d)(ii)(A), if not previously paid to the Board, be deducted from any benefit at the time

³⁸Because there are no or insufficient funds in the accumulation account

³⁹Though the Member's superannuation scheme membership, and hence accrued multiple, will be reduced because of clause 138(d)(ii).

of payment of the benefit to the member, or when the member otherwise becomes entitled to the benefit.

- (e) In clause 139(d)(ii)(A), “**prescribed amount**” means an amount determined by the Board (but not exceeding two percent (2%) of the member’s annual salary).

Suspension of insurance benefits

140. Where notice is given under clause 139(c):-

- (a) clause 139(d) ceases to apply from the day specified in the notice or, if no date is specified, from the day on which the notice is received by the Board;
- (b) if the member is an accumulation benefit member:-
- (i) no disability pension is payable in respect of any event occurring during the period of absence; and
- (ii) if the member dies or becomes totally and permanently disabled during the period of absence, the benefit payable in respect of the death or disability does not include the member’s insurance component for death or TPD;
- (c) if the member is a defined benefit member:-
- (i) no disability pension is payable in respect of any event occurring during the period of absence; and
- (ii) if the member dies or becomes totally and permanently disabled during the period of absence, the benefit payable in respect death or disability is only the member’s accrued retirement benefit calculated, for a member under the insured age, after multiplying the member’s accrued benefit multiple by the age discount factor.

Advice of contributions and payment of contributions

141.

- (a) Each employer must advise the Board, in a form acceptable to it, of the salary of each permanent employee as follows:-
- (i) for a defined benefit member, as at 1 January and 1 July in each year; and
- (ii) for an accumulation benefit member, as at 1 July in each year,
- by not later than 31 January or 31 July in each year, as the case requires, whether or not there has been any change in salary since the last notification.
- (b) When the salary of a member changes:-
- (i) for an accumulation benefit member, the employer may notify the Board of the change before the next notification is required under clause 135(a); and

- (ii) for a defined benefit member, the employer must notify the Board of the change within 30 days after the end of the pay period in which the new salary first applies (unless the changed salary is included in a notification under clause 135(a) given within 30 days after the end of that pay period).
- (c) In advising of salary under clauses 141(a) and 141(b) for a defined benefit member, an employer must not advise a change in salary, as compared to the salary advised for the preceding period, to the extent that the change would be a result of :-
 - (i) the inclusion in a remuneration package of entitlements (such as, without limitation, an allowance other than a permanent allowance) that were not previously part of the member's salary for the purposes of this deed, but were nevertheless previously enjoyed by the member, so that there has been no substantial change in the member's overall salary and entitlements; or
 - (ii) a decision by the member to substitute salary for a portion of a remuneration package that was not previously part of the member's salary for the purposes of this deed; or
 - (iii) a decision by the member to substitute a non-salary entitlement for a portion of the value that was previously the member's salary for the purposes of this deed,and any such change must be disregarded for all purposes of this deed⁴⁰.
- (d) If an employer contravenes clause 141(c):-
 - (i) if the contravention is discovered before payment of any benefit to the member (other than a temporary disablement benefit), the Board may make all adjustments which are necessary to place the member in the position that he or she would have been in if the contravention had not occurred, and:-
 - (A) any amount overpaid by the employer must be refunded to the employer;⁴¹ and
 - (B) any amount underpaid by the employer must be paid by the employer to the Board on demand and, if not so paid, is recoverable pursuant to the LGAct as an unpaid contribution,
 - (ii) if the contravention is discovered after payment of a benefit to the member (other than a temporary disablement benefit), the employer must:-
 - (A) pay to the Board on demand the amount of any benefit overpaid to the member by reason of the contravention;

⁴⁰ The purpose of clause 141(c) is to prevent attempts to artificially increase defined benefits, particularly close to retirement, by changing a mix of remuneration and related entitlements for that purpose, without in fact increasing what the employer and employee regard as the overall package of remuneration.

⁴¹ To the extent that the overpaid amount was recovered from the employee under s 220A of the LGAct, the Employer will be under a general law obligation to refund the relevant amount to the employee

- (B) pay to the member the amount of any benefit underpaid by the Board to the member by reason of the contravention;
 - (C) indemnify the Board against any claim made against it by the member by through or in connection with the contravention.
- (e) The contributions required by the LGAct or this deed to be paid to the Board in respect of each permanent employee:-
- (i) must be calculated by the employer, pro rata for each pay period, based on the salary applying in that pay period; and
 - (ii) must be remitted to the Board, pro rata for each pay period, within 14 days after the end of each pay period for the employee.
- (f) The employer must remit any other contributions payable by the employer, pro rata for each pay period, within 14 days after the end of each pay period for the employee.
- (g) In respect of a non-permanent employee, contributions must be calculated by the employer for each pay period in accordance with Superannuation Law and remitted to the Board for each pay period within:-
- (i) 14 days after the end of each pay period for the employee; or
 - (ii) such longer period as is agreed by the Board.

PART 3 - BENEFITS AND PAYMENTS

Division 1 - Accumulation benefit members

Ceasing employment

142.

- (a) The Board must pay⁴² a benefit to or in respect of an accumulation benefit member who ceases employment (including by reason of death).
- (b) The benefit under this clause is equal to the amount standing to the credit of the member in the member's accumulation account at the cessation date.
- (c) Where an insured member ceases employment before reaching the insured age due to total and permanent disablement, terminal illness or death, an additional benefit is also payable under clause 143, 144 or 145.

Total and permanent disablement

143.

⁴²The extent to which a benefit is actually able to be cashed by the Member will depend upon the reason for ceasing employment and any relevant preservation requirements under Superannuation Law.

- (a) The Board must pay an additional benefit to an accumulation benefit member who:-
 - (i) is an insured member with cover for TPD; and
 - (ii) ceases employment before the insured age due to total and permanent disablement.
- (b) The additional benefit is the amount of the member's insurance component for TPD⁴³.
- (c) However, this clause is subject to other clauses in this deed prescribing requirements for or limits on the payment of the benefit.

Death of member

144.

- (a) The Board must pay an additional benefit in respect of an accumulation benefit member who:-
 - (i) is an insured member with cover for death; and
 - (ii) dies before reaching the insured age.
- (b) The additional benefit is the amount of the member's insurance component for death.
- (c) However, this clause is subject to other clauses in this deed prescribing requirements for or limits on the payment of the benefit.

Terminal illness

145.

- (a) The Board must pay an additional benefit in respect of an accumulation benefit member who:-
 - (i) is an insured member with cover for terminal illness; and
 - (ii) is found to be suffering from a terminal medical condition before reaching the insured age.
- (b) The additional benefit is the amount of the member's insurance component for terminal illness.
- (c) However, this clause is subject to other clauses in this deed prescribing requirements for or limits on the payment of the benefit.

⁴³ "*insurance component for TPD*" is defined in clause 275, as are the other "*insurance component*" terms in following clauses.

Pension on total and temporary disablement

146.

- (a) The Board must pay a disability pension to an insured member with cover for TTD who:-
 - (i) has not attained the insured age; and
 - (ii) is suffering total and temporary disablement.
- (b) The amount of the disability pension is the member's insurance amount for TTD.
- (c) However, this clause is subject to other clauses in this deed prescribing requirements for or limits on the payment of the benefit.

Division 2 - Defined benefit members

Age retirement between ages 55 and 70 - defined benefit members

147.

- (a) The Board must pay a benefit to a defined benefit member who retires between ages 55 and 70.
- (b) The benefit under this clause consists of two components being:-
 - (i) a defined benefit component being the amount of the member's accrued retirement benefit at the cessation date; and
 - (ii) an accumulation component being the amount, if any, standing to the credit of the member in the member's accumulation account at the cessation date.

Age retirement after age 70 – defined benefit members

148.

- (a) The Board must pay a benefit to a defined benefit member who ceases employment after age 70.
- (b) When a defined benefit member reaches age 70, but has not ceased employment, the Board must calculate the amount of the lump sum benefit which would have been payable to the member had he or she retired at age 70.
- (c) The amount calculated under clause 148(b) must be placed in the member's accumulation account.
- (d) The benefit under this clause is the amount standing to the credit of the member in the member's accumulation account at the cessation date.

Total and permanent disablement

149.

- (a) The Board must pay a benefit to a defined benefit member who ceases employment by reason of total and permanent disablement.
- (b) The benefit under this clause for a member who has reached the insured age on the date of ceasing employment is the amount that would have been payable under clauses 147 or 148 had the member retired on the date of ceasing employment.
- (c) The benefit under this clause for a member who has not reached the insured age on the date of ceasing employment consists of two components being:-
 - (i) a defined benefit component calculated under 149(d); and
 - (ii) an accumulation component being the amount, if any, standing to the credit of the member in the member's accumulation account.
- (d) The defined benefit component is:-
 - (i) the member's accrued retirement benefit on the date of ceasing employment, calculated on the basis that the member's projected final average salary is taken to be the member's final average salary for the purpose of the calculation;

PLUS
 - (ii) the product of:-
 - (A) the member's projected benefit multiple (determined as stated in clause 149(e)); multiplied by
 - (B) the member's projected final average salary.
- (e) In clause 149(d), the member's "**projected benefit multiple**" is a multiple, calculated on the same percentage basis as applies to calculation of the member's superannuation scheme multiple under clause 174, but only for the period from the day after the date of ceasing employment to the date the member would have attained the insured age (both dates inclusive).
- (f) However, for a pre-change member, the benefit under this clause must not be less than the benefit which would have been payable to that member if the Articles had remained in force up to the date on which the member ceased employment.
- (g) Also, this clause is subject to other clauses in this deed prescribing requirements for or limits on the payment of the benefit.

Failure of health

150.

- (a) The Board must pay a benefit to a defined benefit member who ceases employment before reaching age 55 by reason of failure of health.
- (b) The benefit consists of two components being:-
 - (i) a defined benefit component being the amount of the member's accrued retirement benefit at the cessation date, calculated after multiplying the member's accrued benefit multiple by the age discount factor; and
 - (ii) an accumulation component being the amount, if any, standing to the credit of the member in the member's accumulation account.
- (c) However, this clause is subject to other clauses in this deed prescribing requirements for or limits on the payment of the benefit.

Death of member

151.

- (a) The Board must pay a benefit on the death of a defined benefit member.
- (b) The benefit under this clause must be calculated in the same manner as the benefit that would have been paid if the member had retired on account of total and permanent disablement on the date of death.

Terminal illness

152.

- (a) The Board must pay a benefit to a member who is suffering from a terminal medical condition.
- (b) The benefit is equal to the benefit which would be paid to the member if the member had ceased employment due to total and permanent disablement.

Pension on total and temporary disablement

153.

- (a) The Board must pay a disability pension to a defined benefit member who:-
 - (i) has not attained the insured age; and
 - (ii) is suffering total and temporary disablement.
- (b) The annual amount of the disability pension is the product of:-
 - (i) twelve and one half per centum (12½%); and

- (ii) the amount which would have been payable to the member under clause 149(c)(i)⁴⁴ if the member had retired on account of total and permanent disablement on the date on which the pension first becomes payable.
- (c) However, this clause is subject to other clauses in this deed prescribing requirements for or limits on the payment of the benefit.

Resignation and dismissal

154.

- (a) The Board must pay a benefit to a defined benefit member who:-
 - (i) ceases employment with any employer; and
 - (ii) is not entitled to payment of a benefit under another clause.
- (b) The benefit under this clause is the sum of:-
 - (i) the greater of:-
 - (A) the member's minimum vested benefit; and
 - (B) the member's reserve; and
 - (ii) the supplementary resignation benefit; and
 - (iii) the amount standing to the credit of the member in the member's accumulation account.
- (c) In addition to the amounts under clause 154(b), but only for a defined benefit member who was a member of the former LG Super on 30 June 1992, the lump sum benefit also includes the amount of the member's accrued retirement benefit but with:-
 - (i) the calculation being based on:-
 - (A) the member's age and final average salary on the cessation date; and
 - (B) the member's period of superannuation scheme membership to 30 June 1992; and
 - (ii) the member's accrued benefit multiple being multiplied by the age discount factor; and
 - (iii) the member's prior scheme accumulation and the member's superannuation scheme accumulation being, for the purposes of the calculation, the amounts

⁴⁴That is, amounts attributable to additional contributions under clause 57 or amounts rolled in from other funds are disregarded in determining the amount of a disability pension.

of those accumulations as at 30 June 1992 together with compound interest at the accumulation comparison rate from 1 July 1992 to the cessation date.

- (d) In this clause, “**minimum vested benefit**” means the amount of:-
- (i) award contributions and/or SG contributions made in respect of the member while the member was a permanent employee; and
 - (ii) member contributions,

made during the period of superannuation scheme membership from 1 July 1992 to the cessation date, less tax (if any) debited in the manner specified in clause 80 and less an appropriate allowance for the cost of insurance provided to the member, with compound interest at the accumulation comparison rate.

For the purposes of this definition (only), “**member contributions**” includes an amount reimbursed to an employer under a salary sacrifice arrangement mentioned in clause 135.

- (e) In this clause, “**supplementary resignation benefit**” means the difference between:-
- the member’s minimum vested benefit; and
 - the amount that would be the member’s minimum vested benefit if it were calculated using the supplemental rate (rather than the accumulation comparison rate).

- (f)
- (i) This clause 154(f) applies if, in order to comply with Superannuation Law, it is necessary to use an earnings rate (the “SIS-required rate”) higher than the accumulation comparison rate for calculating the minimum vested benefit⁴⁵.
 - (ii) If this clause 154(f) applies, the minimum vested benefit must be calculated using the SIS-required rate.
 - (iii) Also, if this clause 154(f) applies, the Board must calculate an amount equal to the sum of the member’s:-
 - (A) prior scheme accumulation (if any); and
 - (B) superannuation scheme accumulation as at 30 June 1992,

⁴⁵ The circumstance specifically contemplated by clause 0 is one where the rate of “investment earnings” mandated by applicable benefit standards in Superannuation Law is higher than the accumulation comparison rate. This explanatory footnote does not limit the operation of clause 0 according to its terms.

but using the SIS-required rate, rather than the accumulation comparison rate, for the calculation of compound interest⁴⁶.

- (iv) The total benefit calculated under the two preceding paragraphs is a member's "**minimum requisite benefit**".
- (v) If the member's minimum requisite benefit is greater than the sum of the amounts otherwise calculated under clauses 154(b)(i) and 154(c), the member must be paid the minimum requisite benefit instead of those amounts.

Special benefit provision - former permanent employees who remain as casuals

155. Where a defined benefit member:-

(a) ceases to be a permanent employee; but

(b) nevertheless remains in employment by an employer on a casual basis,

the member becomes an accumulation benefit member on the date that the member ceases to be a permanent employee, and the Board must:-

- (c) calculate a benefit for the member under this division as though the member had ceased employment on the date the member ceases to be a permanent employee; and
- (d) credit the amount so calculated to the member's accumulation account.

Division 3 - Other provisions about certain benefits

Requirements for payment of cessation benefits

156. A benefit payable upon ceasing employment:-

(a) subject to clause 156(c), may be paid in one or more lump sums;

(b) where it relates to retirement, may be paid, in whole or in part, after the member's retirement date;

(c) must be paid in full no later than the mandatory benefit payment age specified in Superannuation Law; and

(d) must be preserved to the extent (if any) and for the period (if any) required by Superannuation Law.

Disability established after retirement

157.

⁴⁶ Ordinarily, the calculations of these amounts include compound interest at the accumulation comparison rate – see definitions in clauses 275 and 172.

- (a) Payment of a benefit under clause 142 does not prevent an accumulation benefit member from subsequently claiming a disability benefit under clause 143 to which that person is subsequently shown to be entitled, and payment of a benefit under clause 154 does not prevent a defined benefit member from subsequently claiming a disability benefit under clause 149 or clause 150 to which that person is subsequently shown to be entitled, but:-
- (i) the benefit paid under clause 142 or clause 154 (as the case requires) must be taken into account at the time of payment of the other benefit so that the member receives no additional payment by reason of having initially claimed a benefit under clause 142 or clause 154 (as compared to the situation if the member had not initially claimed a benefit under the relevant clause); and
 - (ii) for the purpose of calculating interest on the other benefit, the payment of a benefit under clause 142 or clause 154 is deemed to have been a part payment of the other benefit; and
 - (iii) where the Board has external insurance for the benefit, the total insured benefit payable must not in any event exceed the amount for which the Board is indemnified, or which the Board is paid, by an external insurer for the benefit.
- (b) Clause 157(a) does not permit a benefit to be paid in respect of the death of a member where the member dies after ceasing employment with any Employer.

Members continuing in employment after Age 65

158.

- (a) A member who has attained age 65 but has not ceased employment with the member's employer must (on request by the member) be paid the benefit under clause 142, clause 147 or clause 148, as the case requires, calculated up to the date on which the member's request is received by the Board (the "benefit date") as though the benefit date were the date of retirement.
- (b) Any contributions which are paid in respect of that member after the benefit date must be credited to the member's accumulation account, and the balance standing to the credit of the member in the accumulation account must be paid to the member on the member's cessation date.

Disability determinations of no effect unless employment terminated

159. A determination by the Board that a member has suffered total and permanent disablement or failure of health has no effect, and no benefit is payable in respect of either of those matters, if the member does not permanently cease employment with any employer within:-

- (a) 30 days of the determination; or

- (b) such other maximum time period as the Board notifies members from time to time as necessary to be met in order for the Board to be indemnified for the claim by an external insurer.

Time limit for disability claims

160.

- (a) A benefit is not payable in respect of total and permanent disablement or failure of health unless a claim for payment of the benefit is received by the Board within 6 years of the date on which the member permanently ceases employment with the employer by reason of the disablement or failure of health.
- (b) The Board must not consider or assess a claim received by it outside the time stated in clause 160(a).

Disability pensions

161. The Board may make determinations about:-

- (a) the time when payment of a disability pension commences and ends; and
- (b) the total amount or amounts payable as a disability pension; and
- (c) the payment of partial disability pension to a member who is undertaking limited, restricted or different duties during a period of recovery,

on terms which are consistent with the terms and conditions of the Board's indemnity or payment for the member from an external insurer for the disability pension, and which limit the amount for which the Board is liable to the amount for which it is indemnified or entitled to payment.

Disability pensioner to submit to medical examination etc.

162.

- (a) The Board may, by notice in writing to a disability pensioner, require him or her:-
 - (i) to submit himself or herself for medical examination by a registered medical practitioner at a time and place specified in the notice; or
 - (ii) to furnish in writing to the Board, within such period as is specified in the notice, such information as is required by the notice with respect to any employment (whether as an employee or on his or her own account) in which the member has been engaged during such period as is specified in the notice.
- (b) Where a member fails to comply with a notice given under this clause and does not satisfy the Board that there was reasonable excuse for the failure, the Board may in its discretion suspend the member's pension.
- (c) However:-

- (i) the Board may exercise its powers under this clause only when necessary in order for the Board to be or continued to be indemnified or paid by an external insurer for the disability pension; and
- (ii) the cost of any medical examination carried out for the purposes of this clause, if not paid by an external insurer, must be paid by the Board.

Medical examinations generally

163.

- (a) If required by the Board for any other purpose of this deed relating to insurance benefits, an insured member must undergo a medical examination by a registered medical practitioner specified by the Board at a time and place specified by the Board.
- (b) After receipt of a report prepared following an examination under clause 163(a), the Board may in its discretion:-
 - (i) require a member to undergo further medical examinations or tests, including examinations by specialist medical practitioners; or
 - (ii) require further statements from the member or reports from medical practitioners he or she has consulted.
- (c) Where an insured member fails to undergo any medical examination, or provide statements reports or information required under clauses 163(a) or 163(b) within the time specified by the Board, then the Board is not liable to pay any claim for insurance benefits by that member, unless the Board is nevertheless indemnified for the claim, or paid for the claim, by an external insurer for the claim, and then only to the extent of that indemnity or payment.
- (d) However:-
 - (i) the Board may exercise its powers under this clause only when necessary in order for the Board to be or continued to be indemnified or paid by an external insurer for the insurance benefit; and
 - (ii) the cost of any medical examination carried out for the purposes of this clause, if not paid by an external insurer, must be paid by the Board.

Division 4 – Entitlement to insurance benefits

Compulsory, default and voluntary insurance

164.

- (a) Defined benefit members must be and remain insured members.
- (b) Accumulation benefit members who are:-
 - (i) permanent employees; or

- (ii) MySuper members who are not permanent employees,
are insured members with default insurance cover, unless they opt to reduce or cancel their cover.
- (c) The Board may determine other classes of accumulation benefit member who are insured members with default insurance cover, unless they opt to reduce or cancel their cover.
- (d) Members other than those referred to in 164(a) to 164(c) are insured members only if and to the extent that they elect to have voluntary insurance cover.

Default, voluntary and additional cover

165. The Board may from time to time determine:-

- (a) the type or types and level or levels of default insurance cover which apply for insured members referred to in clauses 164(b) and 164(c) unless they opt to reduce or cancel their cover⁴⁷;
- (b) the types and levels of:-
 - (i) voluntary insurance cover available to members referred to in clause 164(d); and
 - (ii) additional insurance cover available to other members (including defined benefit members); and
- (c) terms and conditions for:-
 - (i) obtaining cover other than default insurance cover; or
 - (ii) exercising an option to reduce or cancel cover.

Cover may add to deed provisions

166. To avoid doubt:-

- (a) a determination under clause 165 may relate to the provision of insurance cover of types not mentioned in Part 3, Divisions 1 and 2 of this Chapter; and
- (b) subject to this Division, a member who takes up such cover becomes entitled to the benefits of that cover upon the happening of an insured event for that cover, in addition to any insurance benefits mentioned in Part 3, Divisions 1 and 2 of this Chapter.

Cover not required if premium not paid

167. The Board is not required to provide insurance cover for the benefit of a member other than compulsory cover for a defined benefit member if, at any relevant time, the amount

⁴⁷ The levels of cover for defined benefit members are prescribed in Part 3, Division 2 of this deed.

in the member's accumulation account is not sufficient to meet the amount to be charged to the member by the Board in relation to the insurance.

PART 4 - ONGOING SAVINGS PROVISIONS

Division 1 - 2005 transfers to accumulation benefits fund

Additional election to retain higher insurance cover

168.

- (a) This clause applies to a 2005 transferring member who gave notice the Board under the former LG Super trust deed that:-
 - (i) the member wished to retain the level of his or her pre-transfer insurance benefits; and
 - (ii) the member agreed to pay the additional insurance premium required in this clause in order to retain that benefit.
- (b) The insurance premium which would otherwise be payable for a member to whom this clause applies continues to be calculated on the basis set out in the former LG Super trust deed.
- (c) The insurance benefits payable to or in respect of the member continue to be calculated on the basis set out in the former LG Super trust deed.
- (d) This clause ceases to apply when the corresponding provision of the former LG super trust deed would have ceased to apply⁴⁸.

Insurance arrangements

169. The insurance component of a benefit payable under clause 143(a) in respect of a 2005 transferring member must be calculated:-

- (a) in accordance with Table 3; and
- (b) on the basis (for the purposes of clause 109 of the former LG Super trust deed⁴⁹) that the member has been an insured member since first becoming a permanent employee.

Division 4 - Transitional provisions for post 30 June 2007 insurance cover

Existing claims

170.

⁴⁸ The relevant clause was clause 160 of the deed as it stood immediately prior to the merger with City Super.

⁴⁹ This refers to clause 109 as it existed prior to Deed of Variation No. 26 (June 2006).

- (a) Subject to clauses 170(b) and 170(c), the provisions of the former LG Super trust deed relating to insurance benefits as they applied before 3 July 2007⁵⁰ continue to apply to any claim for insurance benefits:-
- (i) made before the commencement of external insurance indemnifying the Board in respect of a claim of that type; or
 - (ii)
 - (A) arising from an event or occurrence happening before the commencement of external insurance indemnifying the Board in respect of a claim of that type;
 - (B) to which the member would have been entitled had the changes made by Deed of Variation No. 26 (June 2007) not been made; and
 - (C) in respect of which the Board is not entitled to indemnity or payment from an external insurer.
- (b) However:-
- (i) if a member has a claim:-
 - (A) to which clause 170(a) applies; and
 - (B) which is payable only after the member ceases employment; and
 - (ii) the member ceased employment, by reason of the matter giving rise to the claim, on or after 3 July 2007,
- the benefit payable by the Board (from the insurance fund) will, despite anything else in this deed, be an amount calculated as though the member was covered at the default insurance level determined under clause 165 for accumulation benefit members who were insured members immediately prior to 3 July 2007.
- (c) Also:-
- (i) A benefit is not payable in respect of total and permanent disablement or failure of health unless a claim for payment of the benefit is received by the Board within 6 years of the date on which the member permanently ceases employment with the employer by reason of the disablement or failure of health.
 - (ii) The Board must not consider or assess a claim received by it outside the time stated in clause 170(c)(i).

⁵⁰ This is the commencement date of Deed of Variation No. 26 (June 2007).

PART 5 - DEFINITIONS FOR CHAPTER 3

Defined terms for Chapter 3

171. In this Chapter, except where a contrary intention appears (and except in the recitals):-

“accrued benefit multiple” means in relation to a member at any particular date the sum of:-

- (a) the member’s superannuation scheme multiple; and
- (b) the member’s prior scheme multiple.

“accrued retirement benefit” means in relation to a member at any particular date the greater of:-

- (a) the product of the member’s accrued benefit multiple and the member’s final average salary, and
- (b) the member’s minimum retirement benefit; and
- (c) the member’s minimum requisite benefit,
plus (whichever of the above applies)
- (d) the supplementary benefit (if any).

“age discount factor” means the factor applicable to a person at the cessation date, calculated by:-

- (a) selecting from Table 1 the factor set opposite the member’s age in full years at the cessation date; and
- (b) adjusting the factor to 4 decimal places to include the fraction of a full year of the member’s age that has passed between the member’s last birthday and the cessation date.

“Articles” means the Articles of the former LG Super Scheme made under the *Local Government Superannuation Act 1985*.

“beneficiary” means a person (including but not limited to a member) to whom a benefit is payable.

“ceases employment”: A defined benefit member⁵¹ *“ceases employment”* for the purposes of this Chapter 3 only where the member ceases to be employed by any employer and:-

⁵¹ For an accumulation member, “ceases employment” has its ordinary meaning. The definition preserves continuity of service (ie period of “superannuation scheme membership”) in certain circumstances for defined benefit members only.

- (a) there follows a period of not less than 60 successive days during which the member is not employed by any employer and is not in the position of having accepted an offer of employment by any employer; or
- (b) the Board is otherwise satisfied that the member has ceased to be employed by any employer, and has no intention of taking up employment with any employer.

However, paragraph (a) does not apply to a member who has notified the Board, prior to expiry of the period referred to in paragraph (a) that he or she is seeking employment with an employers. A person who gives such notice "*ceases employment*" only when:-

- (c) the Board determines that a reasonable time has elapsed since the member ceased employment with any employer; or
- (d)
 - (i) the Board notifies the member that he or she will be treated as having ceased employment for the purposes of this deed at the expiration of a further period (not less than 30 days) specified in the notice; and
 - (ii) at the expiration of the period so specified, the member is not employed, and is not in the position of having accepted an offer of employment by an employer.

"cessation date" means the date on which a person ceases employment with any employer or employers.

"failure of health" means injury or illness of a defined benefit member which in the opinion of the Board:-

- (a) permanently incapacitates a member from carrying out his or her ordinary work with his or her employer, or any reasonably available and suitable alternative work with the employer; but
- (b) does not constitute total and permanent disablement.

"final average salary" has the meaning given by clause 172.

"insurance amount for TTD for an accumulation benefit member means the benefit payable for the member upon temporary disablement under an external insurance policy taken out by the Board.

"insurance component for death" for an accumulation benefit member means the benefit payable in respect of the member upon death under an external insurance policy taken out by the Board.

"insurance component for terminal illness" for an accumulation benefit member means the benefit payable for the member in respect of a terminal medical condition under an external insurance policy taken out by the Board.

“insurance component for TPD” for an accumulation benefit member means the benefit payable for the member upon total and permanent disablement under an external insurance policy taken out by the Board.

“insured age” means-

- (a) where the Board is externally insured, the age at which insured benefits cease to be payable under the relevant policy;
- (b) otherwise:-
 - (i) for an accumulation benefit member who was eligible to make an election under the former LG Super trust deed to increase their insured age⁵², but did not make the election — 55 years;
 - (ii) for any other accumulation benefit member — 60 years; and
 - (iii) for a defined benefit member — 60 years.

“insured member” means :-

- (a) a defined benefit member; and
- (b) person to whom default cover applies under Part 3, Division 4 of this Chapter who has not opted out of that cover; and
- (c) another member who has the benefit of insurance cover referred to in Part 3, Division 4 of this Chapter.

When used in relation to a particular type of cover (eg *“insured member with cover for TPD”*) it means a person who has the benefit of that particular type of cover.

“minimum requisite benefit” – see clause 154(f).

“minimum retirement benefit” means in relation to a defined benefit member at any particular date

- (a) the greater of:-
 - (i) the product of the member’s superannuation scheme multiple and the member’s final average salary; and
 - (ii) the amount equal to the member’s superannuation scheme accumulation;

plus (for a prior scheme member)

⁵² Most, though not all, persons who became insured members under the former LG Scheme between 1 July 1995 and 30 June 2002 had an insured age of 55. If these members were accumulation benefit members, they had an election under the former deed to have an insured age of 60 from 1 July 2002. That election had to be made by 30 June 2002.

- (b) the greater of:-
- (i) the product of the member's prior scheme multiple and the member's final average salary; and
 - (ii) the amount equal to the member's prior scheme accumulation.

“non-permanent employee” means a member who is not a permanent employee.

“parental leave” includes any of the following:

- (a) maternity leave;
- (b) early paid leave for an expectant mother if the employer is unable to transfer her to a safe job;
- (c) paternity leave;
- (d) pre-adoption leave;
- (e) adoption leave.

“pre-change Member” means a member who last became a member of the former LG Super Scheme on or before 30 June 1989.

“prior-scheme accumulation” means in relation to a prior scheme member at any particular date the sum of:-

- (a) the member's transfer value, with compound interest from 1 January 1986 at the accumulation comparison rate; and
- (b) the member's provident fund entitlement with compound interest from 1 January 1986 at the accumulation comparison rate.

“prior scheme” means the scheme established and maintained under the *Local Government Superannuation Act 1964*.

“prior scheme death cover” means, in relation to a prior scheme member, the sum of:-

- (a) the amount calculated under the prior scheme of the member's sum assured and bonuses if any; and
- (b) the member's provident fund entitlement together with compound interest at the accumulation comparison rate to the cessation date.

“prior scheme member” means a member who was a member of the prior scheme.

“prior scheme multiple” means the multiple applying to periods of membership before 1 January 1986 as calculated according to the Articles.

“projected final average salary” means a member's final average salary at the insured age calculated on the basis that:-

- (a) he or she continues in employment with an LG employer until he or she attains the insured age; and
- (b) the member's salary remains unaltered.

“provident fund entitlement” means, in respect of a prior scheme member, the amount standing to his or her credit paid into the former LG Super Scheme by the Board as at 1 January 1986 from the Local Government (Employees) Provident Fund established and maintained under the prior scheme.

“reserve”, in relation to a defined benefit member, means the amount calculated using the formula -

$$\text{MRSSM} \times \text{FAS} \times \text{F};$$

in which, at the cessation date -

“MRSSM” is the member's reserve superannuation scheme multiple;

“FAS” is the member's final average salary;

“F” is the age discount factor.

“reserve superannuation scheme multiple” has the meaning given by clause 175.

“salary”⁵³: In relation to a permanent employee, “*salary*” means the payment (whether called salary or wages) made by the LG employer to the member in respect of his or her employment by way of fixed remuneration including:-

- (a) any allowance that is a permanent addition to that payment; and
- (b) any non-cash entitlement which is part of a packaging arrangement and which may, at the election of the employee, be taken in cash; and
- (c) an amount which is the subject of a salary sacrifice arrangement referred to in clause 135.

The term does not include:-

- (a) an amount paid for or during parental leave;
- (b) an amount paid as a lump sum in lieu of any form of leave accrued but not taken, whether paid on termination of employment or paid at some other time;
- (c) an amount excluded from salary under clause 141(c);⁵⁴

⁵³ See also the definition of “salary” in clause 275 which relates to members who may breach the concessional contributions cap, and may override this definition in particular circumstances.

⁵⁴ Clause 141(c) deals with purported salary changes which are changes in the form of entitlement which do not in fact change overall salary and entitlements in substance

- (d) the value of contributions made by employers as prescribed by the LGAct for which the Employer is not entitled to be reimbursed by the member under the LGAct;
- (e) the value of contributions made by employers for non-permanent employees to avoid liability for the superannuation guarantee charge;
- (f) an amount paid by an employer for the superannuation guarantee charge;
- (g) any additional remuneration paid while acting in a higher classification;
- (h) overtime, bonuses, or any allowance paid to the member from time to time which is not a permanent addition to the fixed remuneration applicable to his or her classification.

The following additional provisions apply to the determination of “*salary*” at particular dates or in particular events:-

- (a) where a defined benefit member is on absence with leave (other than parental leave) for a period not exceeding 4 weeks (so that contributions continue in respect of the member⁵⁵), the member’s salary is the amount he or she would have been paid if at work during the period of leave;
- (b) where a member is otherwise absent and contributions for that member are suspended:-
 - (i) the member’s salary for the purpose of calculating contributions upon the member resuming work; and
 - (ii) the member’s salary for the purpose of determining any benefit payable if the member does not return to work,

are in both cases the amount of his or her salary as at the last day in respect of which contributions were paid in respect of the member;

- (c) Where a member is absent due to illness or injury and is receiving compensation under the *Workers Compensation and Rehabilitation Act 2003* (but is not receiving a disability pension from the Scheme), the member’s salary for the purpose of calculating contributions is the amount he or she would have been paid if at work during the period of leave;
- (d) Where a defined benefit member has elected, under section 222 (3) of the LGAct and following a salary decrease, to continue to have the member’s contributions calculated and paid on the basis of the member’s salary before the decrease, the member’s salary for the purpose of calculating contributions and defined benefits is taken to be the amount upon which contributions are calculated and paid.

“superannuation scheme accumulation” has the meaning given by clause 173.

⁵⁵ See clause 138.

“superannuation scheme membership” means in relation to a member, and subject to clause 138, the most recent uninterrupted period during which contributions (not being solely award contributions or solely SG contributions) have been paid in respect of the member under the LGAct or a corresponding previous Act. For the purpose of this definition, and for a defined benefit member, a period during which contributions are not paid solely because the member is receiving a disability pension must be disregarded, and does not create a break in the continuity of superannuation scheme membership.

“superannuation scheme multiple” has the meaning given by clause 174.

“supplementary benefit”, for a defined benefit member, means the difference between:-

- (a) the member’s superannuation scheme accumulation; and
- (b) the amount that would be the member’s superannuation scheme accumulation if it were calculated using the supplemental rate (rather than the accumulation comparison rate)

plus (for a prior scheme member) the difference between:-

- (c) the member’s prior scheme accumulation; and
- (d) the amount that would be the member’s prior scheme accumulation if it were calculated using the supplemental rate (rather than the accumulation comparison rate)

“supplemental rate”, for any year, means the sum of:-

- (a) the accumulation comparison rate; and
- (b) the rate (if any) determined by the Board from time to time as that part of the investment return rates determined by the Board for the year attributable to supplementation of the investment return to members based upon utilisation of available reserves or other sources apart from direct investment returns.

“terminal medical condition” has the same meaning as is from time to time applicable under a policy with an external insurer for terminal illness benefits.”

“total and permanent disablement” or **“TPD”**, in relation to a member making a claim, has the meaning from time to time applicable under a policy with an external insurer for TPD benefits.

“total and temporary disablement” or **“TTD”**, in relation to a member making a claim, has the meaning from time to time applicable under a policy with an external insurer for TTD (income protection) benefits.

Meaning of “final average salary”

172.

- (a) Subject to clauses 172(d) and 172(e), “*final average salary*” is a member’s time weighted average annual salary during the period of 1 year ending on the cessation date (the “**calculation period**”).
- (b) If salary changed during the calculation period, final average salary is calculated on the basis that the member’s salary accrued and was paid daily at the rates applying:-
 - (i) at the start of the calculation period until the day before the first change; and
 - (ii) from date of each change until the day before the next change; and
 - (iii) from the date of the last change until the cessation date.
- (c) Subject to clauses 172(d) and 172(e), if a member has been a permanent employee for less than 1 year, “*final average salary*” is the member’s salary calculated under clauses 172(a) and 172(b) over the period that the member was a permanent employee, extrapolated pro rata over a period of 1 year.
- (d) Subject to clause 172(e), a member’s final average salary must not, unless otherwise determined by the Board after consideration of advice from the member’s employer explain the reasons for any marked escalation in salary payable for the year ending on the cessation date as compared to previous salary, exceed 120% of the member’s salary 3 years before the cessation date.
- (e) In any event, for a prior scheme member, a member’s final average salary must not be less than the member’s final average salary as defined by the Articles as in force prior to 7 April 1990.

Meaning of “superannuation scheme accumulation”

173. “superannuation scheme accumulation” is, on a given date, the sum of:-

- (a) twice the amount of member contributions paid to the Scheme during the member’s superannuation scheme membership from 1 January 1986 to 30 June 1988;
- (b) twice the amount of member contributions paid to the Scheme during the member’s superannuation scheme membership from 1 July 1988 to the cessation date less any tax (calculated in accordance with clause 80) that would have been paid by the Board on the member contributions had they been contributed to the Scheme by the employer from 1 July 1988 to the cessation date;
- (c) 5% of the total of the member’s salary during the member’s superannuation scheme membership from 1 July 1992 to the cessation date less any tax (calculated in accordance with clause 80) that would have been paid by the Board on that amount had it been contributed to the Scheme by the employer from 1 July 1992 to the cessation date; and
- (d) award contributions paid to the Scheme by the employer for a period before 1 July 1992 during which the member was a permanent employee less any tax (calculated in accordance with clause 80) payable by the Board on that amount had it been contributed to the Scheme by the employer before 1 July 1992,

all with compound interest at the accumulation comparison rate (calculated on the assumption, where the amounts do not represent contributions actually made, that the amounts were received at the same time and covering the same periods as the contributions actually paid for the member pursuant to the LGAct or a corresponding previous Act).

For the purposes of this clause, **“member contributions”** includes an amount not reimbursed to an employer because of the existence of a salary sacrifice arrangement mentioned in clause 135.

Meaning of “superannuation scheme multiple”

174.

- (a) **“superannuation scheme multiple”** in relation to a standard permanent employee (other than one mentioned in clause 174(c)) is 18% for each complete year of the member’s superannuation scheme membership from 1 January 1986 before the member attains age 70 and pro rata for each additional complete day in that period;
- (b) **“superannuation scheme multiple”** in relation to a special permanent employee is 15.75% for each complete year of the member’s superannuation scheme membership from 1 January 1986 before the member attains age 70 and pro rata for each additional complete day in that period;
- (c) **“superannuation scheme multiple”** in relation to a member who -
 - (i) made an election under section 39(2) of the *Local Government Superannuation Act 1985*; and
 - (ii) made a further election under section 38B of that Act,is:-
 - (iii) 15.75% for each complete year of the member’s superannuation scheme membership from 1 January 1986 to 30 June 1992 and pro rata for each additional complete day in that period;
 - (iv) 18% for each complete year of the member’s superannuation scheme membership from 1 July 1992 before the member attains age 70 and pro rata for each additional complete day in that period.

Meaning of “reserve superannuation scheme multiple”

175.

- (a) A member’s **“reserve superannuation scheme multiple”** in relation to a standard permanent employee is 18% for each complete year of the member’s superannuation scheme membership from 1 July 1992 before the member attains age 70 and pro rata for each additional complete day in that period;

- (b) A member's "reserve superannuation scheme multiple" in relation to a special permanent employee is 15.75% for each complete year of the member's superannuation scheme membership from 1 July 1992 before the member attains age 70 and pro rata for each additional complete day in that period.

CHAPTER 4 - CONTRIBUTION AND BENEFIT PROVISIONS FOR CITY SUPER MEMBERS

PART 1 - APPLICATION

Application

176. This Chapter applies only to:-

- (a) members who were members of City Super immediately prior to the merger with LG Super, other than Part C members or Part D members under the former City Super trust deed;
- (b) persons who were councillors' fund pensioners under City Super immediately prior to the merger, and their eligible spouses (as defined in clause 213);
- (c) persons who have become members of the Scheme since the merger as employees of Brisbane City Council or an Associated Employer referred to in clause 53(d)(i).

Definition

177. The members to whom this Chapter applies are referred to in other Chapters of this deed as "**Chapter 4 members**".

PART 2 - DEFINED BENEFITS PLAN

Division 1 - Membership

Eligibility

178. Membership of the defined benefits plan is restricted to members who were entitled to defined benefits under City Super immediately prior to the merger with LG Super.

Restriction on further eligibility

179. No other person is eligible to become a defined benefit member without the consent of Brisbane City Council and the Board.

Division 2 - Contributions

Employer contributions

180.

- (a) An employer must contribute to the Scheme for its employees who are defined benefit members such contributions from time to time as are specified by the Board as necessary to fund the defined benefits which are or may become payable for those members.
- (b) The Board may make arrangements with employers for payment of contributions by instalments or otherwise.

- (c) Brisbane City Council must also contribute to the Scheme such contributions from time to time as are specified by the Board as necessary to fund the benefits which are or may become payable for councillors' fund pensioners.

Basic member contributions

181.

- (a) Each defined benefits member must contribute to the Scheme, by equal fortnightly instalments unless the Board determines otherwise, 5% of the member's annual salary, as the member's "basic contributions", until the member attains age 70.
- (b) The employer must deduct the basic contributions from the member's salary.

Temporary absence from employment

182.

- (a) A member on temporary leave of absence from employment without salary may elect to continue the member's basic contributions or to suspend the member's basic contributions.
- (b) If the member continues the member's basic contributions, and also pays the amount of the employer's contributions for the period of leave, the period of leave is included in the member's completed membership.
- (c) If the member does not continue the member's basic contributions, and pay the amount of the employer's contributions for the period of leave, the period of leave is not included in the member's completed membership.
- (d) If the member makes contributions of an amount which is less than the member's basic contributions and the employer's contributions for the period of leave:-
 - (i) the period is not included in the member's period of completed membership; and
 - (ii) the contributions are treated as additional contributions, and credited to the member's accumulation account.
- (e) In this clause, the "**employer's contributions**" are the percentage of the member's annual salary which is the same as the percentage of the annual salaries of its employees that the employer is currently required to contribute under clause 180(a) to fund defined benefits, applied pro rata to the period of leave.

Additional contributions

- 183.** A member may with the consent of the Board make contributions in addition to the basic contributions.

Board may excuse contributions

184. The Board may at the request of an employer excuse a member from making basic contributions, for a period determined by the Board on the advice of an actuary, in which case the Board must determine any or a combination of the following having regard to the arrangement proposed by the employer and the actuary's advice:-

- (a) that the benefits and contributions in respect of the member are to be adjusted;
- (b) that the member's benefits are to be calculated as if the member had made the basic contributions;
- (c) that the employer must contribute an amount equivalent to the member's basic contributions.

Additional employer contributions

185. An employer must contribute to the Scheme for each defined benefit member employed by that employer at the rate of 3% of salary, those contributions to be allocated to the member's accumulation account.

Additional voluntary benefits

186. An employer may direct the Board to provide benefits for any member employed by that employer, in addition to the defined benefits provided under this Part 2, where the employer agrees to make such additional contributions (if any) as may be required to fund those additional benefits.

Employer funding of benefits during maternity leave

187.

- (a) Where a member:-
 - (i) at the direction of her employer, remains temporarily absent from employment on maternity leave for a period in excess of 6 weeks; and
 - (ii) continues to pay the member's basic contributions for the excess period,

the excess period is included in her years of completed membership up to a maximum period determined under clause 187(b).
- (b) The maximum period is 6 weeks unless the employer notifies the Board that a longer maximum period applies.

Accumulation account

188.

- (a) The Board must keep an accumulation account for each defined benefit member, and may divide the accumulation account into sub-accounts or notional sub-accounts.

- (b) The Board must credit to the member's accumulation account:-
 - (i) additional contributions by the member;
 - (ii) contributions by the employer under clause 185;
 - (iii) additional contributions by the employer under clause 186;
 - (iv) any contributions made for the benefit of the member by any other person;
 - (v) any amounts transferred from another superannuation entity, or debited from another member's benefit, for allocation to the member.

Payment of surplus from contributions to BCC or other employer

189. The Board may make a payment from the CS Defined Benefits Fund to Brisbane City Council (or, at the direction of the Council, to another employer of defined benefit members) where:-

- (a) the amount of the payment is no greater than the amount by which the value of the CS Defined Benefits Fund at the time of payment exceeds the amount necessary to provide for the benefit entitlements of all defined benefit members accrued at that time; and
- (b) any requirements of Superannuation Law have been complied with.

Other application of CS Defined Benefits Fund

190.

- (a) Brisbane City Council may request the Board to allocate from the CS Defined Benefits Fund any or all of the contributions:
 - (i) that an employer is required to make for any accumulation benefit members under clauses 245, 246 and 247;
 - (ii) that an employer elects to make for any accumulation benefit members, under clause 248;
 - (iii) that an accumulation benefit member is required to make as basic contributions under clause 240, where the member is excused from making those contributions under clause 244(b) or (c).
- (b) The Board may agree to the request, provided that:
 - (i) the actuary certifies that the CS Defined Benefits Fund is sufficient to fund the allocations; and
 - (ii) the Board is satisfied the allocations will not adversely affect funding of benefits for any other members.
- (c) Where the Board agrees to the request:

- (i) the Board must allocate amounts for the credit of the accumulation accounts of those members as if the employer had made those contributions, and in full satisfaction of the employer's obligation or election to make those contributions;
- (ii) the amounts allocated will be determined by the Board, taking into account such adjustments as the Board on the advice of the actuary considers appropriate (for example, adjustments for notional tax or other expenses that would have been deducted had the employer made the contributions).

Division 3 - Defined benefits for full-time employees

Entitlement to retirement benefits

191. A retirement benefit is payable in respect of a member when:-

- (a) the member retires, or otherwise ceases employment:-
 - (i) on the normal retirement date, or after the normal retirement date up to age 70; or
 - (ii) within 10 years before the normal retirement date;
- (b) the member attains age 70 and requests payment of the benefit at that time.

Amount of retirement benefits

192. The amount of a retirement benefit is the sum of:-

- (a) 17.5% of the member's final average salary for the member's period of completed membership; and
- (b) the balance in the member's accumulation account.

Late retirement benefits

193. If a member remains in employment after age 70, a late retirement benefit is payable when the member:-

- (a) retires; or
- (b) subsequently requests payment of the benefit.

Amount of late retirement benefits

194. The amount of a late retirement benefit is:

- (a) the amount calculated as the member's retirement benefit on the date the member attains age 70; and
- (b) any contributions made for the member and any other amounts received for the credit of the member after the member attains age 70,

credited or debited with the investment earning rate or rates applicable to the member under clause 68.

Death benefit - death prior to normal retirement date

195. A benefit is payable on the death of a member before the normal retirement date, of an amount calculated as the sum of:

- (a) 17.5% of the member's annual salary at the date of death, multiplied by the member's period of completed membership; and
- (b) the balance in the member's accumulation account.

Death benefit - death after normal retirement date

196. A benefit is payable on the death of a member after the normal retirement date, of an amount calculated as if the member had retired on the date of death.

Total and permanent disablement benefit

197. A benefit is payable if, before the normal retirement date, a member:-

- (a) becomes totally and permanently disabled, as a result of which the member ceases to be in employment; and
- (b) either:
 - (i) the member's membership of the Scheme, or of City Super, commenced at least 5 years before the date of disablement; or
 - (ii) in the Board's opinion, the member became totally and permanently disabled as a result of accidental injury.

Amount of TPD benefit

198. The amount of a total and permanent disablement benefit is the sum of:-

- (a) 17.5% of the member's final average salary at the date of disablement, multiplied by the member's period of completed membership; and
- (b) the balance in the member's accumulation account.

Terminal illness

199.

- (a) The Board may pay a benefit to a member who is suffering from a terminal medical condition.
- (b) The benefit is equal to the benefit which would be paid in respect of the death of the member on the date on which the benefit is payable.

Temporary disablement benefit

200. A benefit is payable if, before the normal retirement date, the member becomes temporarily disabled, where the member is covered under a policy of insurance which provides a benefit on temporary disablement.

Amount of temporary disablement benefit

201. Where a benefit is payable on temporary disablement, the amount of and terms on which the benefit is paid will be in accordance with the policy of insurance pursuant to which the benefit is paid.

Benefits on other cessation of employment

202. A benefit is payable if a member ceases employment and is not entitled to a benefit under any other clause, of an amount calculated in accordance with the following formula:

$$\mathbf{EFB + MFB + PC}$$

where:

EFB = employer financed benefit

MFB = member financed benefit

PC = the balance in the member's accumulation account.

Minimum statutory benefit

203. Notwithstanding any other provision of this deed, the benefit payable in respect of a member must not be less than the amount determined by the Board on the advice of the actuary which is the minimum benefit required to avoid the employer being liable to pay Superannuation Guarantee Charge for any period of the member's membership.

Division 4 - Provisions for part-time employees and employees on unpaid leave

Definition of part-time multiple

204.

- (a) In this division, "**part-time multiple**" of a member who becomes entitled to a benefit while a part-time employee means a rate the Board determines, on the advice of the actuary, by reducing the rate of 17.5% to take into account the proportionate reduction in the member's average working hours during the period the member has been a part-time employee.
- (b) Where a benefit is payable on death or total and permanent disablement of a part-time employee, the member's average working hours for the period:-
 - (i) beginning on the most recent annual review date, or the commencement of the member's part-time employment if the member had not commenced part-time employment on that annual review date; and

- (ii) ending on the date the benefit becomes payable or, if the member was not at work on that date, the date on which the member was last at work,

are deemed to continue for the member's period of completed membership after that date.

Becoming a part-time employee and going on leave

205. An employer must notify the Board when a defined benefit member:

- (a) who was a full-time employee, becomes a part-time employee;
- (b) commences parental leave, leave without salary or leave classified as a funded “midcareer break”.

Benefits for part-time employees

206.

- (a) If a member becomes entitled to a benefit while a part-time employee, other than where clause 207 applies, the following modifications apply in calculating the benefit:
 - (i) the member's annual salary or final average salary is determined as if the member had been employed on a full-time basis;
 - (ii) the member's part-time multiple is used to calculate the benefit instead of the rate of 17.5%.
- (b) Where a part-time employee who is not eligible for cover under a policy of insurance for defined benefit members dies or becomes totally and permanently disabled, the amount of the benefit for death or disability is limited to the benefit calculated as if the member had retired on the date of death or date of disablement.

Death and TPD benefits on or after parental leave

207.

- (a) This clause applies in the calculation of benefits payable on death or total and permanent disablement for a member who is:
 - (i) on parental leave; or
 - (ii) a part-time employee after a period of parental leave,and the aggregate period of parental leave and part-time employment does not exceed 2 years or such other period as the Board approves generally or in a particular case.
- (b) If the member dies or becomes totally and permanently disabled, the following modifications apply in calculating the benefit:

- (i) the member's annual salary or final average salary is determined as if the member had been employed on a full-time basis;
- (ii) if the member is a part-time employee, the benefit must not be less than the benefit that would have been payable if the member had died or become totally and permanently disabled on the last annual review date before the member became a part-time employee.

Recommencement to full-time employment

208. Where a part-time employee recommences full-time employment, the employee becomes entitled to benefits calculated on the same basis as a full-time member, with such adjustments to the benefits to take account of the period of part-time employment as the Board determines on the advice of the actuary.

Death or TPD benefits on unpaid leave

209.

- (a) If a member while on leave of absence from employment without salary classified as a "mid-career break":-
 - (i) dies or becomes totally and permanently disabled no later than 1 year after the beginning of the leave, the benefit is calculated as if the member were not on leave (except that the member's period of completed membership is determined as provided in clause 182);
 - (ii) dies or becomes totally and permanently disabled 1 year or later after the beginning of the leave, the amount of the benefit is limited to the benefit calculated as if the member had retired on the date of death or date of disablement.
- (b) If a member while on leave of absence from employment without salary, other than parental leave or leave classified as a "mid-career break":-
 - (i) dies no later than 2 years after the beginning of the leave, or becomes totally and permanently disabled no later than one year after the beginning of the leave, the benefit is calculated as if the member were not on leave (except that the member's period of completed membership is determined as provided in clause 182);
 - (ii) dies 2 years or more after the beginning of the leave, or becomes totally and permanently disabled one year or more after the beginning of the leave, the amount of the benefit is limited to the benefit calculated as if the member had retired on the date of death or date of disablement.
- (c) Notwithstanding clauses 209(a) and 209(b):-
 - (i) the benefit payable on death or total and permanent disablement of a member while on leave of absence from employment without salary is subject to the

Board making arrangements with an external insurer for continuation of insured benefits for the member;

- (ii) if no insurance cover is arranged, the benefit is limited to the benefit calculated as if the member had retired on the date of death or date of disablement.

Division 5 - Councillors' pension benefits

Entitlement to benefits for Councillors' Fund pensioners

210.

- (a) This division replicates and continues the rules in the former City Super trust deed applicable to Councillors' Fund pensioners.
- (b) No new members can be admitted as Councillors' Fund pensioners.
- (c) The only persons entitled to benefits under this division are eligible councillors and eligible spouses.

No other benefits payable

211. A Councillors' Fund pensioner, in that capacity, has no rights or entitlements under the Scheme other than the right to a pension benefit under this division.

Brisbane City Council must fund benefits

212. Brisbane City Council must contribute to the Scheme such contributions from time to time as are specified by the Board as necessary to fund the benefits payable under this division.

Definitions for division 5

213. In this division:-

“basic salary” means the basic salary for councillors of Brisbane City Council, from time to time.

“eligible councillor” means a person who:-

- (a) held office as an alderman of the Brisbane City Council before 1 February 1988;
- (b) has ceased to hold office as an alderman of the Brisbane City Council; and
- (c) immediately prior to the merger had an entitlement to a benefit from City Super under the Councillors' Fund pensioner rules in the former City Super trust deed.

“eligible spouse” means a person who was married to an eligible councillor at the time he or she ceased to hold office. To avoid doubt, this definition:-

- (a) includes a person who separates from or divorces an eligible councillor after he or she ceases to hold office;
- (b) does not include a person who becomes a spouse of an eligible councillor after he or she ceases to hold office.

“**salary**” of a councillor means the official salary which was payable to the councillor in that capacity.

Entitlement to pension benefit

214. Subject to this division, a person who served as a councillor:-

- (a) for an aggregate period of 11 years or more; or
- (b) for an aggregate period of 8 years or more and has obtained the age of 60 years; or
- (c) for an aggregate period of 8 years or more and ceased to hold office as a councillor as the result:-
 - (i) of defeat at an election; or
 - (ii) being a representative of a recognised political party, of not standing for re-election by reason that such party has not selected him or her to so stand; or
 - (iii) of resignation for, or of not seeking re-election owing to, good and sufficient reasons which satisfy the Board,

shall, on ceasing to hold office as a councillor and ceasing to be entitled to payment of salary, be entitled to be paid an annual pension at the rate ascertained in accordance with the formula

$A \times \frac{B}{C}$ where:

A is an amount calculated at the rate of 41.20% of the basic salary in force immediately prior to the time at which the eligible councillor ceased to hold office plus, in respect of each month of service as a councillor exceeding 8 years, 0.20% of the basic salary, but such amount shall not be at a rate greater than 70% of the basic salary.

B is the total salary payable to that person in respect of the period of service of that person;

and

C is the total basic salary in respect of the period of service of that person.

Councillor’s length of service

215. In computing the length of an eligible councillor’s service for the purpose of determining the right to a pension, the following rules shall be observed:-

- (a) Every eligible councillor shall be deemed to commence service on and from the day for taking the poll appointed in the writ for the election at which he or she is elected.
- (b) Every eligible councillor continuing as such until the termination by effluxion of time of a Council of Brisbane City Council shall, notwithstanding the expiration thereof, be deemed to continue his or her service to and including the day next preceding the day for taking the polls named in writs for the triennial election of members to serve in the next succeeding Council duly elected.
- (c) Every eligible councillor whose service in a Council of Brisbane City Council is terminated for any reason whatsoever before that Council has terminated by effluxion of time is deemed to serve until the date when his or her service is so terminated and no longer.

Refund where pension not paid

- 216.** Subject to this division, a person who ceases to hold office as a councillor other than by reason of death, and who is not entitled to a pension under this division, shall be entitled to have refunded the amounts deducted under this division, or under corresponding provisions of the former City Super trust deed or the Councillors' Fund rules, from his or her salary, together with simple interest at the rate of 3.5% to the date on which he or she ceased to hold office, less any amount previously refunded.

Suspension of pension where refund not paid

- 217.** Where any refund of contributions is or was made under clause 216 or a corresponding provision of the former City Super trust deed or the Councillors' Fund rules, and where that councillor becomes entitled to a pension under clause 214, the payment of the pension or other benefit under this division shall, unless the amount of that refund of contributions is or has been paid into the Scheme, be suspended until such time as the aggregate of the pension or other benefit which would have been payable apart from this clause would, if so paid, equal the amount of the refund of contributions received by that member.

Right of councillor to convert entitlement to lump sum entitlement

218.

- (a) Despite anything in this division, an eligible councillor who is entitled to a pension under clause 214 and who is under the age of 75 years at the time of ceasing to hold office as a councillor may, within the period of 3 months after becoming entitled to receive a pension, elect by notice in writing served on the Board to convert the whole or any part of the pension entitlement to a lump sum payment determined in accordance with clause 218(b).
- (b) A lump sum payment under clause 218(a) shall be:
 - (i) in the case of a person under the age of 66 years on the date on which he or she becomes entitled to the pension, the amount of the annual pension entitlement in respect of which the election is made, multiplied by 10;

- (ii) in the case of a person who is 66 years or over on the date on which he or she becomes entitled to the pension, the amount of the annual pension entitlement in respect of which the election is made multiplied by 10 less half of the difference between the number of years of his age on that date and 65.
- (c) An eligible councillor who makes an election under clause 218(a) shall be entitled to receive a lump sum payment calculated under clause 218(b), and from the date of payment of that lump sum the annual pension entitlement of that eligible councillor shall be reduced by the amount of annual pension entitlement in respect of which the election was made.

Entitlement of surviving spouse to pension

219. On the death of a person receiving, or who if he or she had not converted the whole of a pension entitlement to a lump sum, would have been entitled to receive a pension under this division, the eligible spouse of that person shall until death or remarriage be entitled to an annual pension at the rate of:

- (a) five-eighths of the pension that became payable to the eligible councillor or, if the eligible councillor had converted the whole or part of the pension entitlement to a lump sum payment, five-eighths of the pension that would have been payable to the eligible councillor under this division if the eligible councillor had not so converted the whole or part of the pension; or
- (b) 40% per annum of the basic salary at the time the eligible councillor ceased to hold office,

whichever is the greater.

Refund of contributions for eligible spouse pension

220. Where payment of a pension or other benefit to a person is suspended pursuant to clause 217, and the person's eligible spouse becomes entitled to a pension under this division, the payment of the pension to the eligible spouse shall likewise be suspended for the period or the balance of the period (as the case requires) for which the pension or other benefit would have been suspended under clause 217, if the pension had been payable to the eligible councillor.

Re-commencement of pension on death of subsequent spouse

221. Subject to clause 219, where an eligible spouse remarries and the subsequent spouse later dies, the eligible spouse shall be entitled to pension benefit at the same rate as he or she would be receiving had he or she not remarried, as from the date of the death of the subsequent spouse, until his or her death or further remarriage.

Pension through one councillor only

222. Clause 221 does not entitle an eligible spouse to derive a pension through more than one councillor, and where but for this clause he or she would be so entitled, he or she shall be deemed to derive their sole entitlement to pension through the person through whom he or she would derive the greatest entitlement to pension.

Adjustment of pensions

223.

- (a) In this clause and following provisions dealing with the adjustment of pensions:-
- “**basic rate**” in relation to a pension, means the rate at which the pension was payable when the pension commenced;
- “**index**” means the table described as the Consumer Price Index Numbers - All Groups, Brisbane that is published by the Commonwealth Statistician;
- “**pay-period**” means the period with respect to which the fortnightly instalment of pension is payable;
- “**year**” except in clause 224, means a year commencing on 1 October.
- (b) The annual amount of a pension which first became payable under the Councillor's Fund rules before 27 March 1975 is not adjusted.
- (c) The Board must adjust the annual amount of a pension which first became payable under the Councillor's Fund rules on or after 27 March 1975 and before 1 July 1976 by increasing the annual amount by 3% from each 1 October.
- (d) The annual amount of a pension which first became payable under the Councillor's Fund rules on or after 1 July 1976 shall be adjusted in accordance with clauses 224 to 232.

Determination of Index percentage

224. The Board shall, as soon as practicable after 30 June in each year, ascertain the percentage (expressed to a degree of accuracy of not more than one decimal place) by which the index for the quarter ended on that day is greater or less than the index for the same quarter in the immediately preceding year.

Annual percentage

- 225.** Upon ascertaining the percentage referred to in clause 224, the Board shall:-
- (a) declare that amount as the percentage by which pensions shall be adjusted (whether by way of increase or decrease) in the year commencing on 1 October next after the quarter first mentioned in clause 224; or
- (b) if, by reason of the operation of clause 229, no adjustment is to be made in respect of that year, declare that pensions shall not be adjusted in respect of that year.

Implementation of annual adjustment

226. An adjustment of a pension in respect of any year shall be made:-

- (a) by increasing, or as the case may require by decreasing, the rate at which immediately before the making of the adjustment, the pension was payable by the percentage declared in respect of that year under clause 225; and
- (b) so as to operate from and including the commencement of the first pay period occurring in the month of October in that year.

Adjustment for new pensions

227. The following provisions apply to and in relation to the first adjustment of a pension pursuant to clause 226 if at the time when the adjustment is to be made, the pension has been in force for less than twelve months:-

- (a) in the case of a pension that comes into force after 1 September in any year, the first adjustment of that pension shall be made so as to operate from and including the commencement of the first pay period in the month of October in the second year after the year in which the pension comes into force;
- (b) in the case of a pension that comes into force on or before 1 September in any year, the first adjustment of that pension shall be made so as to operate from and including the commencement of the first pay period in the month of October immediately following that day; and
- (c) the annual amount by which a pension to which clause 227(b) applies is to be increased or decreased shall be calculated in accordance with the prescribed formula in clause 228.

Prescribed formula

228. For the purposes of clause 227(c), the prescribed formula is the formula:

$$V = A \times \frac{M}{12}$$

Where:

V is the annual amount referred to in clause 227(c);

A is the amount by which, but for the operation of clause 227(c), the pension would have been increased or decreased; and

M is the number of whole months from the day on which the pension came into force until the following 30 September (both days inclusive).

No adjustment for fractional percentage

229. Except as provided in clause 230, where the percentage ascertained by the Board pursuant to clause 224 in respect of any year is less than one, no adjustment of pensions shall be made in respect of that year.

Fractional percentages in successive years

230. Where each of the percentages ascertained by the Board pursuant to clause 224 in respect of any two or more successive years is less than one but those percentages are in the aggregate, equal to, or greater than, one, (whether by way of increase or decrease) pensions shall be adjusted in respect of the later or latest, as the case may be, of those years as if the percentage declared in respect of that year were a percentage equal to that aggregate.

No decrease below basic rate

231. Nothing in this division requires the rate of a pension to be decreased below the basic rate and if, by reason of the making of an adjustment under this division, the rate of a pension would be so decreased, that pension shall, until it is next increased, to a rate exceeding the basic rate by reason of the making of such an adjustment, be deemed to be payable at the basic rate.

Adjustments from basic rate

232. Where:

- (a) by reason solely of the operation of clause 231, a pension is being paid at the basic rate; and
- (b) an adjustment, by way of increase, is required to be made to the rate of that pension in respect of any year,

that adjustment shall be made as if, immediately before the making of the adjustment, the pension were payable at the rate at which, but for the operation of clause 231, it would have been payable.

Pensions accrue from compliance

233. All pensions payable under and in pursuance of this division shall accrue as from the day following the day compliance has been made with the requirements of this division under which a pension is payable.

Pensions payable fortnightly

234. Pensions under this division shall be payable in fortnightly instalments.

Pensions apportionable

235. Pensions under this division shall be apportionable in point of time.

Proof of age

236. A person claiming an entitlement to a pension under this division must produce to the Board for inspection a certificate of birth or such other evidence of age as the Board may require.

Pensions not capable of disposition

237. Pensions and other rights under these division shall not be assigned, charged, take in execution, attached or passed by operation of law or otherwise howsoever to any person other than the beneficiary or payee nor shall any claim be set off against the same.

PART 3 - ACCUMULATION BENEFITS PLAN

Division 1 - Membership

Eligibility

238. All Chapter 4 members who are not members of the defined benefits plan are members of the accumulation benefits plan.

Defined benefit members may transfer by agreement

239.

(a) A member of the defined benefits plan may become a member of the accumulation benefits plan by having member's entitlement to benefits converted to an entitlement to benefits under this Part, if Brisbane City Council, the employer (if not Brisbane City Council) and the member agree.

(b) On the conversion taking effect, the Board must:-

(i) calculate the value of the member's entitlement under Part 2; and

(ii) allocate that entitlement to the:-

(A) basic account;

(B) employer additional account;

(C) member account;

(D) member additional account; and

(E) rollover account,

to be kept for a member under this Part, to reflect the extent to which the value of the entitlement respectively reflects:-

(A) employer funding of the member's benefits prescribed under Part 2,

(B) any additional employer funding,

(C) member basic contributions prescribed under Part 2;

(D) any additional contributions made by the member; and

- (E) any amount transferred from another superannuation entity for the credit of the member.

Division 2 - Contributions and accounts

Permanent employees' own contributions

240.

- (a) Each member who is a permanent employee must contribute to the Scheme, by equal fortnightly payments unless the Board determines otherwise, at the rate of 5% of Salary as the member's "basic contributions", until the member attains age 70.
- (b) The employer must deduct the basic contributions from the member's salary.

Other employees

241. A member who is not a permanent employee is not required to make contributions.

Contributions during temporary absence

242. A member on temporary leave of absence from employment without salary:-

- (a) is not required to contribute to the Scheme during the period of leave;
- (b) may elect to continue to make the member's basic contributions, or may on returning from that leave make the basic contributions applicable to the period of the member's leave.

Additional member contributions

243. Each member may with the consent of the Board make additional contributions.

Board may excuse contributions

244. The Board may at the request of an employer, excuse a member from making the member's basic contributions, for a period determined by the Board, in which case the Board must determine any or a combination of the following, having regard to the arrangement proposed by the employer:-

- (a) that the benefits and contributions in respect of the member are to be adjusted;
- (b) that the member is deemed to continue to make the basic contributions;
- (c) that the employer must contribute an amount equivalent to the member's basic contributions.

Employer contributions for permanent employees

245. Each employer must contribute to the Scheme for each of its permanent employees who is a member at the rate of 14% of Salary, comprising:

- (a) the percentage of the member's salary required to avoid the employer becoming liable to superannuation guarantee charge for that member ("**prescribed contributions**"); and
- (b) an additional percentage, calculated so that the total percentage is 14%, or such lesser percentage or amount as the employer and the member agree (subject to the LGAct).

Employer contributions for other employees

246. Each employer must contribute to the Scheme for each of its employees who is a member other than a permanent employee, at a rate which is the percentage of the member's salary required to avoid the employer becoming liable to superannuation guarantee charge for that member for any period.

Employer contributions during maternity leave

247.

- (a) Where a member who is a permanent employee, at the direction of her employer, remains temporarily absent from employment on maternity leave for a period in excess of 6 weeks, then if the member continues to pay the member's basic contributions for the excess period, the employer must continue to pay its contributions under clause 245 for the excess period up to a maximum period determined under clause 247(b).
- (b) The maximum period is 6 weeks unless the employer notifies the Board that a longer maximum period applies.

Additional employer contributions

248. An employer may pay to the Board such additional amounts as the employer determines, to be applied by the Board for the benefit of a member, as the employer directs in writing.

Employer contributions to age 70

249. An employer is required to contribute for a permanent employee in accordance with clauses 245 and 247 until the member attains age 70, and is not required to so contribute after the member attains age 70.

Contributions for permanent employees of the Board

250. Despite clauses 240, 245 and 247, the contributions payable by:

- (a) a member who is a permanent employee of the Board; and
- (b) the Board in respect of a permanent employee,

shall be as the Board and the member agree (subject to the LGAct).

Board to keep member accounts

251. The Board must keep for each member, as subdivisions of the member's accumulation account, such of the following accounts as are applicable to that member, and may further subdivide those accounts into sub-accounts or notional sub-accounts:-

- (a) employer basic account, to which an employer's prescribed contributions for the member are allocated;
- (b) employer additional account, to which contributions for the member by an employer, other than prescribed contributions, are allocated;
- (c) member account, to which the member's basic contributions are allocated;
- (d) member additional account, to which additional contributions by the member, and any contributions for the member by any other person, are allocated;
- (e) rollover account, to which any amount transferred from another superannuation entity, or debited from another member's benefit, for the credit of the member, are allocated.

Division 2 - Accumulation benefits

Retirement benefits

252. A retirement benefit, of an amount equal to the member's plan credit, is payable in respect of a member where:

- (a) the member retires at or after the normal retirement date, or within 10 years before the normal retirement date;
- (b) the member attains age 70 and requests payment of the benefit.

Death or TPD before normal retirement date

253. If a member:

- (a) dies; or
- (b) becomes totally and permanently disabled, as a result of which the member ceases to be in employment,

before the normal retirement date, a benefit is payable of an amount equal to the sum of:-

- (c) the member's plan credit; and
- (d) the insured benefit (if any) applicable to the member.

Terminal illness

254.

- (a) An additional benefit is payable in respect of an accumulation benefit member who:-
 - (i) is an insured member with cover for terminal illness; and
 - (ii) is found to be suffering from a terminal medical condition before reaching the insured age.
- (b) The additional benefit is the amount of the member's insured benefit for terminal illness.
- (c) The benefit under this clause is additional to the member's plan credit.

Calculation of insured benefit

255.

- (a) The amount of an insured benefit for a permanent employee employed on a full-time basis is calculated in accordance with the following formula, unless clause 255(b) applies:-

$$\mathbf{K} \times \mathbf{Annual\ Salary} \times \mathbf{future\ service}$$

where:

K is whichever of 7.5%, 12.5% or 20% (or such other percentage as may be available under the terms of the insurance cover) applies to the member in accordance with the member's most recent written election, or 20% if no written election has been received;

Annual Salary = annual salary at the date of death or the date of disablement.

- (b) The Board may provide insured benefits for permanent employees on either of the following bases in substitution for insured benefits under clause 255(a):
 - (i) the Board may arrange with an external insurer insurance cover of a specified amount or calculated in accordance with a specified formula to apply to permanent employees generally;
 - (ii) the Board may:-
 - (A) arrange with an external insurer more than one option for the method of calculation that can be applied in calculating the insured benefit for members; and
 - (B) invite members to nominate one of those methods of calculation,
- in which case the method of calculation nominated by the member (or the method of calculation determined by the Board if the member fails to make a nomination) applies in calculating the insured benefit for that member.

- (c) The Board must make arrangements under clause 255(b) for a MySuper member, unless the member opts to cancel insurance cover.

Insured benefits for part-time employees

256. For a permanent employee who is a part-time employee:-

- (a) the Board may make arrangements with the member and an external insurer for provision or continuation of the member's insured benefit, or substitution of a different insured benefit, on agreed terms;
- (b) the Board must make such arrangements for a MySuper member, unless the member opts to cancel insurance cover;
- (c) no insured benefit is payable if no insurance cover is arranged.

Insured benefits for employees other than permanent employees

257. For employees who are not permanent employees:-

- (a) the Board may make arrangements with an external insurer for provision of insured benefits for such members, on terms that the Board decides;
- (b) the Board must make such arrangements for a MySuper member, unless the member opts to cancel insurance cover;
- (c) no insured benefit is payable if no insurance cover is arranged.

Insured benefits during unpaid leave

258.

- (a) If a member while on leave of absence from employment without salary, other than parental leave or leave classified as "a mid-career break":-
 - (i) dies no later than 2 years after the beginning of the leave; or
 - (ii) becomes totally and permanently disabled not later than 1 year after the beginning of the leave,the insured benefit is calculated as if the member were not on leave.
- (b) If a member, while on parental leave, dies or becomes totally and permanently disabled not later than 2 years after the beginning of the leave, the insured benefit is calculated as if the member were not on leave.
- (c) If a member, while on leave of absence from employment without salary classified as a "mid-career break", dies or becomes totally and permanently disabled not later than 1 year after the beginning of the leave, the insured benefit is calculated as if the member were not on leave.

- (d) No insured benefit is payable in respect of death or disability suffered while on leave of absence from employment without salary other than as provided in clauses 258(a), 258(b) or 258(c).
- (e) Notwithstanding clauses 258(a), 258(b) or 258(c):-
 - (i) the benefit payable on death or total and permanent disablement of a member while on leave of absence from employment without salary is subject to the Board making arrangements with an external insurer for continuation of insured benefits for the member; and
 - (ii) no insured benefit is payable if no insurance cover is arranged.

Death or TPD after normal retirement date

259. If a member dies or becomes totally and permanently disabled while in employment on or after the normal retirement date, a benefit is payable equal to the member's plan credit.

Entitlement to temporary disablement benefit

260. A benefit is payable if, before the normal retirement date, the member becomes temporarily disabled, where the member is covered under a policy of insurance which provides a benefit on temporary disablement.

Terms of temporary disablement benefit

261. Where a benefit is payable on temporary disablement, the amount of and terms on which the benefit is paid will be in accordance with the policy of insurance pursuant to which the benefit is paid.

Withdrawal benefit

262. A benefit is payable if a member ceases employment and is not entitled to a benefit under any other clause, of an amount equal to the member's plan credit.

PART 4 - DEFINITIONS AND GENERAL PROVISIONS FOR CHAPTER 4

Time limit for disability claims

263.

- (a) A benefit is not payable in respect of total and permanent disablement unless a claim for payment of the benefit is received by the Board within 6 years of the date on which the member permanently ceases employment with the employer by reason of the disablement.
- (b) The Board must not consider or assess a claim received by it outside the time stated in clause (a).

Defined terms for Chapter 4

264. In this Chapter:-

“accumulation account” means the an account set up for a member under clause 188 or 251.

“annual review date” means 1 July in each year, or such other date as the Board may determine from time to time.

“annual salary” of a member means the amount registered in the Board’s records as the member’s annual salary:-

- (a) at the most recent salary review date; or
- (b) for a member who was not a member on the most recent salary review date, on commencement of the member’s membership.

“completed membership” in relation to a member means a period calculated in years, with complete months counted as fractions of a year, determined as follows:

- (a) the period commences on the date on which the member becomes a member, but if the member was a member of a former fund the period commences on commencement of membership of a former fund;
- (b) the period ends:
 - (i) to calculate benefits other than on death or total and permanent disablement, on the later of:
 - (A) the date employment ceases;
 - (B) the date the member attains age 70;
 - (ii) to calculate benefits on death or total and permanent disablement, on the date that would have been the member's normal retirement date;
- (c) the period excludes any period during which the member was temporarily absent from employment and not receiving salary, unless the period is included under clause 182, or the Board decides to include that period.

“Councillors’ Fund” means the Brisbane City Councillors Superannuation Fund established by resolution of the Council made on 25 August 1969.

“Councillors’ Fund pensioner” means a person who is entitled to a benefit under division 5 of Part 2 of this Chapter.

“Councillors’ Fund rules” means the document titled *“The B.C.C. Councillors’ Superannuation Fund Rules”*, comprising the rules of the Councillors’ Fund which came into effect on 1 July 1995 including the *“Former Rules”* as therein defined.

“date of disablement” means in respect of a member who is totally and permanently disabled:

- (a) the date on which the member was last at work, unless paragraph (b) applies;
- (b) if the member was on leave at the time an illness, accident or injury commenced or occurred as a result of which the member is totally and permanently disabled, the date on which the illness, accident or injury commenced or occurred.

“employer financed benefit” of a member means an amount calculated in accordance with the following formula:

$$[(17.5\% \times \mathbf{FAS} \times \mathbf{CM}) \times \mathbf{E}] - \mathbf{MFB}$$

where:

FAS = Final Average Salary

CM = Completed Membership

E = $1 - [1\% \times (55 - \text{age})]$, where age is the member's age in years, with completed months expressed as fractions of a year

MFB = the member's member financed benefit.

“employment”

1. For a casual employee, the period of employment which the employers notifies to the Board from time to time.
2. For a defined benefit member, continuous service with an employer, where service does not cease to be continuous by reason of temporary absence:
 - (a) while the member is engaged in compulsory military service or in service in the armed forces of Australia or its allies in time of war;
 - (b) in any other circumstances which the employer notifies the Board do not result in a break in continuity of employment;
 - (c) while the member is suspended by the employer.
3. For an accumulation benefit member, other than a casual employee, continuous service with an employer, where service does not cease to be continuous by reason of:-
 - (a) temporary absence where the employer does not regard the absence as resulting in a break in continuity of service;
 - (b) temporary absence while the member is suspended by the employer;
 - (c) transfer of service from one Chapter 4 employer to another.

“final average salary” of a member means the average of the member's annual salary on each of the salary review dates in the three years immediately preceding the date on which a retirement benefit is calculated in respect of the member, but if the member:-

- (a) has been a member for less than three years, final average salary means the average of the member's annual salary at the date of commencement of membership and each subsequent salary review date;
- (b) was not a member on last salary review date, final average salary means the member's annual salary at the date of commencement of membership.

“former fund” means, as the context allows or requires:-

- (a) the superannuation fund established by a trust deed dated 12 November 1951 as amended, and known in the course of administration as the *“Brisbane City Council Superannuation Fund”*; and
- (b) City Super.

“future service” means the period in years, counting complete months as fractions of a year, from:-

- (a) the annual review date preceding a member's death or date of disablement; or
- (b) for a member who was not a member on the most recent annual review date, commencement of the member's membership,

to the normal retirement date.

“insured benefit” means an amount payable under a policy of insurance in respect of the death, terminal illness, total and permanent disablement or temporary disablement of a member.

“member” means a Chapter 4 member.

“member financed benefit” of a member means an amount calculated in accordance with the following formula:

$$5\% \times \mathbf{FAS} \times \mathbf{CM}$$

where:

FAS = Final Average Salary

CM = Completed Membership

“normal retirement date” :-

- (a) where used in relation to a benefit for which the Board is externally insured, the age at which the insured benefit ceases to be payable under the relevant policy; and
- (b) otherwise, means a member's 65th birthday.

“ordinary time earnings” means, in respect of a member, the amount payable by the employer to the member calculated in accordance with the classification rate, and:

- (a) includes the amount of any:

- (i) supplementary payment (where relevant);
- (ii) over award payment;
- (iii) shift loading;
- (b) does not include the amount of any:
 - (i) bonus;
 - (ii) commission;
 - (iii) overtime payment;
 - (iv) vehicular hire allowance;
 - (v) weekend or other penalty rate;
 - (vi) other fee or allowance.

“permanent employee” means an employee who is not a casual employee, and includes persons employed on a contract, or for a certain time or for the duration of a specified function, if the employer designates the person as a permanent employee.

“plan credit” at any time means the total value of a member’s accumulation account at that time.

“review period” means a period of up to 12 months as determined by the Board.

“salary”⁵⁶ means, in respect of each member, the amount (whether called salary or wages) calculated on a weekly basis payable by the employer to the member by way of ordinary time earnings.

“salary review date” means 1 April and 1 October in each year, or such other date or dates as the Board may determine from time to time.

“temporary disablement”, in relation to a member, means the definition of *“temporary disablement”* or a corresponding term in the policy of insurance taken out by the Board to provide income continuance benefits for a member or group of members and, where the Board has taken out different policies of insurance for different members or groups of members, means the definition in the policy of insurance covering that member. *“temporarily disabled”* has a corresponding meaning.

“terminal medical condition”, in relation to a member, Means the definition of *“terminal medical condition”* (or equivalent concept) in the policy of insurance taken out by the Board to provide cover for terminal illness.

“total and permanent disablement” of a member means disablement resulting from illness, accident or injury to the member which commences or occurs prior to the member’s normal

⁵⁶ See also the definition of “salary” in clause 275 which relates to members who may breach the concessional contributions cap, and may override this definition in particular circumstances.

retirement date and while the member is in the active service of the employer and as a result of which either:

- (a) the member suffers the loss by physical separation of two limbs or the complete and irremediable loss of the sight of both eyes or the loss by physical separation of one limb accompanied by the complete and irremediable loss of the sight of one eye (limb means at least an entire hand or entire foot); or
- (b) the member is continuously absent from his or her employment for a period of six consecutive months and after considering the advice of the insurer and any medical opinions provided or obtained, the Board is satisfied that it is unlikely he or she will ever be able to engage in any regular remunerative work for which he or she is reasonably fitted by education, training or experience,

“totally and permanently disabled” has a corresponding meaning.

However, where a benefit on total and permanent disablement is provided under a policy of insurance, the definition of total and permanent disablement or a corresponding term in the policy of insurance applies in place of this definition and, where the Board has taken out different policies of insurance for different members or groups of members, the definition applicable to a member is the definition in the policy of insurance covering that member.

CHAPTER 5 - TRANSITIONAL PROVISIONS FOR MERGER

PART 1 - EXISTING ENTITLEMENTS NOT AFFECTED

Existing entitlements

265.

- (a) Neither this deed nor any amendment to this deed affects the:-
 - (i) amount;
 - (ii) calculation of interest on; or
 - (iii) nature,
of a member's rights and entitlements with respect to benefits under:-
 - (iv) the former LG Super; or
 - (v) City Super.
- (b) For avoidance of doubt, a benefit which is or becomes payable by virtue of an event or occurrence prior to the merger date must be calculated and paid:
 - (i) in respect of a person who was a member of the former LG Super, in accordance with the former LG Super trust deed;
 - (ii) in respect of a person who was a member of City Super, under the former City Super trust deed.

Accounts and entitlements deemed established for continuing members

266. Without limiting clause 265:-

- (a) persons who were defined benefit members or accumulation benefit members of the former LG Super immediately prior to the merger are Chapter 3 members of the same type under this deed;
- (b) persons who were retained benefit members, spouse members or family law members of the former LG Super immediately prior to the merger are members of the same type under this deed;
- (c) the accumulation accounts of persons who were members of the former LG Super immediately prior to the merger are established as accumulation accounts under this deed with the same rights and entitlements;
- (d) persons who were Part A defined benefit plan members of City Super immediately prior to the merger are defined benefit members under Chapter 4, Part 2;

- (e) persons who were Part B accumulation benefit plan members of City Super immediately prior to the merger are accumulation benefit members under Chapter 4, Part 3;
- (f) persons who were Part C members of City Super are, as the case requires, retained benefit members, spouse members or family law members under this deed;
- (g) persons who were Part D pensioners under City Super are taken to be persons whose retained benefit, or the retained benefit of a deceased spouse, has been converted to a pension under this deed, on the same terms and conditions as the pension being paid by City Super;
- (h) the accumulation accounts of persons who were members of City Super immediately prior to the merger are taken to be:-
 - (i) established as accumulation accounts under this deed; and
 - (ii) subdivided into subaccounts referred to in Chapter 4 in the same way, and with the same rights and entitlements, as applied under City Super.

Investment strategies for former members of City Super

267. The investment strategies applicable to the accumulation accounts of persons who were members of City Super immediately prior to the merger shall be determined by the Board as at the merger date, taking into account the investment strategies applicable to each such person as a member of City Super immediately prior to the merger.

Run-off of LG Super growth-smoothed strategy

268.

- (a) Despite clause 267, the investment strategy established under the former LG Super scheme known as the “growth-smoothed” strategy is not a strategy available to any member other than a member of the former LG Super to whom that strategy applied immediately prior to the merger.
- (b) The Board must provide for the closure of the growth-smoothed strategy from 1 July 2011, and in doing so may decide:-
 - (i) how the investment fluctuation reserve which supported the growth-smoothed strategy will be applied for the benefit of the relevant members over the period from 1 July 2011, so as to exhaust that reserve by not later than 30 June 2013 (“**GS termination date**”);
 - (ii) how members’ monies in Growth Smoothed will be invested from 1 July 2011 until not later than the GS termination date; and
 - (iii) the default investment strategy which will apply in respect of these moneys on the GS termination date, if the relevant member has made no other choice, which default strategy may be different for different classes of member as identified by the Board.

PART 2 - SUCCESSOR FUND DEED

Board must perform deed obligations

269.

- (a) The Board is authorised and, where relevant, required to do anything which it is authorised or required to do under the successor fund deed.
- (b) Clause 269(a) applies despite anything in this deed.

PART 3 - TRANSITIONAL BOARD OF DIRECTORS

Constitution of transitional board

270. Despite any provision in Chapter 1, Part 2 of this deed:-

- (a) the first directors of the Board following the merger comprise:-
 - (i) the existing directors of LG Super immediately prior to the merger with City Super;
 - (ii) an employer representative director nominated by Brisbane City Council;
 - (iii) a member representative director nominated by the board of the trustee of City Super, who was a member representative director on that board;
- (b) the term of office of the first directors of the Board following the merger ends on 30 June 2014;
- (c) despite clause 270(b), the Board may, before 1 July 2014, decide that the term of office of the existing director of LG Super immediately prior to the merger who was an independent director (“**first independent director**”) ends on 31 December 2014.

Additional independent directors in transitional period

271.

- (a) The Board may act under clause 12 to appoint independent directors before 1 July 2014.
- (b) If it does so, those appointments are:-
 - (i) not transitional appointments;
 - (ii) for the terms decided by the Board under clause 12, whether those terms end before or after 1 July 2014; and
 - (iii) in addition to the appointment of the first independent director, and do not affect the term of appointment of that director.

- (c) To avoid doubt, it is an intended consequence of the operation of this clause that, despite clause 12, the directors of the trustee may include 4 independent directors until the end of the term of appointment of the first independent director.

Filling vacancies during transitional period

272.

- (a) Any vacancy in the office of the member representative director nominated by the board of the trustee of City Super, during the period from the merger date to the date that director's term of office expires, is to be filled by:
- (i) a person appointed by the Board who:-
 - (A) was a member representative director on the board of the trustee of City Super; and
 - (B) at the time of appointment is an employee of a Chapter 4 employer; or
 - (ii) if no such person is able or willing to act, a person appointed in accordance with the election procedures in clause 11 but conducted on the basis that the only persons eligible to nominate for election, receive a ballot paper or vote are those members who are employees of a Chapter 4 employer.
- (b) Any vacancy in the office of the employer representative director nominated by Brisbane City Council during the period from the merger date to the date that director's term of office expires is to be filled by a director nominated by Brisbane City Council.
- (c) Any vacancy in the office of any other director during the period referred to in clause 270(b) is to be filled in accordance with the applicable provisions in clause 19 or 20.
- (d) However, to avoid doubt, if:-
- (i) the vacancy is in the office held by the first independent director; and
 - (ii) there are 3 other independent directors appointed when the vacancy happens, the vacancy must not be filled.

Vacation of office for transitional Board

273.

- (a) For each of the directors in office under clause 270(a), and any persons who replace them during the period referred to in clause 270(b):-
- (i) clause 16 applies to vacate the director's office in a circumstance stated in that clause; and
 - (ii) the director may be removed in accordance with clause 17.

- (b) In addition, for the member representative director nominated by the board of the trustee of City Super, or any person who replaces that director:-
 - (i) his or her office is vacated on the director ceasing to be a member; and
 - (ii) the director may be removed pursuant to a ballot of members who are employees of a Chapter 4 employer in which the majority of the those members vote in favour of such removal.

First non-transitional board

274.

- (a) The process for appointment of directors in Chapter 1, Part 2 must be carried out in sufficient time for the directors succeeding the transitional board of directors to take office on 1 July 2014.
- (b) To avoid doubt:-
 - (i) clause 274(a) does not apply to independent directors appointed under clause 271 who continue in office on 1 July 2014 if their term of appointment so provides; and
 - (ii) the term of office of directors appointed to succeed the transitional board of directors is the term specified in clauses 10, 14 and 15, except that the term of office for employer representatives, which expires at the time stated in clause 10, is only 2 years⁵⁷.

⁵⁷ For clarity, the terms are: 4 years (to 2018) for employee representatives; 2 years (to 2016, being the next quadrennial election year) for employer representatives, and as determined by the Board (but not more than 4 years) for any independent director(s) who need to be appointed if sufficient appointments have not already been made under clause 271.

CHAPTER 6 - INTERPRETATION (GENERAL)

Defined terms

275. In this deed generally, except where a contrary intention appears:-

“accumulation benefit” means a benefit which is not a defined benefit or an insurance benefit.

“accumulation benefit member” means a member who is not a defined benefit member or a retained benefit member.

“Accumulation Benefits Fund” means that part of the assets of the Scheme which the Board has determined to constitute the Accumulation Benefits Fund in order to fund accumulation benefits for Chapter 3 members and Chapter 4 members, together with future contributions and investment earnings allocated to the Fund.

“accumulation comparison rate” means the rate determined by the Board from time to time having regard to:

- (a) the objective of ensuring, so far as it is reasonably possible so to do, that a benefit paid to a defined benefit member (other than an amount representing the balance, if any, in the member’s accumulation account) is at least an amount representing the total of the required employer and employee contributions made under the LG Act (or its statutory predecessors) for the member, together with a reasonable level of notional earnings on those contributions over the contribution period, but taking into account costs incurred by the Board for the member or defined benefit members generally over the contribution period;
- (b) the need to ensure that a defined benefits fund remains adequate to meet the value of the liabilities for remaining members whose benefits are to be paid from that fund.

The rate may be set differently for Chapter 3 members (including family law members and spouse members whose interests are derived from Chapter 3 members) and Chapter 4 members (including family law members and spouse members whose interests are derived from Chapter 4 members).

“actuary” means the person appointed by the Board from time to time as its actuary, being a person who is:-

- (a) an accredited member, or a fellow, of the Institute of Actuaries of Australia; and
- (b) otherwise eligible under Superannuation Law to accept that appointment.

“Associated Employer” see clause 53.

“auditor” means the auditor of the Scheme appointed under clause 28.

“award contributions” means in relation to a member contributions made by, or on behalf of, the employer to the Scheme in relation to the member in or towards satisfaction of the employer’s obligation to make contributions for the member.

“**beneficiary**” means a person (including but not limited to a member) to whom a benefit is payable.

“**Board**” means LGIASuper Trustee.

“**Chapter 3 member**” see clause 133.

“**Chapter 4 employer**” means Brisbane City Council and any associated employer.

“**Chapter 4 member**” see clause 177.

“**City Super**” means the Brisbane City Council Superannuation Plan.

“**compound interest**” means interest, whether a positive or negative amount, calculated under clause 105.

“**contribution split**” means the transfer or roll over of an amount of benefits for the benefit of a member’s spouse under Chapter 2, Part 4.

“**CS Defined Benefits Fund**” means that part of the former assets of City Super transferred to the Board which the Board has determined to constitute the CS Defined Benefits Fund in order to fund defined benefits for Chapter 4 members, together with future contributions and investment earnings allocated to the Fund.

“**death benefit**” means a benefit paid upon, after or in consequence of the death of a member. The term includes a benefit which is payable, but not yet paid, at the date of death of a member.

“**deed**” or “**this deed**” means the provisions of the trust deed as amended by the supplemental deed made by the Board to take effect on the merger date, as those provisions are subsequently amended from time to time.

“**default investment strategy**” means the investment strategy referred to as a “default investment strategy, in clause 66(d) or (g) or clause 268, as the case requires.

“**defined benefit**” means a benefit or part of a benefit which:-

- (a) is payable under Chapter 3, Part 2, Division 2 or Chapter 4, Part 2, Division 2; and
- (b) is not an amount standing to the credit of a member in an accumulation account, and is not an insurance benefit in respect of any voluntary insurance elected by the member.

“**defined benefit member**” means a member who has an entitlement to a defined benefits.

“**dependant**” has the meaning given by Superannuation Law.

“**disability pension**” means a pension paid or payable in respect of disability under Chapter 3 or in respect of temporary disablement under Chapter 4.

“**disability pensioner**” means a member who is for the time being entitled to receive a disability pension.

“employee” of an employer includes a contractor who is eligible for membership of the Scheme under the LG Act.

“employer” means an employer who contributes to the Scheme on behalf of a member:-

- (a) pursuant to an obligation under the LG Act; or
- (b) pursuant to an arrangement made between the Board and the employer.

“family law member” is a person who is a member of the Scheme only because of the creation of an interest in the Scheme for the person because the person received an entitlement to a payment split under Superannuation (Family) Law.

“former City Super trust deed” means the trust deed dated 24 January 1989 establishing City Super (then named “Brisbane City Council Occupational Superannuation Plan”) as amended.

“former LG employee” means a member in respect of whom employer contributions were previously payable by a LG employer, but are now payable by an entity other than an LG employer.

“former LG Super” means the LG Super scheme as it existed under the former LG Super trust deed immediately prior to the merger.

“former LG Super trust deed” means the trust deed made by the Board on 5 April 1995 as amended, as it existed immediately prior to the merger.

“insurance benefit” means:-

- (a) the amount of a benefit in respect of death or total and permanent disablement that is greater than the member’s accrued benefit;

a disability pension; and

any other benefit provided as a consequence of the Board arranging external insurance.

“insurance premium” means an amount:-

- (a) determined by the Board from time to time to be charged to a member for the provision of insurance cover referred to in Chapter 3 or Chapter 4 (other than compulsory cover for defined benefit members); and
- (b) not exceeding the member’s proportionate share, having regard to the type and amount of insurance cover provided for the member, but otherwise determined on a consistent basis for all insured members, of the cost incurred by the Board to purchase external insurance and otherwise administer the provision of insurance benefits.

“insured member” means:-

- (a) a defined benefit member; and
- (b) a member to whom default cover applies who has not opted out of that cover; and

- (c) any other member who has the benefit of insurance cover referred to in Chapter 2, Chapter 3 or Chapter 4.

When used in relation to a particular type of cover (eg **“insured member with cover for TPD”**) it means a person who has the benefit of that particular type of cover.

“interest”, when used in relation, or by reference to an investment earning rate or any other rate, includes a negative amount or percentage.

“LGAct” means the *Local Government Act 2009*.

“LG Defined Benefits Fund” means that part of the assets of the Scheme which the Board has determined to constitute the LG Defined Benefits Fund in order to fund defined benefits for Chapter 3 members, together with future contributions and investment earnings allocated to the Fund.

“LG employer” means:-

- (a) Brisbane City Council;
- (b) an associated employer;
- (c) a local government other than Brisbane City Council;
- (d) a local government entity; and
- (e) the Board.

“LG Insurance Fund” means that part of the assets of the Scheme which the Board has determined to constitute the LG Insurance Fund in order to fund insurance benefits for Chapter 3 members in respect of which the Board is not indemnified by external insurance, together with future contributions and other allocations (if any) and investment earnings allocated to the Fund.

“local government” has the meaning in the LGAct.

“local government entity” has the meaning in the LGAct.

“member” means a person to whom or in respect of whom a benefit is or will be payable from the Scheme (but does not include a person to whom a benefit is payable consequent upon the death of a member).

“member contributions” means amounts received by the Scheme as contributions paid by the member himself or herself.

“merger” means the merger of the former LG Super Scheme and City Super, effected under the successor fund deed.

“merger date” means 1 July 2011.

“MySuper member” means a member:-

- (a) who is not a defined benefit member;
- (b) who has not chosen an investment strategy under clauses 66 and 67 (other than a choice in respect of an amount which is an accrued default amount as defined by Superannuation Law because of that choice); and
- (c) for whom contributions made for the benefit of the member are required by Superannuation Law to be paid into a MySuper product.

“non-employee member” means a member who joins the Scheme other than as an employee of an employer, including a spouse member and a family law member.

“parental leave” includes any of the following:

- (a) maternity leave;
- (b) early paid leave for an expectant mother if the employer is unable to transfer her to a safe job;
- (c) paternity leave;
- (d) pre-adoption leave;
- (e) adoption leave.

“regulated date” means the day on which the Scheme becomes a regulated superannuation fund under Superannuation Law.

“Regulator” means the Australian Prudential Regulation Authority, and any other person or body having statutory jurisdiction over a matter to which this deed is relevant.

“relevant rate” means, in respect of the whole or part of any accumulation account, the investment return rate determined under clause 68 which applies to the investment strategy chosen by the member in respect of the amount comprised in that account, or the relevant part of that account.

“retained benefit member” means a member in respect of whom the Board maintains a retained benefit account.

“retire” means cease employment permanently by reason of age.

“required DB contributions” means in respect of Chapter 4 members:-

- (a) basic contributions by or in respect of defined benefit members under clause 181(a) and
- (b) any contributions by an employer in respect of defined benefit members generally under clause 180(a) (but, to avoid doubt, does not include contributions under clause 185).

“reversionary beneficiary” of a member means a person:

- (a) whom the member nominated on commencement of the member’s pension, in a form prescribed by the Board, 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 (at the time of the nomination and at the time of the member’s death);
 - (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; and
 - (iii) 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).

“Salary”:-

- (a) for chapter 3, has the meaning given by s 171; and
- (b) for chapter 4, has the meaning given by s 264.

“Scheme” means the superannuation scheme continued in existence under the LGAct.

“SG contributions” in relation to a member, means contributions by an employer that are equal to the sum of the contributions made by, or on behalf of, the employer to the Scheme in relation to the member, that:

- (a) reduce the employer’s potential liability for the superannuation guarantee charge imposed by section 5 of the *Superannuation Guarantee Charge Act 1992*; or
- (b) are payments of shortfall components under that Act,

and includes a shortfall component collected by the Board at the request of a member under Regulation 10 of the *Superannuation Guarantee (Administration) Regulations* where the component relates to (previous) employment with a person or body other than an employer.

“spouse” has the meaning given by Superannuation Law.

“spouse contributions” means contributions which are **“eligible spouse contributions”** under Superannuation Law.

“spouse member” is a person who is a member of the Scheme only because of:-

- (a) the making of spouse contributions for the benefit of the person; or
- (b) the transfer of contributions from a member to the person under a contribution split.

“**successor fund deed**” means the document titled “successor fund deed and deed of indemnity” executed by the Board and City Super Pty Ltd.

“**superannuation entity**” has the meaning given by Superannuation Law.

“**Superannuation Law**” means -

- (a) *Superannuation Guarantee (Administration) Act 1992* (Cwlth);
- (b) *Superannuation Guarantee (Charge) Act 1992* (Cwlth);
- (c) *Superannuation Industry (Supervision) Act 1993* (Cwlth);
- (d) *Superannuation Entities (Taxation) Act 1987* (Cwlth);
- (e) *Income Tax Assessment Act 1936* (Cwlth);
- (f) *Income Tax Assessment Act 1997* (Cwlth);
- (g) any other Act of the State or of the Commonwealth that the Scheme or the Board must comply with in order to secure, or better secure, a tax concession or avoid a penalty, detriment or disadvantage; and
- (h) any modification, direction or guideline issued by the APRA with which the Board must or may comply.

“**Superannuation (Family) Law**” see clause 86.

“**superannuation guarantee charge**” means the charge imposed by section 5 of the *Superannuation Guarantee Charge Act 1992*.

“**year**” except in relation to provisions dealing with:-

- (a) the term of office of directors; and
- (b) the determination of a member’s superannuation scheme multiple and final average salary,

means a financial year of the Board (from 1 July to 30 June unless otherwise determined by the Board).

General interpretation

276.

- (a) **Terms defined by statute**

All terms and expressions used in this deed which are defined in the LGAct or Superannuation Law have, unless a contrary intention appears, the meanings assigned to them by the LGAct or Superannuation Law.

- (b) **Forms**

- (i) A reference to a Form (for example, a “Form 1”) is a reference to the form of that description, and each variant of that form, adopted by the Board from time to time.
- (ii) To dispel doubt, the Board may adopt derivatives or variants of a given form to serve differing circumstances.

Example: A Form 1 may be adopted for use with respect to contributory members, and a derivative or variant of that form (such as a Form 1A) may be adopted for use with respect to non-contributory members.

(c) **Headings**

Headings and footnotes do not form part of this deed but a heading or footnote to a clause or provision may be used to resolve an ambiguity in the meaning of that clause or provision.

(d) **Words and references**

In this deed, unless a contrary intention appears -

- (i) Every word in the singular number is construed as including the plural number and every word in the plural number is construed as including the singular number.
- (ii) Derivatives of any defined term or expression have a corresponding meaning.
- (iii) Reference to a statute includes a statute that amends or replaces the statute.

(e) **“Giving” of Notices**

For all purposes of this deed, a notice or other document is given by the Board (or a returning officer) on the day it is put into the post or otherwise leaves the office of the Board for delivery to the intended recipient.

Severance of void provisions

277.

- (a) A provision of this deed which is void, prohibited or unenforceable (whether by reason of Superannuation Law or otherwise) is ineffective to the extent that the provision is void, prohibited or unenforceable but remains effective to the extent that it:-
 - (i) is not void, prohibited or unenforceable; and
 - (ii) is capable of sensible operation.
- (b) A provision which is ineffective under 277(a) does not invalidate the remaining provisions of this deed.

BENEFIT RELATED TABLES

TABLE 1 - AGE DISCOUNT FACTOR TABLE

Age of Member	Factor F
35 or younger	0.60
36	0.62
37	0.64
38	0.66
39	0.68
40	0.70
41	0.72
42	0.74
43	0.76
44	0.78
45	0.80
46	0.82
47	0.84
48	0.86
49	0.88
50	0.90
51	0.92
52	0.94
53	0.96
54	0.98
55	1.00