

**QROPS AMENDING DEED of
Praemium SMA Superannuation Fund**

**Diversa Trustees Limited
ABN 49 006 421 638
(Trustee)**

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QROPS AMENDING DEED of the Praemium SMA Superannuation Fund

This amending deed is made by Diversa Trustees Limited (ABN 49 006 421 638) of Level 20, 357 Collins Street, Melbourne, Victoria 3000, the Trustee of the Praemium SMA Superannuation Fund (the **Fund**) on:-

DATE: this 28th day of June 2018

BACKGROUND

1. The Fund was established by a deed dated 15 September 2011 and its governing rules are now contained in that deed as amended from time to time (the **Trust Deed**).
2. By a Deed of Retirement and Appointment CCSL Limited retired as trustee of the Fund and The Trust Company (Superannuation) Limited (ABN 49 006 421 638) was appointed the Trustee of the Fund.
3. The Trust Company (Superannuation) Limited has changed its name to Diversa Trustees Limited.
4. The Trustee now desires to amend the Trust Deed and to add a new Division in Schedule 4 – the QROPS Division with the aim of:-
 - (a) Ensuring the Praemium SMA Superannuation Fund is a Recognised Overseas Pension Scheme (ROPS) within the meaning of section 150(8) of the Finance Act 2004 (UK).
 - (b) To enable the Trustee pursuant to section 169(2) of the Finance Act 2004 to properly notify Her Majesty's Revenue and Customs (HMRC) in the UK that it is a ROPS, to provide any such evidence that HMRC may require, and to provide the necessary undertakings in accordance with that section.
5. The Trustee wishes to ensure that in accordance with the Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) Regulations 2006 the benefits payable to a Member of the Fund to the extent that they consist of a Member's Relevant Transfer Fund or Ring-Fenced Transfer Funds [which have the same meaning as in Schedule 34 of the Finance Act 2004 (UK)] are payable no earlier than they would be if pension rule 1 in section 165 of the Finance Act 2004 applied.
6. To ensure that this can never happen the rules of the QROPS Division created by this amending deed will prohibit the transfer into the Fund of the funds described in paragraph 5 above unless the member concerned is aged 55 or above.
7. The Trustee in making this amendment recognises the need to provide Australian expatriates and migrants who are aged 55 and above, with an

opportunity to transfer pension and retirement benefits governed by the UK pension regime into the Australian superannuation regime without incurring taxation and surcharge as an unauthorised payment.

8. The Trustee is satisfied from the Trust Deed that:-
 - (a) by Clause 2.4 each Division of the Fund may have different rights, liabilities, conditions, terms, rules and fees applying to it and that each Division may contain its own Rules;
 - (b) by Clause 1.1 (Definitions) "Rules" means those rules governing each Division and contained in the Schedules to the Trust Deed;
 - (c) by Clause 1.5 the Schedules to the Trust Deed form part of the Trust Deed;
 - (d) by Clause 2.9 the Fund constitutes a single trust and a Division does not constitute a separate trust.
9. The Trustee is satisfied that it has power under Clause 22.1 of the Trust Deed to make the amendments contained in this amending deed.

OPERATIVE CLAUSES

1. The following clauses and amendments to the Trust Deed all take effect from the date of this deed.
2. The **Deed of Variation** executed by the Trustee of the Fund with the effective date of 6 April 2015 is revoked and ceases to have any effect.
3. Under Clause 2.4 of the Trust Deed the Trustee establishes a new Division of the Fund and with the consent of the Sponsor **Praemium Australia Limited** the following particulars are prescribed for the purposes of Clause 2.4(b):-
 - (i) the name of the Division is the "QROPS Division";
 - (ii) the commencement date of the Division is the date of this deed;
 - (iii) the Rules for the Division are contained in Schedule 4 of the Trust Deed which is added to the Trust Deed by this deed.
4. Schedule 4 in the form of the Annexure to this deed is added to the Trust Deed.
5. These definitions are added to Clause 1.1 of the Trust Deed:-

"**QROPS Division** means the Division of that name established under clause 2.4 and governed by the Rules set out in Schedule 4."

"**QROPS Member** means a Member who has been admitted to membership of the QROPS Division under Schedule 4 (either automatically or by permission of the Trustee) and has not ceased to be a member of the QROPS Division."

"**QROPS Rules** means all requirements and obligations:-

 - (a) imposed by UK law on the Trustee as scheme manager of the Fund as a Qualifying Recognised Overseas Pension Scheme or which may continue after the Fund ceases to be a Qualifying Recognised Overseas Pension Scheme;

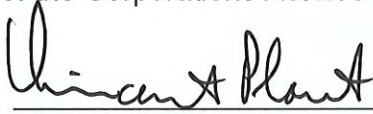
- (b) arising from the declaration and undertakings given by the Trustee upon informing HM Revenue and Customs that the Fund was a Recognised Overseas Pension Scheme; and
 - (c) arising from any further agreement, declaration or undertakings given to HM Revenue and Customs.”
- 6. This clause is added to the Trust Deed immediately after Clause 6.1:-
 - 6.1.1 The Trustee may in its absolute discretion accept into a Division or into the Fund a transfer from a foreign superannuation fund in respect of a Member.
- 7. The following words are added to the Trust Deed in Clause 1.2 (Definitions from SIS Act) immediately before the words “*investment manager*”:-
“*foreign superannuation fund*”
- 8. The following Clause is added to the Trust Deed immediately after Clause 18.21:-
“**18.22 Power in relation to UK sourced pension money**
 - (a) The Trustee shall have power:
 - (i) to do all acts and things which it considers necessary, desirable or expedient to comply with the QROPS rules (including expending monies of the Fund);
 - (ii) to refuse or refrain from doing anything (including delaying or refusing any request or transaction in connection with a Member’s interest or proposed interest in the Fund) that would result in a breach of, or the Trustee breaching, the QROPS rules or which in the reasonable belief of the Trustee would be an unauthorised payment.
 - (b) Subject to any overarching obligations to treat Members fairly the Trustee may do anything whatsoever or which it considers necessary, desirable or expedient in the best interests of a QROPS Member or for the administrative convenience of the QROPS Division provided this would not result in a breach of, or the Trustee breaching, the QROPS rules.
 - (c) Without affecting the generality of the above, the Trustee may:-
 - (i) discharge any tax, penalty or surcharge liability as required by HM Revenue and Customs;
 - (ii) give information and documents to HM Revenue and Customs;
 - (iii) establish maintain and accept a transfer into an arrangement in the Fund under which no other sums or assets are held;
 - (iv) require a Member of the QROPS Division to give the Trustee information or documents or an indemnity or a binding promise to do one or more of those things on the happening of an event;
 - (v) require a Member of the QROPS Division to give the Trustee general consent to enable the Trustee to obtain information or documents from third parties to enable the Trustee to comply with the QROPS rules.

- (d) If the Trustee has paid any taxes, penalties and surcharges or incurred any costs and expenses with respect to a Member under or connected with the QROPS rules or an actual or possible unauthorised payment the Trustee may require the Member to reimburse the Trustee for its payment or costs and expenses.
- (e) The Trustee is entitled to be indemnified out of the assets of the Fund for any costs, charges and expenses that the Trustee properly incurs pursuant to this clause."

- 9. The Trustee confirms that in the opinion of its officers no amendments in this deed adversely alters a beneficiary's right or claim to accrued benefits or the amount of those accrued benefits.
- 10. This deed may be amended by deed executed by the Trustee.
- 11. This deed is governed by the law of Victoria.

Signing page

Executed as a deed by **Diversa Trustees Limited**
ABN 49 006 421 638 in accordance with section 127
of the Corporations Act 2001 (Cth):



Signature of director



Signature of ~~director~~/secretary
(Please delete as applicable)

VINCENT PLANT

Full name (print)

Robert Good

Full name (print)

ANNEXURE

This is the Annexure referred to in the Amending Deed dated 28 June 2018 and which contains Schedule 4 (the QROPS Division Rules).

SCHEDULE 4 – QROPS DIVISION RULES

1. Application of Schedule

- (a) The QROPS Division applies where there is *UK Sourced Pension Money*.
UK Sourced Pension Money is one or more of the following:-
- (i) a Member's UK Tax-Relieved fund as defined in Schedule 34 of the Finance Act 2004 (UK);
 - (ii) sums or assets held by a UK registered pension scheme for the purposes of, or representing accrued rights under the pension scheme [within the meaning of these words in section 169(1) of the Finance Act 2004];
 - (iii) any fund, sums or assets which at any time have been either of the above.
- (b) *UK Sourced Pension Money* continues to be UK Sourced Pension Money after transfer into the Fund.
- (c) The Rules applying to this Division are set out in this Schedule 4.
- (d) In the case of any conflict or inconsistency the rules applying in this Division shall prevail over the rules in the Deed and in any other Division.

2. Membership of this Division

2.1 Automatic admission of QROPS Members

A Member will automatically become a member of this Division (a QROPS Member) if the Trustee has accepted or proposes to accept a transfer into the Fund of UK Sourced Pension Money in respect of that Member.

2.2 Non-automatic admission of QROPS Members

A person may be admitted to membership of the QROPS Division if the Trustee permits.

2.3 Membership of another Division

A Member may also be a member of another Division.

3. Prohibited transfers

- (a) In respect of a Member who is below the age of 55 there is an absolute prohibition against a direct or indirect transfer or rollover into the Fund of UK Sourced Pension Money.

- (b) This prohibition applies notwithstanding any provision to the contrary or provision inconsistent with it in the Deed or in a Division.
- (c) This prohibition shall continue to apply and shall continue to have the same meaning as it had when this Division was established notwithstanding any changes to the references to UK law or to the definition of UK Sourced Pension Money above.
- (d) The Trustee shall make all necessary checks and request sight of all necessary documents to satisfy itself as to the age of any Member so that this rule is complied with.
- (e) For the avoidance of doubt this prohibition only applies to transfers and rollovers into the Fund of UK Sourced Pension Money from the date of the establishment of this Division and does not affect any transfers and rollovers prior to that date.

4. Benefits

4.1 Same benefits

Subject to any restriction in this Division the benefits payable to a QROPS Member in respect of any UK Sourced Pension Money are payable in accordance with this Deed at the same time and in the same amount and in the same manner as they are payable under any other Division of which the Member is a member.

