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Sunsuper Pty Ltd

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Procter & Gamble Australia Pty Limited

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# Benefit Agreement

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Date

17 NOVEMBER 2005

## Parties

**Sunsuper Pty Ltd** ABN 88 010 720 840 of 30 Little Cribb Street, Milton, Queensland (**Trustee**)

**Procter & Gamble Australia Pty Limited** ABN 91 008 396 245 of 320 Victoria Road, Rydalmere, New South Wales (**Principal Employer**)

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## Background

- A The Trustee is the trustee of Sunsuper (**Fund**).
  - B The Fund is governed by a declaration of trust dated 1 October 1987 as amended (**Trust Deed**).
  - C The Principal Employer is the principal employer of the Former Fund.
  - D The Principal Employer has made application to become a Participating Employer in the Fund, for the purpose of providing superannuation benefits for its Employees from 1 December 2005 (**Transfer Date**).
  - E The Trustee and the Principal Employer have agreed that benefits for certain of the Employer's Employees are to be provided on the terms set out in this document from the Transfer Date.
  - F This document includes:
    - (a) a Defined Benefit Agreement in respect of Defined Benefits to be provided by the Fund for certain of the Employer's Employees;
    - (b) an agreement by which the Employer agrees to contribute to the Fund an amount specified in this document in respect of those of the Employer's Employees who are to become Defined Benefit Members, for the purposes of **clause 10.1(b)(ii)** of the Trust Deed; and
    - (c) a notification by the Employer to the Trustee that those of the Employer's Employees who are to become Defined Benefit Members are to be obliged to contribute to the Fund on the basis prescribed in this document for the purposes of **clause 10.2(d)** of the Trust Deed.
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# Agreed terms

## 1 Interpretation

### 1.1 Definitions

In this document:

**Actuary** means a qualified actuary appointed by the Trustee from time to time to provide actuarial advice in respect of the Fund or the Sub-Plan.

**Annual Salary** of a Member at any date means the annual rate of the Member's Salary as at that date.

**Associated Employer** means an Associated Employer under the Superannuation Plan Agreement entered into between the Trustee and the Principal Employer.

**Basic Benefit** of a Member means the account kept for the Member recording:

- (a) the Member's prescribed contributions to the Former Fund, including contributions deemed to have been made by the Member; and
- (b) the prescribed contributions made by the Member to the Fund under **clause 3.1(a) or (b)** including contributions deemed to be made by the Member.

**Category** means categories of membership of Employees of the Employer, designated as:

- (a) Accumulation Category (Category N – Non-Contributory Member);
  - (b) in respect of Defined Benefit Members:
    - (i) Category C – Contributory Member;
    - (ii) Category E – Executive Member,
- (Defined Benefit Categories).**

**Combined Service** of a Member means:

- (a) the Member's period of Service while a Member of the Fund; and
- (b) the period which the Former Fund Trustee notifies the Trustee is the Member's period of Service while a member of the Former Fund commencing on the commencement of membership as a contributory member, including any period of membership of the Previous Plan.

**Employer** means the Principal Employer and each Associated Employer and (in relation to a Member) means the Employer by which that Member is employed or, in respect of a former Employee, means the Employer or Employers by whom the former Employee was last employed.

**Final Average Salary** means the average of the Annual Salaries paid to a Member in the period of any 3 consecutive years of employment with the Employer in which the aggregate Annual Salary of the Member was the highest

or where the Member's period of employment was less than 3 years the average of the Annual Salary of the Member over such shorter period.

**Former Fund** means the Procter & Gamble Retirement Plan established by a trust deed dated 31 May 1985.

**Former Fund Multiple** means in respect of a Member the multiple which the Former Fund Trustee notifies the Trustee is the multiple applicable to the Member's period of membership of the Former Fund (including any period of membership of the Previous Plan), using the accrual rate or rates applicable to the Member in the Former Fund.

**Former Fund Trustee** means Procter & Gamble (NBD) Pty. Ltd ACN 001 743 193.

**Normal Retirement Date** means in relation to a Member the Member's 65th birthday, or such other date as may be agreed between the Trustee, the Employer and the Member, other than in the case of a female Member who was a member of the Former Fund on 31 August 1987, in which case, Normal Retirement Date means the Member's 60th birthday.

**Previous Plan** means the Bristol-Myers Squibb Superannuation Fund established by a trust deed dated 18 December 1972.

**Previous Plan Defined Benefit Account** means an account kept for a Previous Plan Member recording the amount attributable to the Member's defined benefit entitlement in the Previous Plan.

**Previous Plan Member** means a Member who was a member of the Previous Plan and in respect of whom a benefit was transferred from the Previous Plan to the Former Fund.

**Review Date** means 1 July in each year or such other date as may be agreed between the Trustee and the Principal Employer for the purposes of the whole or any particular provision of this document and either generally or in respect of a particular group of Members or a particular Member.

**Salary** of a Member means such remuneration as the Employer may from time to time decide and notify to the Trustee in writing and, unless the Employer determines otherwise, excludes commission, bonuses, overtime payments, special allowances and termination payments **PROVIDED THAT:**

- (a) if a Member has been granted leave of absence without pay the Member's Salary is deemed at the Employer's discretion to continue unaltered until the cessation of such leave of absence;
- (b) if the Salary of a Member is reduced for any reason the Member's Salary is to be deemed either unaltered or reduced only to such extent as may be agreed by the Member and the Trustee.

**Salary Sacrifice Arrangement** means an arrangement between a Member and the Employer pursuant to which the Employer provides superannuation benefits for the Member in lieu of remuneration of the Member.

**Special Accumulation Account** means an account kept for a Member recording:

- (a) (i) additional voluntary contributions made to the Former Fund by the Member, or by the Employer for the credit of the Member;
- (ii) contributions made to the Former Fund by the Employer for the credit of the Member, prior to the Member's admission to a defined benefit category of the Former Fund; and
- (iii) additional voluntary contributions made to the Fund by the Member, or by the Employer for the credit of the Member; and
- (b) amounts transferred from another Superannuation Entity:
  - (i) to the Former Fund for the credit of the Member (excluding any amount transferred from the Previous Plan to the Former Fund); and
  - (ii) to the Fund for the credit of the Member.

**Sub-Plan** means that part of the Fund that is attributable to the Principal Employer's participation (including Associated Employer's, if any).

**Superannuation Guarantee Account** means an account kept for a Member recording:

- (a) contributions to the Former Fund by the Employer for the Member identified as the minimum contributions required to be paid by the Employer as superannuation guarantee contributions;
- (b) contributions to the Fund by the Employer for the Member under **clause 3.2(a)**.

**Total and Permanent Disablement** in relation to a Member:

- (a) has the same meaning as is given to those words or what the Trustee may consider to be the corresponding word or words for the purposes of any policy of insurance effected or acquired by the Trustee and under which insurance is or may become payable in the event of the disablement of any Member or group of Members (or, where there is more than one policy in force, the policy specified by the Trustee for this purpose).
- (b) If at the relevant time there is no such policy in force or in any other circumstances agreed between the Trustee and the Principal Employer, Total and Permanent Disablement means disablement due to an illness or injury as a result of which:
  - (i) the Member has been continuously absent from active employment for a period of at least six months or such other period, if any, as may be agreed between the Principal Employer and the Trustee from time to time either generally or in any particular case; and
  - (ii) in the opinion of the Trustee after consideration of information and advice satisfactory to the Trustee, the Member is incapacitated to such an extent as to render the Member unlikely ever to engage in

any gainful work for which the Member is for the time being reasonably qualified by education, training or experience,

and **Totally and Permanently Disabled** has a corresponding meaning.

- (c) Unless otherwise agreed between the Trustee and the Principal Employer in any particular case, any determination by the relevant Insurer as to whether or not a Member is disabled in terms of such policy is final and binding on all interested persons for the purposes of this document.

## **1.2 Meaning of Member**

In this document **Member** refers to a Defined Benefit Member of the Sub-Plan.

## **1.3 Terms defined in Trust Deed**

Words and phrases defined in the Trust Deed have the same meaning in this document unless this document expressly provides otherwise.

## **1.4 Construction**

Unless expressed to the contrary, in this document:

- (a) words in the singular include the plural and vice versa;
- (b) any gender includes the other genders;
- (c) if a word or phrase is defined its other grammatical forms have corresponding meanings;
- (d) "includes" means includes without limitation;
- (e) no rule of construction will apply to a clause to the disadvantage of a party merely because that party put forward the clause or would otherwise benefit from it;
- (f) a reference to:
  - (i) a person includes a partnership, joint venture, unincorporated association, corporation and a government or statutory body or authority;
  - (ii) a person includes the person's legal personal representatives, successors, assigns and persons substituted by novation;
  - (iii) any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced;
  - (iv) an obligation includes a warranty or representation and a reference to a failure to comply with an obligation includes a breach of warranty or representation;
  - (v) a right includes a benefit, remedy, discretion or power;
  - (vi) time is to local time in Brisbane;
  - (vii) "\$" or "dollars" is a reference to Australian currency;



- (viii) this or any other document includes the document as novated, varied or replaced and despite any change in the identity of the parties;
  - (ix) writing includes any mode of representing or reproducing words in tangible and permanently visible form, and includes fax transmissions;
  - (x) this document includes all schedules and annexures to it; and
  - (xi) a clause, schedule or annexure is a reference to a clause, schedule or annexure, as the case may be, of this document; and
- (g) where time is to be calculated by reference to a day or event, that day or the day of that event is excluded.

## 1.5 Headings

Headings do not affect the interpretation of this document.

## 2 Transfer

### 2.1 Allocation to accounts

The Trustee and the Employer acknowledge that the Trustee is to receive payments from the Former Fund which must be allocated in the Fund in the following manner:

- (a) The balance of a Member's:
  - (i) Basic Benefit;
  - (ii) Previous Plan Defined Benefit Account (if any);
  - (iii) Special Accumulation Account (if any);
  - (iv) Superannuation Guarantee Account,

in the Former Fund as at the Transfer Date, as notified to the Trustee by the Former Fund Trustee, must be allocated to an equivalent account of that Member in the Fund.
- (b) The Principal Employer and the Trustee agree that:
  - (i) allocations to each Member's Superannuation Guarantee Account from time to time under **clause 3.2(a)** are calculated as 7% of the Member's Salary less:
    - (A) a deduction of 15% (to account for notional contributions tax); and
    - (B) a deduction of 5% (to be applied towards payment of insurance premiums and other Expenses);
  - (ii) allocations to each Basic Benefit from time to time are the contributions, and amounts calculated as deemed contributions, under **clause 3.1(a)** and **(b)** at the rate prescribed for the Member (without deduction).

- (c) The Trustee will from time to time (at the times determined by the Trustee) allocate net changes in value applicable to the accounts of the Members, in respect of the balances in the accounts from time to time.

## 2.2 Membership eligibility

- (a) Membership of the Fund under the terms of this document is available only to those persons who were members of a Defined Benefit Category of the Former Fund.
- (b) A Member will cease to be a person to whom this document applies if the person ceases to be a Defined Benefit Member. The Trustee must then make arrangements with the Member and the Employer for the provision of benefits from the Fund, as a member of the Accumulation Category.

## 2.3 Membership Categories

- (a) The Members may be divided into categories. The number and designation of categories and the conditions for entry to and exit from a particular category will be determined by the Principal Employer and at any particular time a Member will be classified into the category of Members determined by the Principal Employer.
- (b) On admission to the Fund each Member is a member of the Category nominated by the Principal Employer as the equivalent category to the category which that Member was a member of in the Former Fund.

# 3 Contributions

## 3.1 Member contributions

- (a) A Category C Member:
  - (i) must make contributions at the rate of 2% of the Member's Salary; and
  - (ii) is deemed to have contributed a further 2% of the Member's Salary at the time a contribution made under **clause 3.1(a)(i)** is made.
- (b) A Category E Member is deemed to have contributed at the rate of 4% of the Member's Salary at the time when the Employer pays the Member's Salary to the Member.
- (c) In addition to the contributions made pursuant to **clause 3.1(a) or (b)**, a Member may elect to contribute an additional whole percentage of the Member's Salary to the Sub-Plan, or additional contributions may be made to the Sub-Plan for the credit of the Member under a Salary Sacrifice Arrangement with the Employer **PROVIDED THAT** such election or variation is by notice in writing on the Review Date or at other times at the discretion of the Trustee and in a form prescribed by the Trustee and signed by the Member.
- (d) Without prejudice to **clause 3.1(e) and (f)**, if the contributions payable by a Member are not paid to the Fund as and when required, the Trustee

may impose such special terms, conditions and restrictions in respect of that Member's membership of and benefits under the Sub-Plan as the Trustee may consider appropriate.

- (e) Subject to such conditions as may be determined by the Principal Employer and approved by the Member concerned (including without limitation conditions upon which contributions otherwise payable by the Member and net earnings on those contributions shall be made up by and in respect of the Member and conditions as to how benefits to be provided for and in respect of the Member shall be adjusted to take account of such reduction, suspension or waiver), the Principal Employer may for such period as it determines reduce, suspend or waive the contributions otherwise payable by the Member.
- (f) Without prejudice to **clause 3.1(e)**, subject to such conditions as the Principal Employer thinks fit the Principal Employer may determine that contributions which would have been payable by the Member but for the exercise of a discretion as provided in **clause 3.1(e)** shall be deemed to have been paid by that Member for the purpose of calculating the amount of or determining the eligibility for payment of any benefit payable pursuant to this document the amount of or eligibility for which depends on the amount of the contributions paid by the Member or the period during which the Member has contributed.
- (g) The Principal Employer must notify the Trustee of any such determination as soon as practicable afterwards.

### **3.2 Employer contributions**

- (a) At the time an Employer pays the Member's Salary to the Member, the Employer shall contribute to the Fund with respect to the Member, the amounts with respect to that Member as the Employer may decide so that the minimum contributions paid by an Employer in respect of a Member shall be equal to the minimum contributions required to be paid by that Employer for its Employees in accordance with the *Superannuation Guarantee Administration Act 1992* in order to avoid the imposition of any penalty, charge, tax or other impost by that legislation by the *Superannuation Guarantee Charge Act 1992* or by any other legislation. A contributions made pursuant to this **clause 3.2(a)** must be credited to the Member's Superannuation Guarantee Account.
- (b) An Employer must contribute to the Fund from time to time such amounts as the Trustee determines on the advice of the Actuary is necessary to fund the benefits to be provided under this document and to secure the rights of the Members pursuant to this document.
- (c) In addition to the contributions made under **clause 3.2(a)**:
  - (i) with the approval of the Trustee an Employer may contribute further amounts in respect of particular Members or groups of Members, and any such additional contributions will be applied in respect of the Members concerned on such basis as the Employer directs;

- (ii) an Employer may contribute an additional amount in respect of a Member in order to provide further benefits to the Member, including any amount required under **clause 8.1**.

### **3.3 Prohibition on contributions**

The Trustee:

- (a) may refuse to accept any contributions to the Fund without giving any reason for that refusal; and
- (b) must refuse to accept any contribution to this Fund if acceptance would contravene the Superannuation Law.

## **4 Retirement Benefit**

### **4.1 Normal retirement benefit**

Where a Member retires from Service on the Member's Normal Retirement Date, there shall be payable to the Member from the Sub-Plan a lump sum benefit equal to the amount determined by **clause 4.2**.

### **4.2 Amount of normal retirement benefit**

A Member shall be entitled to a normal retirement benefit equal to the sum of:

- (a) 20% of the Member's Final Average Salary times the total period (calculated in years and completed months) of membership of the Fund;
- (b) the Member's Former Fund Multiple times the Member's Final Average Salary; and
- (c) the Member's Special Accumulation Account,

**PROVIDED THAT** a Member is entitled to the greater of the amount determined under this **clause 4.2** and the amount determined under **clause 7** as if such Member left service and was entitled to a benefit under **clause 7**.

### **4.3 Entitlement to early retirement benefit**

Where a Member retires from Service within 10 years of the Member's Normal Retirement Date:

- (a) with the consent of the Employer; or
- (b) where the sum of the Member's age plus Service while a contributory member of the Fund and the Former Fund is equal to or greater than 85,

there will be payable to the Member from the Sub-Plan a lump sum benefit equal to the amount stated in **clause 4.4**.

### **4.4 Amount of early retirement benefit**

- (a) A Member shall be entitled to an early retirement benefit equal to:
  - (i) the sum of:

- (A) 20% of the Member's Final Average Salary times the total period (calculated in years and completed months) of membership of the Fund; and
- (B) the Member's Former Fund Multiple times the Member's Final Average Salary,

unless **clause 4.4(b)** applies, reduced by 3% per annum for each year or part of a year (with complete months counted as fractions of a year) by which the date of the Member's actual retirement precedes age 60 or, in the case of a female Member who was a member of the Former Fund on 31 August 1987, age 55; plus

- (ii) the Member's Special Accumulation Account.
- (b) The Employer may at its discretion determine that all or any part of the reduction calculated under **clause 4.4(a)** may be waived.
- (c) The benefit payable under this **clause 4.4** will not be less than the benefit that would be payable to the Member pursuant to **clause 7** as if the Member were eligible to receive a benefit under that clause.

#### **4.5 Late retirement**

Where a Member retires from Service after the Member's Normal Retirement Date, there shall be payable to the Member from the Sub-Plan a lump sum benefit equal to:

- (a) the amount payable to the Member under **clause 4.2** as if the Member has retired on the Member's Normal Retirement Date;
- (b) contributions made by or for the Member in respect of the period after the Normal Retirement Date; and
- (c) net changes in value applicable from time to time in respect of those amounts.

## **5 Death benefit**

### **5.1 Death before Normal Retirement Date**

Where a Member in Service dies before the Member's Normal Retirement Date, the Trustee must pay in respect of the Member from the Sub-Plan a lump sum benefit according to the Category of the Member at the date of the Member's death.

### **5.2 Death benefit for Category C Members**

The amount of a death benefit in respect of a Category C Member is the sum of:

- (a) 4 times the Member's Annual Salary at the date of the Member's death;
- (b) the Member's Basic Benefit; and
- (c) the Member's Special Accumulation Account,

**PROVIDED THAT** a Member is entitled to the greater of the amount determined under this **clause 5.2** and the amount determined under whichever of **clause 4** or **clause 7** would have been applicable to the Member, as if such Member had Retired or left Service at the date of death and was entitled to a benefit under **clause 4** or **clause 7**.

### **5.3 Death benefit for Category E Members**

The amount of a death benefit in respect of a Category E Member is the greater of

- (a) (i) 5 times the Member's Annual Salary at the date of the Member's death;
- (ii) the Member's Basic Benefit; and
- (iii) the Member's Special Accumulation Account; or
- (b) an amount calculated under **clause 4.2** as if the Member had continued in Service to the Member's 65<sup>th</sup> birthday and the Member's Annual Salary had remained unchanged from the date of death to the Member's 65<sup>th</sup> birthday.

### **5.4 Death on or after Normal Retirement Date**

Where a Member in Service dies on or after the Member's Normal Retirement Date, there shall be payable from the Sub-Plan in respect of the Member a lump sum calculated according to the Category of membership as if the Member has retired on the date of the Member's death.

### **5.5 Minimum death benefit**

The benefit payable under this **clause 5** must not be less than the benefit that would be payable to the Member pursuant to **clause 7** as if the Member were eligible to receive a benefit under **clause 7**.

## **6 Total and Permanent Disablement benefit**

Where a Member leaves Service on the grounds of Total and Permanent Disablement, the Trustee must pay to the Member a lump sum benefit calculated as if the Member had died on the date on which the Member ceased active Service on the grounds of the relevant disablement.

## **7 Resignation benefit**

### **7.1 Entitlement to resignation benefit**

Where a Member leaves Service and there is no entitlement to a benefit under **clauses 4, 5** and **6**, there shall be payable to the Member from the Sub-Plan a lump sum benefit being the sum of:

- (a) the Member's Basic Benefit;

- (b) a percentage of the Member's Basic Benefit calculated in accordance with **clause 7.2**;
- (c) the Member's Superannuation Guarantee Account;
- (d) the Member's Special Accumulation Account; and
- (e) the Member's Previous Plan Defined Benefit Account.

## **7.2 Vesting of Benefit**

The percentage of a Member's Basic Benefit referred to in **clause 7.1** is 10% of the Basic Benefit for each period of Combined Service (calculated in complete years) up to a maximum of 100% of the Basic Benefit after 10 or more complete years of Combined Service.

# **8 General Benefit provisions**

## **8.1 Augmentation of Benefits**

- (a) Subject to Superannuation Law and to such terms and conditions as the Principal Employer may determine, the Principal Employer may direct the Trustee to pay or provide a benefit or other amount greater than would be provided but for such a direction and the Principal Employer may rescind or vary such a direction.
- (b) The Trustee must act on such a direction **PROVIDED THAT** the Principal Employer must obtain the approval of the Trustee if such approval is required by Superannuation Law **PROVIDED FURTHER THAT** if and to the extent that, in the opinion of the Trustee (after obtaining the advice of the Actuary), to act on such a direction would cause a deficiency in the Sub-Plan, before acting on such a direction or in the course of doing so the Trustee may require an undertaking from an Employer that the Employer will contribute to the Sub-Plan such additional amounts or rates of contribution and at such times as the Trustee will determine after obtaining the advice of the Actuary. If any undertaking required by the Trustee is not given or, having been given, is not fulfilled to the satisfaction of the Trustee, the Trustee may refuse to pay or provide (or to continue to pay or provide) the greater benefit or amount to which the undertaking relates.

## **8.2 Temporary cessation of employment**

If a Member ceases to be in the employ of an Employer in circumstances in which in the opinion of the Trustee it is reasonable to expect that cessation will only be of a temporary nature and that the Member will soon again become employed by an Employer, the Trustee may determine that the Member's membership of the Sub-Plan may continue subject to such conditions as may be agreed upon by the Trustee, the Member and the Employer.

## **8.3 Part-time Employees, absence or non-eligibility**

- (a) Subject to Superannuation Law the Principal Employer may determine with the agreement of the Trustee special terms, conditions and

restrictions in relation to the contributions to be payable and the benefits to be provided in respect of a Member during and in respect of any period when in the opinion of the Employer the Member:

- (i) is employed by the Employer in other than a full-time capacity,
  - (ii) is absent from active employment with the Employer (whether with or without pay or the approval of the Employer), or
  - (iii) remains in the employ of the Employer but is not a person who is classified as an eligible Employee for the purposes of this document.
- (b) The Employer will notify the Trustee in writing of such an opinion.
- (c) Without limiting **clause 8.3(a)**, in the event that a Member is or becomes a part-time Employee, it is intended that the following special conditions shall apply. However the Trustee may at the particular request of an Employer make such other adjustment to the provisions applying to a part-time Employee in an individual case as the Employer may with the agreement of the Member and the Trustee in that case decide to be appropriate.
- (d) For the purposes of calculating benefits of a Member who is or was at any time a part-time Employee, the Member's period of membership of the Fund shall be the total of:
- (i) any period of employment for remuneration as a full time Employee during which he or she was a Member;
  - (ii) any period(s) of employment for remuneration as a part-time Employee multiplied in the case of each such period by the Part Time Percentage applying to such period(s) during which he or she was a Member,
- during which the Member made contributions or was deemed to have made contributions to the Fund during such period(s).
- (e) **Part Time Percentage** means the percentage of a full time week which the Employer determines to be applicable at any time and from time to time in respect of a part-time Employee.
- (f) **Salary** of a part-time Employee is the equivalent Salary for a full-time Employee as determined by the Employer.
- (g) The rate of contributions for a Member who is a part-time Employee shall be the percentage of Salary multiplied by the Part Time Percentage applicable to each period of membership of the Fund as a part-time Employee.
- (h) The benefit for a Member who dies or suffers Total and Permanent Disablement prior to their Normal Retirement Date at a time when they are a part-time Employee shall be calculated as if in respect of the period from the date of death or Total and Permanent Disablement until the Normal Retirement Date the Member had continued to be a part-time



Employee in respect of whom the Part Time Percentage remained at the Part Time Percentage applying immediately before the Member's death or Total and Permanent Disablement.

#### **8.4 Allocations to benefits**

The Trustee may, in its absolute discretion, increase a benefit payable by an amount determined by the Trustee to account for changes in value for any period determined by the Trustee after the date the benefit first became payable.

### **9 Benefit offsets**

#### **9.1 Insurance offset**

- (a) If:
- (i) insurance is not obtained in respect of some or all Members on the insurer's standard terms; or
  - (ii) the level or scope of insurance obtained is restricted in respect of some or all Members; or
  - (iii) the insurer does not admit or pay all or part of a claim in respect of a Member,

the Trustee must reduce any benefit otherwise payable on the death or disablement (or both death and disablement) of the Member concerned, unless the Trustee and the Employer agree otherwise.

- (b) The Trustee must obtain the advice of the Actuary as to how benefits are to be reduced.

#### **9.2 Other schemes**

Subject to Superannuation Law, if in the opinion of the Employer a benefit is or could reasonably be expected to become payable in respect of a Member from another scheme or arrangement, any part of the costs of which are borne directly or indirectly by an Employer on retirement, death or disablement or in any other circumstances similar to those in which a benefit may be provided, the contributions to be payable to the Sub-Plan and the benefits to be provided from the Sub-Plan in respect of the Member will be adjusted in such manner and to such extent as the Employer, with the agreement of the Trustee, determines to be appropriate in taking account of such actual or expected entitlement **PROVIDED THAT** such adjustment does not reduce or adversely affect the value of the interest in the Sub-Plan of that Member accrued prior to the date of that adjustment. The Principal Employer will notify the Trustee in writing of such a determination.

#### **9.3 Reduction for surcharge assessments**

Without limiting the amounts that may be deducted from a Member's benefits under the Trust Deed by way of Tax payable in respect of a benefit, the amount of any benefit payable in respect of a Member will be reduced by the amount of

any surcharge account maintained by the Trustee to account for surcharge assessments received in respect of the Member.

#### **9.4 Family Law offsets**

(a) Despite any other provision in the Trust Deed, this document or the terms of any agreement in relation to a Member's benefits, where the Trustee:

- (i) creates a new interest for the Spouse or former Spouse of a Member to give effect to a Payment Split; or
- (ii) transfers or rolls over the entitlement of the Spouse or former Spouse of a Member under a Payment Split;

the Trustee must reduce the amount of the Member's benefit by an amount determined by the Trustee to account for the interest or entitlement of the Member's Spouse or former Spouse.

(b) In this **clause 9.4**:

**Family Law Act** means the *Family Law Act 1975* (C'wlth).

**Payment Split** has the meaning given to that term in the Family Law Act.

### **10 Cessation of application of this document**

(a) The parties acknowledge that an Employer's participation in the Fund in relation to Defined Benefit Members of the Sub-Plan is governed by the terms of:

- (i) this document; and
- (ii) the Superannuation Plan Agreement entered into between the Trustee and the Principal Employer on or about the date of this document (**Superannuation Plan Agreement**).

(b) This document also ceases to apply at the time the Superannuation Plan Agreement ceases to apply to an Employer.

### **11 General**

#### **11.1 Governing law**

This document is governed by and is to be construed in accordance with the laws applicable in Queensland.

#### **11.2 Relationship of parties**

This document is not intended to create a partnership, joint venture or agency relationship between the parties.

#### **11.3 Counterparts**

This document may consist of a number of counterparts and if so the counterparts taken together constitute one document. A party may execute

this document or any counterpart and exchange it by fax and the fax will be accepted as an original.

**Executed** as a deed.

**Executed by Sunsuper Pty Ltd**

[Redacted] .....  
Company Secretary/Director

[Redacted] .....  
Name of Company Secretary/Director  
(print)

)  
)

[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]

Name of Director (print)

**Executed by Procter & Gamble  
Australia Pty Limited**

[Redacted] .....  
Company Secretary/Director

[Redacted] .....  
Name of Company Secretary/Director  
(print)

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[Redacted] .....  
Director  
[Redacted]  
[Redacted]

Name of Director (print)