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Sunsuper Pty Ltd

Simplot Australia Pty Ltd

Benefit Agreement

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Date

Parties

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

Simplot Australia Pty Ltd ABN 98 070 579 609 of 1279 Nepean Highway, Cheltenham, Victoria (**Principal Employer**)

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 2 May 2005 (**Transfer Date**).
 - E The Trustee and the Principal Employer have agreed that benefits for the Employer's Employees who were, immediately preceding the Transfer Date, members of Part 6 of the Former Fund (**Defined Benefit Members**) 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 between the Trustee and the Principal Employer in respect of Defined Benefits to be provided by the Fund for those of the Employer's Employees who are to become Defined Benefit Members;
 - (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.
-

Agreed terms

1 Interpretation

1.1 Definitions

In this document:

Accrued Multiple of a Member means the sum of one twelfth of the following percentages for each complete month of the Member's Fund Membership in the relevant Category:

- (a) as a Category 6A Member - 8%;
- (b) as a Category 6B Member - 11.5%;
- (c) as a Category 6C Member - 13%;
- (d) as a Category 6D Member - 15%; and
- (e) as a Category 6E Member - 16%.

Actuary means an appropriately 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 at the most recent Review Date.

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

- (a) Accumulation Category;
- (b) in respect of Defined Benefit Members: Category 6A, Category 6B, Category 6C, Category 6D or Category 6E (**Defined Benefit Categories**).

Early Retirement Date means the Member's 55th birthday.

Employer means the Principal Employer and each Associated Employer and (In relation to a Member) means the Employer by which that Member is employed.

Employment means actual or deemed employment of an Employee with an Employer.

FAS means:

- (a) in respect of a Member at a particular date, the average (weighted according to the number of days) of the Member's Annual Salaries during:
 - (i) the three years; or
 - (ii) the whole period of Employment, if the Member's period of Employment is less than three years,

immediately before the earlier of:

- (A) the date the Member ceased Employment; and
 - (B) the Normal Retirement Date; or
- (b) the amount calculated on any other basis agreed between the Principal Employer and the Trustee.

Former Fund means the superannuation fund known as the Simplot Superannuation Fund.

Former Fund Multiple means in respect of a Member the multiple which the trustee of the Former Fund notifies the Trustee is the multiple applicable to the Member's period of membership of the Former Fund.

Fund Membership of a Member means:

- (a) the most recent uninterrupted period during which the Member was:
 - (i) a Member; and
 - (ii) in Employment; and
- (b) any further period the Principal Employer determines is Fund Membership.

Normal Retirement Date means the Member's 65th birthday or any other date agreed between the Trustee, the Principal Employer and the Member.

Review Date means:

- (a) 1 September or any other date agreed between the Trustee and the Principal Employer; or
- (b) for any Member to whom another review date applies in the Former Fund, that other date as notified to the Trustee by the trustee of the Former Fund.

Salary of a Member means the remuneration determined by the Employer for the purposes of the Fund having regard to the basic rate of pay at which the Member is employed by the Employer excluding (unless the Employer otherwise determines) any bonuses, commission, overtime, shift allowance and other loadings, allowances and emoluments of a similar nature.

Service means:

- (a) the most recent uninterrupted period of continuous Employment during which the Employee participated in the Fund or the Former Fund (unless the Principal Employer determines otherwise); and
- (b) any further period the Principal Employer determines to be Service.

Sub-Plan means that part of the Fund that is attributable to the participation of the Principal Employer and any Associated Employers.

Total and Permanent Disablement of a Member:

- (a) if there is a relevant Policy of Insurance in force - means disablement which the insurer determines qualifies as total and permanent disablement under that Policy of Insurance; or
- (b) if there is no relevant Policy of Insurance in force - means disablement due to an illness or injury as a result of which:
 - (i) the Member has been continuously absent from active Employment for six months (or any lesser period agreed between the Principal Employer and the Trustee); and
 - (ii) the Trustee determines (after considering any medical or other evidence the Trustee requires) the Member is sufficiently incapacitated to be unlikely ever to engage in any gainful employment for which the Member is reasonably qualified by education, training or experience.

1.2 Meaning of Member and Fund Membership

In this document **Member** refers to Members who were members of the Defined Benefit Categories of the Former Fund.

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 to the Fund in the following manner:

The amount of each Member's productivity accumulation, voluntary accumulation and transfer accumulation in the Former Fund as at the Transfer Date must be allocated to an equivalent account of that Member in the Fund. The Trustee will allocate net earnings of the Fund from time to time to these accounts.

2.2 Application of this document to Defined Benefit Members

- (a) Each Member was classified as either a Category 6A Member, a Category 6B Member, a Category 6C Member, a Category 6D Member, or a Category 6D Member of the Former Fund, and membership of the Fund under the terms of this document is available only to those persons.
- (b) A Member ceases to be a person to whom this document applies if the Member ceases to be classified by the Employer as a member of a Defined Benefit Category. The Trustee must then make arrangements with the Member and the Principal Employer for the provision of benefits

from the Fund, as an Employee of that Employer to whom this document does not apply.

2.3 Membership Categories

- (a) Members are divided into Categories determined by the Principal Employer. The Principal Employer:
 - (i) determines the conditions for entry to and exit from each Category;
 - (ii) classifies Members into the relevant Categories; and
 - (iii) may reclassify Members from time to time.
- (b) Each Member on admission to the Fund is a member of the Category nominated by the Principal Employer as the equivalent category to that which that Member was a member of in the Former Fund.
- (c) Each Member remains a member of the Category to which the Principal Employer allocates them on the Transfer Date, unless and until the Principal Employer reclassifies them.

2.4 Employer decisions in relation to membership

The decision of the Principal Employer is final and binding on all persons as to:

- (a) whether; and
 - (b) for how long,
- a Member is classified in a particular Category.

3 Contribution

3.1 Member contributions

- (a) Each Member must contribute to the Fund at the following rates:
 - (i) Category 6A Members - 3% of Salary;
 - (ii) Category 6B Members - 4% of Salary;
 - (iii) Category 6C Members – 5% of Salary;
 - (iv) Category 6D Members – 5% of Salary; and
 - (v) Category 6E Members – 5% of Salary.
- (b) The Employer and the Member may agree, and the Employer must notify the Trustee, that the Member is not obliged to contribute as prescribed in **clause 3.1(a)**, and in this case the Member is deemed to contribute at the applicable prescribed rate set out in **clause 3.1(a)** for the purpose of calculating the Member's benefits.
- (c) Subject to such terms, conditions and restrictions as the Principal Employer and the Trustee agree and impose, a Member may make additional voluntary contributions to the Fund, to be credited to the Member's voluntary accumulation. Voluntary contributions can be

commenced, changed or stopped by the Member by giving to the Trustee one month's notice.

- (d) A Member must stop making contributions under **clause 3.1(a)** on the earlier of:
 - (i) the date the Member ceases Employment; and
 - (ii) the Member's Normal Retirement Date.

3.2 Employer contributions

Each Employer:

- (a) must contribute at the rate agreed between the Trustee and the Principal Employer on the advice of the Actuary, unless contributions are varied under another clause (for example **clause 3.5**) or under the Trust Deed;
- (b) may make extra contributions to the Fund in respect of some or all Members;
- (c) may direct how any extra employer contributions (which are not made to satisfy a requirement under another clause, for example **clause 4.2** or **clause 4.3**) are to be applied; and
- (d) must remit its contributions to the Fund:
 - (i) in the manner; and
 - (ii) at the times,
agreed between the Trustee and the Principal Employer.

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.

3.4 Contributions paid by mistake

The Trustee must repay contributions which:

- (a) it determines were paid by mistake unless:
 - (i) Superannuation Law prevents that repayment; or
 - (ii) the person who mistakenly paid the contributions and the Trustee agree otherwise; or
- (b) the Trustee should have refused to accept under **clause 3.3(b)**.

3.5 Notice to terminate, reduce or suspend Employer contributions

- (a) An Employer may terminate, reduce or suspend its obligation (or agreement) to contribute in respect of some or all Members by giving

notice to the Trustee. The termination, reduction or suspension takes effect:

- (i) even if the Employer is then on a contribution holiday; and
 - (ii) from the date of receipt of the notice or any later date specified in the notice.
- (b) The Principal Employer may give a notice in respect of any Employer which is binding on every person including the Employer in respect of whom it is given.

3.6 Effect of notice

- (a) The Trustee must adjust benefits (in respect of the Members concerned) to take account of:
- (i) termination, reduction or suspension of an Employer's obligation (or agreement) to contribute; or
 - (ii) failure by an Employer to contribute as required or agreed.
- (b) The adjustment must be determined:
- (i) after obtaining the Actuary's advice; and
 - (ii) ignoring any surplus in the Sub-Plan (therefore if the Employer concerned is on a contribution holiday the adjustment must be the same as if that Employer was not on a contribution holiday).

3.7 Revocation of notice

A person who gives a notice under **clause 3.5** may revoke it by giving notice to the Trustee. If a notice is revoked the Trustee may adjust benefits and contributions in respect of the Member concerned in the manner the Trustee considers equitable.

4 General benefit provisions

4.1 Minimum SG Benefit

The amount of benefit payable from the Fund on termination of Employment of each Member must be at least equal to the minimum requisite benefit of that Member (if any) set out in the benefit certificate issued in respect of the Sub-Plan under the *Superannuation Guarantee (Administration) Act 1992* and the *Superannuation Guarantee Charge Act 1992*.

4.2 Augmentation of benefit

The Trustee must augment a person's benefit entitlement under this document as requested by the Principal Employer except to the extent that an Employer does not pay any additional contributions which the Actuary advises are necessary to ensure the stability of the Sub-Plan.

4.3 Special arrangements

- (a) The Principal Employer and a Member may vary by agreement any or all of:
 - (i) the benefit otherwise payable as a result of that Member's membership of the Fund;
 - (ii) the contributions otherwise payable as a result of that Member's membership of the Fund; and
 - (iii) the other terms and conditions of membership.
- (b) The Trustee must comply with any agreement made under **clause 4.3(a)** except to the extent that an Employer does not pay any additional contributions which the Actuary advises are necessary to ensure the stability of the Sub-Plan.

4.4 Part-time Employees

- (a) Any benefits based on salary which apply in respect of any period during which a Member is in part-time Employment must be:
 - (i) calculated using the Salary the Employer advises the Trustee an equivalent full-time employee would be likely to earn; but
 - (ii) reduced in the proportion that:
 - (A) the number of part-time hours the Member usually works, bears to,
 - (B) the number of hours the Employer considers an equivalent full-time employee would work,unless that Member or class of Member is catered for:
 - (1) under **clause 2.3**;
 - (2) under **clause 4.3**;
 - (3) by reclassification to the Accumulation Category.
- (b) Any change in the number of part-time hours (for example, a Member who was required to work 10 hours a week becomes required to work 20 hours per week) must be regarded as a separate period for the purposes of this clause, each requiring a separate calculation under this clause.

4.5 Leave of absence

A Member's period of absence from active Employment must not be included for the purpose of:

- (a) calculating benefits; or
- (b) calculating contributions payable to this Fund by or in respect of the Member,

unless the Member, the Employer and the Trustee agree otherwise.

5 Retirement Benefit

5.1 Normal or Early Retirement

- (a) If a Member ceases Employment:
 - (i) on the Normal Retirement Date;
 - (ii) on or after the Early Retirement Date; or
 - (iii) with the approval of the Employer on or after the Member's 50th birthday for female Members who joined the Petersville Sleigh Superannuation Fund No. 1 before 1 September 1984;
- (b) The Trustee must pay a lump sum benefit from the Fund to the Member. The lump sum benefit will be equal to the aggregate of:
 - (i) the product of the Member's Accrued Multiple and the Member's FAS,
 - (ii) the product of the Member's Former Fund Multiple and the Member's FAS,but may not exceed seven times the Member's FAS.
- (c) The lump sum benefit will not be less than the benefit under **clause 9**.

5.2 Late retirement

If a Member continues Employment after the Normal Retirement Date, when the Member ceases Employment the Trustee must pay a lump sum benefit from the Fund to the Member. The lump sum benefit will be the aggregate of:

- (a) the benefit which would have been paid if the Member had ceased Employment on the Normal Retirement Date;
- (b) contributions made by or for the Member in respect of the period after the Normal Retirement Date; and
- (c) net earnings of the Fund allocated from time to time on those amounts, for the period from the Normal Retirement Date to the date when the Member ceases Employment.

6 Death and Total Permanent Disablement Benefit

6.1 Death before Normal Retirement Date

If a Member dies in Employment before the Normal Retirement Date the Trustee must pay a lump sum benefit from the Fund in respect of the Member. The lump sum benefit will be the same as the benefit which would have been paid if the Member had continued in Employment and in the same Category until the Normal Retirement Date and ceased Employment at that date, but using the Member's Annual Salary applicable at the date of death instead of the Member's Final Average Salary.

6.2 Death on or after Normal Retirement Date

If a Member dies in Employment on or after the Normal Retirement Date the Trustee must pay a lump sum benefit from the Fund in respect of the Member. The lump sum benefit will be the same as the benefit which would have been paid under **clause 5.2** if the Member had ceased Employment on the date of death.

7 Total and Permanent Disablement Benefit

If a Member ceases Employment because of Total and Permanent Disablement the Trustee must pay a lump sum benefit from the Fund to the Member. The lump sum benefit will be the same as the benefit which would have been paid under **clause 6.1** or **clause 6.2** (as applicable) if the Member had died on the date the Member was last at work.

8 Retrenchment or ill-health before Early Retirement Date

8.1 Benefit entitlement

If a Member:

- (a) leaves Employment before the Early Retirement Date;
 - (b) as a result of retrenchment or ill-health in the opinion of the Trustee,
- the Trustee must pay a lump sum benefit from the Fund to the Member.

8.2 Under age 50

The lump sum benefit for Members less than age 50 years (or less than age 45 years for female Members who joined the Petersville Sleigh Superannuation Fund No. 1 before 1 September 1984) will be equal to:

- (a) the amount the trustee of the Former Fund notifies the Trustee is two times the amount of the Member's prescribed contributions to the Former Fund (including contributions which the Member is deemed to have made);
- (b) two times the Member's contributions under **clause 3.1(a)** (including contributions which the Member is deemed to have made);
- (c) net earnings of the Fund allocated from time to time on those amounts.

8.3 Between age 50 and 55 years

The lump sum benefit for Members between age 50 and 55 years (or between age 45 and 50 years for female Members who joined the Petersville Sleigh Superannuation Fund No. 1 before 1 September 1984) will be calculated according to the following formula:

$$A + \left[(B - A) \times \frac{m}{60} \right]$$

where:

- A is the amount described in **clause 8.2**;
- B is the amount calculated under **clause 5.1(a)**; and
- m is the number of complete months since the Member's 50th birthday (or 45th birthday for female Members who joined the Petersville Sleigh Superannuation Fund No. 1 before 1 September 1984).

8.4 Minimum benefit

The benefit will not be less than the benefit payable under **clause 8.2**.

9 Leaving Employment benefit

9.1 Entitlement to Resignation Benefit

If a Member ceases Employment before the Normal Retirement Date in circumstances apart from those described in the preceding clauses of this document the Trustee must pay a lump sum benefit from the Fund to the Member.

9.2 Less than five years

The lump sum benefit for Members with less than five years aggregate Fund Membership and Service while a member of the Former Fund will be equal to the sum of:

- (a) the amount the trustee of the Former Fund notifies the Trustee is the amount of the Member's prescribed contributions to the Former Fund (including contributions which the Member is deemed to have made);
- (b) the contributions which the Member made to the Fund under **clause 3.1(a)** (including any contributions which the Member is deemed to have made); and
- (c) net earnings of the Fund allocated from time to time on those amounts.

9.3 Five years or more

The lump sum benefit for Members with five years or more aggregate Fund Membership and Service while a member of the Former Fund will be equal to:

- (a) the amount described in **clause 9.2**; and
- (b) 5% of the amount described in **clause 9.2** for each complete year of aggregate Fund Membership and Service while a member of the Former Fund, but not more than 100% of the amount described in **clause 9.2**.

10 Additional Benefits

10.1 Benefit for additional voluntary contributions

If a Member who has made voluntary contributions ceases Employment for any reason (including death) the Trustee must pay a lump sum benefit from the Fund to or in respect of the Member in addition to any other benefit payable from the Fund. The lump sum benefit will be equal to the amount of the Member's voluntary accumulation.

10.2 Benefit for Productivity and Transfer Accumulations

If a Member ceases Employment for any reason (including death) the Trustee must pay a lump sum benefit from the Fund to or in respect of the Member in addition to any other benefit payable from the Fund. The lump sum benefit will be equal to the sum of the Member's productivity accumulation and transfer accumulation.

11 Benefit offsets

11.1 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 Principal Employer agree otherwise.

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

11.2 Other Scheme offset

If:

- (a) a Member is entitled to a benefit from another superannuation or other benefit arrangement; and
 - (b) all or part of the costs of providing that benefit is met by the Employer,
- the benefits payable in respect of the Members under this document must be reduced by the amount the Actuary considers equivalent, unless the Employer otherwise agrees.

11.3 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.

11.4 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 11.4**:

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.

12 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 Signature]

[Redacted Signature]

.....
Company Secretary/Director

[Redacted Signature]

.....
Name of Company Secretary/Director
(print)

Name of Director (print)

The common seal of **Simplot
Australia Pty Ltd** is affixed in the
presence of:)

[Redacted Signature]

[Redacted Signature]

.....
Company Secretary/Director

[Redacted Signature]

.....
Name of Company Secretary/Director
(print)

Name of Director (print)

