

## **Deed of Amendment (No. 3) of Trust Deed of First Super**

**First Super Pty Limited (ABN 42 053 498 472)**

This Deed of Amendment is dated 15 APRIL 2025.

**Parties:**

**First Super Pty Limited (ACN 053 498 472) (Trustee)**

**Background:**

- A** The Trustee is the trustee of First Super (ABN 56 286 625 181) (**Fund**).
- B** The Fund was established on or around 1 July 2008 and is currently governed by trust deed, dated 11 December 2012 as amended on 25 June 2013 and 21 December 2021 (**Trust Deed**).
- C** Clause 50 of the Trust Deed confers on the Trustee the power to, by deed, amend, add to, vary or rescind any provision of the Trust Deed provided that, unless the Law permits or the Fund's Members consent, no amendment may be made or become effective that would adversely affect, or has the potential to adversely affect, the right or claim to accrued benefits, or the amount of those accrued benefits of any Member.
- D** In accordance with clause 50 of the Trust Deed, the Trustee amends the Trust Deed in the manner set out in this Deed of Amendment with effect from the date of this Deed of Amendment.
- E** The amendments to the Trust Deed, as contained in this Deed of Amendment, do not constitute a resettlement of trust.

**Operative provisions:**

**1. Definitions and interpretation**

In this Deed of Amendment, unless a contrary intention appears, capitalised words have the same meaning as defined in clause 1 of the Trust Deed.

**2. Inconsistency**

If there is an inconsistency between this Deed of Amendment and the Trust Deed, the provisions of this Deed of Amendment will prevail over those of the Trust Deed to the extent of the inconsistency.

**3. Amendment of Trust Deed**

**3.1 Clause 1.1**

Pursuant to clause 50 of the Trust Deed, the Trustee amends the Trust Deed by:

- A.** Deleting the definition of "Beneficiary Nomination" in clause 1.1 of the Trust Deed in its entirety and replacing it with the following words:

***"Beneficiary Nomination"** means a Three Year Binding Nomination; a Non-Lapsing Binding Nomination; a Beneficiary Statement of Wishes; or any other form of written nomination given by a Member to the Trustee stating how the Member directs or*

*wishes the Trustee to pay all or part of a Benefit in respect of the Member on the death of the Member.*

- B. The insertion after the definition of "Non-concessional Contributions Cap" the following words:

***"Non-Lapsing Binding Nomination"*** means a notice given to the Trustee by a Member which:

- (a) is in a form prescribed by the Trustee and meets any requirements or conditions determined by the Trustee;*
- (b) directs how the Trustee is to pay all or part of a Benefit in respect of the Member that becomes payable on the death of the Member;*
- (c) expressly indicates that the nomination will not lapse, expire or terminate unless revoked or replaced by the Member; and*
- (d) is not a Three Year Binding Nomination.*

### 3.2 Clause 41.3

Pursuant to clause 50 of the Trust Deed, the Trustee amends the Trust Deed by deleting clause 41.3 of the Trust Deed in its entirety and replacing it with the following words:

*"41.3 Death Benefits and Beneficiary Nominations*

- (a) The Trustee may allow a Member to make a Beneficiary Nomination in accordance with this Deed.*
- (b) A Member who wishes to make a Beneficiary Nomination may request the Trustee to provide to the Member the information that the Trustee reasonably believes the Member needs for the purpose of understanding the Member's rights to make a Beneficiary Nomination in accordance with this Deed. The Trustee must comply with that request.*
- (c) A Member who has given a Beneficiary Nomination to the Trustee may:*
  - (i) amend or revoke the Beneficiary Nomination by giving to the Trustee a notice of amendment or revocation of that Beneficiary Nomination; or*
  - (ii) replace the existing Beneficiary Nomination by giving to the Trustee a new Beneficiary Nomination made after the date of the existing Beneficiary Nomination.*
- (d) Unless sooner revoked by the Member, a Three Year Binding Nomination given to the Trustee ceases to have effect at the end of the period of 3 years after the day it was first signed, or last confirmed or amended, by the Member.*
- (e) Unless sooner revoked or replaced by the Member, a Non-Lapsing Binding Nomination does not cease to have effect.*
- (f) The Trustee may provide its consent to the exercise of a member's direction in a Non-Lapsing Binding Nomination on an individual basis or on a general basis in accordance with any rules or conditions adopted by the Trustee.*

- (g) *If it appears to the Trustee at the time of receiving a Beneficiary Nomination that an item of information given by the Member in the Beneficiary Nomination is not sufficiently clear to allow the Trustee to pay the Death Benefit in accordance with the Beneficiary Nomination, the Trustee must seek from the Member a written statement to clarify the item as soon as practicable after the Trustee receives the Beneficiary Nomination.*
- (h) *The Trustee is not responsible or liable to a Member or that Member's Dependants, Legal Personal Representatives, or any other person for anything arising from the Member's Beneficiary Nomination being invalid or ineffective due to the Beneficiary Nomination:*

  - (i) *Having ceased to have effect; or*
  - (ii) *Nominating a Nominated Beneficiary who at the time of the Member's death is not the Legal Personal Representative or a Dependant of the Member or otherwise not permitted under the Law to be the recipient of the Member's Death Benefit.*
- (i) *If the Trustee holds a Beneficiary Nomination that is a Three Year Binding Nomination or a Non-Lapsing Binding Nomination in respect of a deceased Member, the Trustee must pay the Death Benefit to the person or persons referred to as the Nominated Beneficiary in that nomination if:*

  - (i) *the person, or each of the persons, are the Legal Personal Representatives or a Dependant of the deceased Member; and*
  - (ii) *the proportion of the Death Benefit that will be paid to that person, or to each of those persons, is certain or readily ascertainable from the Beneficiary Nomination; and*
  - (iii) *the Beneficiary Nomination is in effect; and*
  - (iv) *in respect of a Beneficiary Nomination that is a Non-Lapsing Binding Nomination – the Trustee has consented to the nomination pursuant to clause 41.3(f).*
- (j) *If the Trustee holds a Beneficiary Nomination which is not valid because it has lapsed or otherwise does not conform to the relevant requirements of this Deed or the Law, the Trustee must pay or apply the Death Benefit to or for the benefit of:*

  - (i) *a person nominated in writing as a Nominated Beneficiary by the deceased Member in the Beneficiary Nomination provided that the Trustee is satisfied that the person was a Dependant of the deceased Member at the time of death of the Member; or*
  - (ii) *any one or more of the Dependants of the deceased Member; or*
  - (iii) *the Legal Personal Representatives of the deceased Member;*

*in such proportions between all or any of the above persons or categories of persons as the Trustee may determine in its discretion, but in so doing the Trustee may have regard to the wishes of the deceased Member as to the intended recipient of the Death Benefit evidenced by the Beneficiary Nomination.*

*(k) If the Trustee does not hold a Beneficiary Nomination, the Trustee must pay or apply the Death Benefit to or for the benefit of:*

*(i) any one or more of the Dependants of the deceased Member; or*

*(ii) the Legal Personal Representatives of the deceased Member;*

*in such proportions between all or any of the above persons or categories of persons as the Trustee may determine in its discretion.*

*(l) If after reasonable enquiry the Trustee determines that the deceased Member left no Dependants or that there are no Dependants whose existence, identity and whereabouts are satisfactorily known to the Trustee and the Trustee is unable to locate any Legal Personal Representative of the deceased Member, then subject to the requirements under the Law, the Trustee must determine that the Death Benefit ceases to be payable in respect of that deceased Member and shall be transferred to the Reserve Account of the Fund.*

**4. Date of effect**

The amendments take effect from the date of this Deed of Amendment.


**5. Governing law**

This Deed of Amendment is governed by the laws of Victoria, Australia. The Company submits to the non-exclusive jurisdiction of the courts of Victoria and any courts competent to hear appeals from those courts.

**Executed as a deed:**

**EXECUTED by First Super Pty Limited** (ACN 053 498 472) in accordance with section 127(1) of the Corporations Act 2001:

  
.....  
**Signature of Director**

  
.....  
**Name of Director (please print)**

  
.....  
**Signature of Director/Secretary**

  
.....  
**Name of Director/Secretary (please print)**