

## Sample Update SMSF Fund

### Deed of Variation of Superannuation Trust Deed

Prepared for **Sample November 2004**  
Your client **1**  
account number  
Matter name **Sample SMSF Update 2004/5**  
Matter number **1**  
Prepared by **Test Person**  
Date downloaded **2004-11-17 14:25:01**

#### What to do next

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You need to review the letter from Maddocks to Cleardocs that we emailed to you with this document. Then you need to draw that letter to the attention of the Trustees. That letter explains the consequences of updating a Deed in relation to Defined Benefit Pensions.

If having understood that letter, the Trustees want to update the deed, you need:

- to arrange for the Deed of Variation and the Minutes to be signed;
- to arrange for the Notice to Members to be given to each of the members of the Fund. This 'Notice to Members' is to be in the form of a copy of the Deed of Variation and a copy of the new terms of the Fund's Deed. You should draw each Member's attention to the Product Disclosure Statement in Schedule 6 of those new terms; and
- to print out the Replacement Trust that Cleardocs emailed to you with this one. Then attach that document to the back of the Deed of Variation (after the signing clauses). The document you need to attach there is headed:

'Schedule A

The new terms for the Superannuation Trust Deed for the

Sample Update SMSF Fund

**as updated by a Deed of Variation dated 17 November 2004'**

The Schedule does not need to be signed. The only documents that need to be signed are the Deed of Variation itself, and the Minutes.

#### Questions or further information

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If you have questions:

- **about how to use Cleardocs**, contact Cleardocs on (02) 9555 4849.
- **about legal issues**, contact the law firm Maddocks on (03) 9288 0555 and ask for Geoff Musgrove, or Julian Smith.

SAMPLE

# Deed of Variation of Superannuation Trust Deed for the

## Sample Update SMSF Fund

17 November 2004

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**Trustee company:**     **corp trustee pty ltd, ACN 123 234 456**

**and**

**Joe Smith as The Partner**

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SAMPLE

Deed of Variation of Superannuation Trust Deed for the Sample Update SMSF Fund.

17 November 2004

**Between**

**corp trustee pty ltd, ACN 123 234 456** of 1 Trustee Street

Melbourne, VIC, 3000 (Trustee)

and

Joe Smith of 1 Joe Smith Street

Melbourne, VIC, 3000 (The Partner)

and

**Joe Memberson** of 1 Test Street

Melbourne, VIC, 3000 (Member)

and

**Jilly Memberson** of 1 Memberson Street

Melbourne, VIC, 3000 (Member)

**Background**

- 1 This deed supplements the original deed.
- 2 The trustee is the trustee of the fund, the members are the members of the fund and the fund was established by the original deed.
- 3 Clause 10.2 of the original deed provides that the trustee with the consent of the The Partner may by deed vary the provisions of the original deed subject to the limitations contained in the original deed and superannuation law.
- 4 The parties wish to vary the original deed by deleting all of its provisions and replacing them with the provisions contained in Schedule A to this deed.

**This Deed witnesses**

**Variation of original deed**

- 1 The original deed is varied by this deed, with effect from the effective date, by deleting all the provisions of the original deed, including any schedules or appendices, and replacing them with the provisions contained in Schedule A to this deed.

**The parties consent to the variation**

- 2 The parties consent to the variation of the original deed by this deed and each of them (with the exception of the members) has passed a resolution to this effect.

### **Compliance with original deed**

- 3 The parties are satisfied that the requirements of the original deed have been complied with in this deed.
- 4 The parties do not consider that this deed has either of the following effects:
- reducing or adversely affecting the rights of a member to accrued entitlements that arose before the effective date;
  - reducing the amount of any other entitlement that is or may become payable in relation to a time before the effective date.
- 5 Furthermore, the parties do not consider that this deed will allow any further amendments to the terms governing the fund that will have the effect of:
- unless the trustee is a corporation, altering the purpose of the fund so that it is no longer solely or primarily the provision of old age pensions under superannuation law.
  - unless the sole or primary purpose of the fund is to provide old age pensions to members, allowing any person except a corporation to be appointed trustee of the fund.

### **Compliance with superannuation law**

- 6 The parties are satisfied that the requirements of the superannuation law have been complied with. They will, if required to do so by superannuation law, notify the fund's members of the variation to the original deed effected by this deed.

### **Continued operation**

- 7 The original deed remains effective and unaltered, except as varied by this deed. The trustee declares that as from the effective date, it will stand possessed of the assets of the fund and the income of the fund upon the trusts and with and subject to the powers and provisions contained in the original deed as varied by this deed.

### **Definitions and interpretation**

- 8 Unless the context otherwise requires the words defined in the original deed have the same meaning whenever they appear in this deed.

- 9 In this deed, unless expressed or implied to the contrary:

**Deed** means this deed of variation.

**Effective date** means the date of execution of this deed.

**Fund** means the trust fund known as Sample Update SMSF Fund.

**Original deed** means the document entitled 'Superannuation Trust Deed for a Self Managed Fund for Sample Update SMSF Fund' made on 17 February 2000 between Joe Memberson, Jilly Memberson and The Partner.

**Superannuation law** means any law of the Commonwealth of Australia which deals with any aspect of superannuation or taxation in relation to superannuation, or any lawful

requirement in relation to the fund of the Commissioner of Taxation, the Australian Tax Office, APRA, ASIC or any other body that has responsibility in connection with the regulation of superannuation. It includes any change to any superannuation law after the date of this deed. It also includes any proposed law or lawful requirement that the trustee believes may have retrospective effect.

SAMPLE

## Execution

Executed as a deed.

Dated: \_\_\_\_\_

Signed for and on behalf of corp trustee pty ltd  
in its capacity as trustee by its authorised  
representative Joe Memberson

\_\_\_\_\_  
Joe Memberson

in the presence of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Witnesses' name and title (please print)

Signed sealed and delivered by Joe Smith as  
The Partner in the presence of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of individual

\_\_\_\_\_  
Name of witness (please print)

Signed sealed and delivered by Joe  
Memberson in the capacity as member in the  
presence of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of member

\_\_\_\_\_  
Name of witness (please print)

Signed sealed and delivered by Jilly  
Memberson in the capacity as member in the  
presence of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of member

\_\_\_\_\_  
Name of witness (please print)

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