



## **Self Managed Superannuation Fund Superannuation Deed**

### **The Ormston Superannuation Fund**

This document has been prepared by **TOWNSENDS BUSINESS & CORPORATE LAWYERS**.  
Version: June 2010

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**THIS SUPERANNUATION DEED** is made on the Date set out in the Reference Schedule BY the Party or Parties named in the Reference Schedule as the Initial Trustee or Trustees ("Trustee")

## **RECITALS**

- A. The Trustee wishes to establish a Superannuation Fund for the sole purpose of providing superannuation benefits for or in respect of the Members of the Superannuation Fund.
- B. The Trustee intends that the Superannuation Fund will be a self managed superannuation fund and will be taxed as a complying superannuation fund.

## **OPERATIVE PART**

### **1. Establishment of Superannuation Fund**

#### **Establishment**

- (a) The Trustee declares that it will hold any money or property received as contributions for or to the Superannuation Fund as the trust fund of the Superannuation Fund and will hold the trust fund pursuant to the trusts, powers and discretions of this Superannuation Deed for the benefit of the Members and their Dependants.

#### **Indefinitely continuing**

- (b) The Superannuation Fund will be an indefinitely continuing fund which will provide individual personal benefits, pensions or retiring allowances for the Members and their Dependants.

#### **Name**

- (c) The Superannuation Fund will be known by the name set out in the Reference Schedule or by such other name as the Trustee determines.

#### **Initial Members**

- (d) Each of the persons identified in the Reference Schedule as an Initial Member is admitted as a Member of the Superannuation Fund on the establishment of the Superannuation Fund.

### **2. Amendment Powers**

- (a) The Trustee may by deed amend, alter, delete or replace any or all of the provisions of the Superannuation Deed or of the Governing Rules applying to the Superannuation Fund.
- (b) Super Governing Rules Pty Limited ACN 117 737 381 ("SGR") may by deed amend, alter, delete or replace any or all of the provisions of the SUPERCentral Governing Rules.

- (c) Any amendment, alteration, deletion or replacement may:
- (i) be retrospective and apply from a date preceding the date on which the amendment is made;
  - (ii) be prospective and apply from a date following the date on which the amendment is made; and
  - (iii) operate by way of complete replacement of all of the current provisions with new provisions.

**Limitation to the scope of amendments**

- (d) The amendment powers:
- (i) at any time when the Trustee consists of one or more natural persons – cannot be used to change the primary purpose of the Superannuation Fund from the provision of old-age pensions;
  - (ii) at any time when the primary purpose of the Superannuation Fund is not the provision of old-age pensions – cannot be used to remove the requirement that the Trustee of the Superannuation Fund be a constitutional corporation;
  - (iii) cannot be used to reduce the amount standing to the credit of the benefit accounts of a Member unless that Member has consented to the reduction or the reduction is permitted by Superannuation Law, by the Regulator or by Court Order;
  - (iv) in the case of the power conferred on the Trustee – cannot be exercised until the amendment power conferred on SGR has been terminated in accordance with either clause 2(j) or 2(k); and
  - (v) cannot be used to amend this clause 2(d).

**Trustee and Members bound by amendments to SUPERCentral Governing Rules**

- (e) The Trustee and each Member of the Superannuation Fund is bound by any amendment made pursuant to this clause in the same manner as if the amendment had been made immediately before the Member joined the Superannuation Fund.

**Trustee may request amendment made by SGR not to apply**

- (f) The Trustee may by notice to SGR request that an amendment ("current amendment") made by SGR to the SUPERCentral Governing Rules not apply to the Superannuation Fund.
- (g) For the request to be effective, the notice must be in writing and be given to SGR within 14 days of the Trustee being notified of the current amendment.
- (h) Where the Trustee makes an effective request for the current amendment not to apply to the Superannuation Fund, then SGR will by deed revoke the current amendment so far as it applies to the Superannuation Fund and the current amendment will be taken never to have applied to the Superannuation Fund.

**Repatriation of amendment power**

- (j) Where SGR at the request of the Trustee has revoked an amendment made to the SUPERCentral Governing Rules then the following provisions apply:
  - (i) the amendment power conferred on SGR terminates; and
  - (ii) amendments previously made by SGR to the SUPERCentral Governing Rules continue to apply to the Superannuation Fund despite the fact that the amendment power conferred on SGR has terminated.

**Release of amendment power**

- (k) SGR may by deed or written notice to the Trustee release the power conferred by clause 2(b) in which event:
  - (i) the amendment power conferred on SGR terminates; and
  - (ii) amendments which have been previously made by SGR to the SUPERCentral Governing Rules continue to apply to the Superannuation Fund despite the fact that the amendment power conferred on SGR has terminated.

**3. Deed, Schedule & SUPERCentral Governing Rules**

**Deed includes schedule and rules**

- (a) This Superannuation Deed includes the Reference Schedule to this Deed and the SUPERCentral Governing Rules.

**Incorporation of SUPERCentral Governing Rules**

- (b) For the purposes of Clause 3(a), the SUPERCentral Governing Rules are expressly incorporated into this Superannuation Deed as if they had been set out at length in this Superannuation Deed.

**Inconsistency between parts of deed**

- (c) Where any provision of the SUPERCentral Governing Rules is inconsistent with the Superannuation Deed then, to the extent of the inconsistency, the provision of the Superannuation Deed shall take precedence

**4. Identification of SUPERCentral Governing Rules**

- (a) The SUPERCentral Governing Rules are:
  - (i) where the date of this Superannuation Deed falls within a Governing Rules Update Notice Period then:
    - (A) in respect of the balance of the Update Notice Period - the SUPERCentral Governing Rules made by SGR which apply as at the date of this Superannuation Deed; and
    - (B) from the end of the Update Notice Period - the SUPERCentral Governing Rules made by SGR and which apply on and from the end of the Update Notice Period;

- (ii) where (i) does not apply – the SUPERCentral Governing Rules made by SGR which apply as at the date of this Superannuation Deed,

as those Rules are, in either case, subsequently amended from time to time by SGR pursuant to clause 2(b).

For the purposes of this provision, the Governing Rules Update Notice Period is the period commencing on the date on which SGR executes a deed replacing the then current version of the SUPERCentral Governing Rules with a new version of the SUPERCentral Governing Rules and ending on the date on which the new version of the SUPERCentral Governing Rules replaces the then current version.

## **5. Notification of Amendments**

- (a) SGR must notify the Trustee of each exercise of the amendment power conferred by clause 2(b) and such notification may be by electronic means (email or publication on such website as SGR considers appropriate).
- (b) If SGR notifies the Trustee by email then SGR may use the email address details of the Trustee which has been provided for this purpose by or on behalf of the Trustee.
- (c) If SGR notifies the Trustee by a notice on a website, the notice must be on a publically viewable page on that website which is notified to the Trustee and to which the Trustee has access.
- (d) For the purposes of this clause, notification is received by the Trustee:
  - (i) if the email is sent or the notice is published prior to 5pm Australian Eastern Standard Time or Australian Eastern Standard Daylight Saving Time (whichever applies) on the day on which the email is sent or the notice is published; and
  - (ii) if the email is sent or the notice is published on or after 5pm Australian Eastern Standard Time or Australian Eastern Standard Daylight Saving (whichever applies) on the next following day.
- (e) Despite the preceding provisions of this clause:
  - (i) the inadvertent failure to notify the Trustee;
  - (ii) the use by SGR of an out of date address for the Trustee (so long as SGR reasonably believes that the address used is the current address for the Trustee);
  - (iii) notification to one or more but not all Trustees or one or more but not all directors of a company acting as Trustee;
  - (iv) notification to a former Trustee where there has been no effective notification to SGR of the change in Trustee (including electronic contact details of the new Trustee or its agent for this purpose),does not affect the validity and effectiveness of the exercise of the amendment power.
- (f) For the avoidance of doubt SGR may at its absolute discretion but is not required to and need not provide notification to the Trustee by personal service, mail or other non-electronic means.

**REFERENCE SCHEDULE – The Ormston Superannuation Fund**

**Date of Superannuation Deed**

..... 11 , 12 , 2012 .....

**Name of Initial Trustee or Trustees**

Ormston Superannuation Fund Pty Ltd ACN 161 601 501

**Name of Superannuation Fund**

The Ormston Superannuation Fund

**Names and addresses of Initial Member or Members**

Francis John Ormston of 3 Lamont Link, Pearsall WA 6065

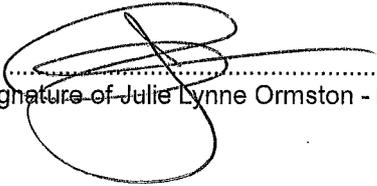
Julie Lynne Ormston of 3 Lamont Link, Pearsall WA 6065

**EXECUTED AS A DEED**

**EXECUTED BY Ormston Superannuation Fund Pty Ltd ACN 161 601 501 in  
accordance with s127 of the Corporations Act 2001**



.....  
(Signature of Francis John Ormston - Director)



.....  
(Signature of Julie Lynne Ormston - Director)



# HOLDING TRUST DEED

THE HOLDING TRUST - 26/153 TRAPPERS DRIVE,  
WOODVALE WA

The Ormston Superannuation Fund  
ABN 26 677 066 597

Document provided by

**TOWNSENDS BUSINESS & CORPORATE LAWYERS**

Tel 02 8296 6222 [www.townsendslaw.com.au](http://www.townsendslaw.com.au)

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**THIS DEED** is made on the date set out in the Reference Schedule

**BY** the Company or Individuals named in the Reference Schedule as the Fund Trustee ("Fund Trustee")

**AND BY** the Company named in the Reference Schedule as the Holding Trustee ("Holding Trustee")

## **RECITALS**

- A. The Fund Trustee is the trustee of The Ormston Superannuation Fund ABN 26 677 066 597 which is a self managed superannuation fund under the *Superannuation Industry (Supervision) Act 1993* (Cth) ("SIS Act").
- B. The Fund Trustee intends to purchase the property known as 26/153 Trappers Drive, Woodvale WA (Volume 2202 Folio 518) ("the Property") from Grazyna Rados and Jan Jozef Rados ("the Vendor").
- C. The Fund Trustee will be the real purchaser of the Property but has asked the Holding Trustee to be the apparent purchaser and to purchase the Property as the Fund Trustee's agent, custodian, bare trustee with funds wholly provided by the Fund Trustee as real purchaser or the lender to the Fund Trustee and to transfer the Property to the Fund Trustee as real purchaser when directed to do so by the Fund Trustee in due course
- D. The Holding Trustee as apparent purchaser is able to act as agent, custodian and bare trustee under s 67A of SIS Act and as custodian and so-called holding trustee under Part 15 of SIS Act and is willing to continue to hold the Property under the arrangements set out in this Deed.

## **OPERATIVE PART**

### **1. Interpretation**

- 1.1 In this Deed, unless there is something in the subject or context inconsistent with it:
  - (a) words importing any one gender shall include the other genders;
  - (b) words importing persons shall be deemed to include all bodies and associations, whether corporate or unincorporated and vice versa;
  - (c) the singular includes the plural and vice versa;
  - (d) the headings in this Deed are for convenience and reference only and do not affect the meaning or interpretation of this Deed;
  - (e) the first letters of words and expressions defined in this Deed are indicated by capital letters for convenience and the absence of a capital letter shall not alone imply that the word or phrase is used with a meaning different from that given by its definition;
  - (f) a reference to a statute, code or other law includes regulations, proclamations, ordinances, by-laws and other instruments under it and includes all consolidations, amendments, re-enactments or replacements of any of them occurring at any time before or after the date of this Agreement; and
  - (g) the name of the trust established by this Deed is the name set out in the Reference Schedule.

## **2. Apparent purchase**

- 2.1 The Fund Trustee as the real purchaser appoints the Holding Trustee as the apparent purchaser to be the Fund Trustee's agent, trustee and custodian:
- (a) to acquire the property;
  - (b) to hold the Property upon trust for the Fund Trustee's uses and at the Fund Trustee's directions given as a trustee of a self managed superannuation fund to the Holding Trustee as apparent purchaser; and
  - (c) to transfer the Property to the Fund Trustee as the real purchaser forthwith when the Fund Trustee directs the Holding Trustee as apparent purchaser to do so.

## **3. Covenants**

- 3.1 The Holding Trustee as apparent purchaser agrees and covenants that:
- (a) the Holding Trustee will deal with the Property and any proceeds received from a dealing and any rights or privileges derived from the Property in accordance and in all respects with the directions and instructions given to the Holding Trustee as apparent purchaser by the Fund Trustee as real purchaser from time to time, and not otherwise;
  - (b) whenever so requested by the Fund Trustee, the Holding Trustee will sign execute and deliver any document or instrument submitted to the Holding Trustee by the Fund Trustee and relating to the Property and or to any property rights and privileges in respect of the Property;
  - (c) the Holding Trustee as apparent purchaser will act on and comply with any request, direction or instruction received from the Fund Trustee as real purchaser; and
  - (d) the Holding Trustee as apparent purchaser acknowledges and agrees that the Fund Trustee as real purchaser has the right to appoint a new trustee of the Property at any time and for any reason.

## **4. Holding Trustee as Apparent Purchaser**

- 4.1 The Holding Trustee as apparent purchaser declares that each director of the Holding Trustee is:
- (a) not a disqualified person under s 120 of SIS Act; and
  - (b) able to act as a trustee under s 67A of SIS Act; and
  - (c) able to act as a custodian under Part 15 of SIS Act; and
- the Holding Trustee further declares that it is prepared to hold the Property under the arrangements set out in this Deed.
- 4.2 If any of the directors of the Holding Trustee, if the Holding Trustee is a company, becomes a disqualified person and does not then cease to be a director of the Holding Trustee within a reasonable time then the Holding Trustee agrees to immediately transfer the Property to the Fund Trustee as the real purchaser or to another qualified person as the Fund Trustee directs.

**5. Conditional directions**

5.1 If the Fund Trustee receives or has received a loan to which s 67A of SIS Act applies then, in accordance with subclause 3.1(b), the Fund Trustee directs the Holding Trustee to sign execute and deliver any document or instrument so that the Property is provided as security for the loan to the lender of the loan.

5.2 The Fund Trustee agrees to make one or more payments in respect of the Property prior to requesting the Holding Trustee to transfer legal ownership of the Property to the Fund Trustee.

**6. Governing law**

6.1 This Deed is governed and construed in accordance with the laws of the State or Territory in which the property is situated and the parties submit to the jurisdiction of the courts of that State or Territory and of the Commonwealth of Australia.

**REFERENCE SCHEDULE -- The Ormston Superannuation Fund**

**Date of This Deed**

.....11 / 12 / 2012.....

**Name of Trust**

The Holding Trust - 26/153 Trappers Drive, Woodvale WA

**Name of Fund Trustee**

Ormston Superannuation Fund Pty Ltd ACN 161 601 501 whose registered office is situated at 3 Lamont Link, Pearsall WA

**Name of Holding Trustee**

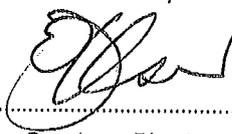
Ormston Property Pty Ltd ACN 161 601 430 whose registered office is situated at 3 Lamont Link, Pearsall WA

**Name of Superannuation Fund**

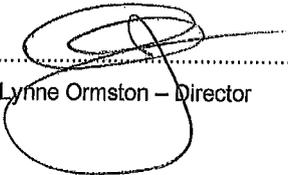
The Ormston Superannuation Fund ABN 26 677 066 597

**EXECUTED AS A DEED**

Executed by **Ormston Property Pty Ltd ACN 161 601 430**  
pursuant to s 127 of the *Corporations Act 2001* (Cth)

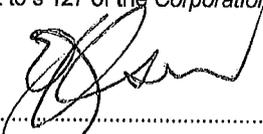


.....  
Francis John Ormston – Director

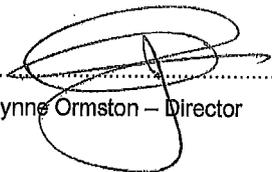


.....  
Julie Lynne Ormston – Director

Executed by **Ormston Superannuation Fund Pty Ltd ACN 161 601 501**  
pursuant to s 127 of the *Corporations Act 2001* (Cth):



.....  
Francis John Ormston – Director



.....  
Julie Lynne Ormston – Director

