

TRUSTEE APPOINTMENT AND RESIGNATION DEED

Brown Superannuation Fund

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Date

This agreement is made on the 10th day of May 2023

between

Parties

Name	Erich John Brown (' Erich ') and Maria Brown (' Maria ')
Address	1 Spinifex Route, False Bay SA 5601

Name	EJB SMSF Pty Ltd (' New Trustee ')
ACN	667 870 975
Address	Unit 8, 435-439 Fullarton Road, Highgate SA 5063

Introduction

- A. The Brown Superannuation Fund ('**Fund**') was established pursuant to a Superannuation Fund Deed dated 1 May 2015 by Erich John Brown and Eric John Brown ('**Eric**') as the original trustees of the Fund ('**Fund Deed**').
- B. On 17 September 2019, Maria Brown ('**Maria**') was appointed as a new trustee and Eric resigned as a trustee per a Change of Trustee and Member Deed.
- C. The Member is empowered by clause 3.2 of the Fund Deed to appoint trustees of the Fund.
- D. Erich and Maria are the current trustees of the Fund and hold certain property on the trusts set out in the Fund Deed ('**Fund Property**').
- E. The Member wishes to appoint the New Trustee as trustee of the Fund.
- F. The New Trustee wishes to consent to its appointment as trustee of the Fund.
- G. After the appointment of the New Trustee, Maria and Erich wish to be discharged as trustees of the Fund.

Part 1 - Appointment and Resignation of Trustee

1 Appointment of New Trustee

- 1.1 By this Deed, the Member appoints the New Trustee to be the trustee of the Fund.
- 1.2 This Deed constitutes a resolution of the Member, as the sole Member of the Fund, for the purposes of clause 3.2.2 of the Fund Deed.
- 1.3 The New Trustee consents to its appointment as trustee of the Fund.
- 1.4 The New Trustee agrees to act in accordance with the Fund Deed and to perform the obligations of trustee under the Fund Deed.

2 Resignation of Erich and Maria

- 2.1 By this Deed, Erich and Maria resign as trustees of the Fund, effective immediately upon the valid appointment of the New Trustee.
- 2.2 The Member acknowledges the resignation of Erich and Maria.
- 2.3 Erich and Maria agree to execute any documents necessary to transfer the Fund Property to the New Trustee.

3 Fund Property

- 3.1 By this Deed the parties acknowledge and declare for the purpose of section 16 of the *Trustee Act 1936* (SA) that legal ownership of the Fund Property will vest in the New Trustee as the sole trustee of the Fund.
- 3.2 By this Deed the New Trustee declares that it holds the Fund Property upon the trusts and subject to the terms of the Fund Deed.
- 3.3 The New Trustee, as well as Erich and Maria, will use their best efforts to vest legal ownership of the Fund Property in the New Trustee solely and exclusively.

4 Performance and indemnity

- 4.1 The New Trustee must perform and observe the obligations incurred by Erich and Maria (in their capacity as trustee of the Fund) in the proper administration of the Fund.
 - 4.2 The New Trustee, to the extent of the Fund Property, indemnifies Erich and Maria against all liabilities incurred by them in the proper administration of the Fund.
 - 4.3 Erich and Maria continue to be entitled to be indemnified from the Fund Property against all liabilities incurred by her in the proper administration of the Fund.
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Part 2 - Standard Terms

5 Effect of introduction

The introduction is correct and forms part of this Deed.

6 Member's powers

Any actions taken by the Member in this Deed are taken in exercise of the powers passed to her by:

- 6.1 the *Trustee Act 1936* (SA);
- 6.2 the *Superannuation Industry (Supervision) Act 1993* (Cth);
- 6.3 the Fund Deed; and
- 6.4 every other power enabling her in those capacities.

7 This Deed not to cause resettlement

- 7.1 This Deed does not have the effect of resettling the Fund or creating a new ‘trust estate’.
- 7.2 Where any provision of this Deed has the effect of resettling the Fund or creating a new trust estate, that provision must be read down to the extent necessary to avoid that effect or, if this is not possible, that provision must be excluded from this Deed.

8 Costs

The New Trustee must pay the costs and any stamp duty in relation to this Deed.

9 Governing law

The laws in South Australia govern this Deed. The parties submit to the jurisdiction of the Courts of South Australia and the Federal Court of Australia (Adelaide Registry).

10 Interpretation

- 10.1 Any provision of this Deed must be read down to any extent necessary to be valid. If that is not possible, it must be severed. All other provisions of this Deed are unaffected.
- 10.2 In this Deed unless the contrary intention appears:
- 10.2.1 a person includes any other legal entity and vice versa;
 - 10.2.2 the singular includes the plural and vice versa;
 - 10.2.3 a gender includes the other gender;
 - 10.2.4 where an expression is defined, its other grammatical forms have a corresponding meaning;
 - 10.2.5 a clause is a clause of this Deed;
 - 10.2.6 reference to a document is to that document as amended or varied;
 - 10.2.7 any legislation includes any subordinate legislation and amendments;
 - 10.2.8 conduct includes any act, omission, representation, statement or undertaking whether or not in writing;
 - 10.2.9 ‘including’, or similar words, does not limit what else might be included; and
 - 10.2.10 ‘Deed’ is a reference to this deed.
- 10.3 Headings are for convenience and do not affect the interpretation of this Deed.
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Part 3 - Execution

11 Execution

- 11.1 This Deed (and any other document contemplated by this Deed) may be signed in counterparts. Each counterpart is taken to be an original. All counterparts together constitute one agreement. A signed counterpart may be delivered by facsimile.
- 11.2 A person signing this deed on behalf of a party warrants that they have authority to bind that party for that purpose.
- 11.3 This Deed is executed as a deed.

Erich John Brown		
.....
Signature	Signature of witness	Name of witness
Maria Brown		
.....
Signature	Signature of witness	Name of witness

EJB SMSF Pty Ltd	
.....
Signature of Director	Name of Director
.....
Signature of Director	Name of Director