

# **Change of Trustee and Variation Deed for a Self-Managed Superannuation Fund**

for

## **OTTA INTERNATIONAL PTY LTD SUPERANNUATION FUND**

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**Parties**

**THOMAS TEREI** in the capacity of Fund member of 73 CARRINGTON ROAD, WAHROONGA, NSW, 2076

and **ANN PATRICIA TEREI** in the capacity of Fund member of 73 CARRINGTON ROAD, WAHROONGA, NSW, 2076

**(Members)**

**THOMAS TEREI** of 73 CARRINGTON ROAD, WAHROONGA, NSW, 2076 in the capacity of Fund trustee

**(Retiring Trustee)**

and **ANN PATRICIA TEREI** of 73 CARRINGTON ROAD, WAHROONGA, NSW, 2076 in the capacity of Fund trustee

**(Retiring Trustee)**

**OTTA INTERNATIONAL Pty. Ltd. 002 393 535** of 73 CARRINGTON ROAD, WAHROONGA, NSW, 2076

**(New Trustee)**

## **Background**

1. The fund was established by the original deed.
2. The retiring trustees are the fund's trustees. The members are the fund's only members.
3. The retiring trustees wish to retire as the fund's trustees with effect from the close of business on the date of this deed.
4. Under clause CLAUSE 184 of the original deed the retiring trustees wish to appoint the new trustee as the fund's trustee.
5. The fund's trustees may retire as the fund's trustees by providing written notice to the fund's members and employer.
6. The new trustee has agreed to consent to its appointment as the fund's trustee.
7. Clause CLAUSE 182 of the original deed provides that the trustee may by deed vary the provisions of the original deed subject to the limitations contained in the original deed and superannuation law.
8. The parties have agreed to consent to the arrangements above. The retiring trustees wish to vary the original deed by replacing entirely its operative provisions with those in Schedule A of this deed.
9. 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.
10. The parties wish to enter this deed to give effect to their common intentions.

## **This Deed witnesses**

### **The parties confirm the fund's history**

1. The parties confirm that:
  - the fund was established on 29/06/1994 by the original deed.
  - the fund's original deed was amended by a further deed titled OTTA INTERNATIONAL PTY LTD SUPERANNUATION FUND dated 29/06/2016.
  - the retiring trustees are the fund's trustees.
  - the members are the fund's only members.

### **Retirement of trustees**

2. The retiring trustees retire as the fund's trustees with effect from the close of business on the date of the deed.

### **Appointment of new trustee**

3. Under clause CLAUSE 184 of the original deed the retiring trustees appoint the new trustee as the fund's trustee from the close of business on the date of this deed.
4. The new trustee must act for all purposes as the fund's trustee in accordance with the original deed's terms.

### **Obligation of retiring trustees**

5. The retiring trustees agree to arrange for the transfer of all the fund's assets in their possession or under their control into the new trustee's possession and control. The retiring trustees agree to take all necessary steps in performing the transfer, and to do so with all practicable speed.

### **Consents**

6. The parties consent to the retirement created by clause 2 and the appointment specified in clause 4 of this deed. The parties, other than the members, have passed a resolution to this effect.

### **New trustee accepts appointment**

7. From the close of business on the date of this deed, the new trustee:
  - accepts its appointment as the fund's trustee;
  - agrees to be bound by the original deed, as varied by this deed; and
  - undertakes all the obligations of the fund's trustee.

### **Retiring trustees vary the original deed**

8. Under clause CLAUSE 182 of the original deed and by this deed, the retiring trustees vary the original deed by:
  - deleting all the original deed's operative provisions — including any schedules or appendices; and
  - entirely replacing the original deed's operative provisions with the provisions in schedule A to this deed.

### **Consent to the variation**

9. 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.

### **Continuity of the fund**

10. The parties confirm there has been no break in the continuity of the fund and that the provisions of the original deed, as varied by this deed, continue without change.
11. The new trustee declares that, from the date of the deed, it will possess the fund's assets and income on the trusts and with and subject to the powers and provisions contained in the original deed, as varied by this deed.

### **Compliance with original deed**

12. The parties agree that in signing this deed all relevant requirements of the original deed have been met, including any requirements of a party or parties to provide written notice.
13. The parties do not consider that this deed:
  - will reduce or adversely affect a member's right to entitlements accrued before the date of this deed; or
  - will reduce the amount of any other entitlement (whether or not it is currently payable) originating before the date of this deed.
14. Furthermore, the parties do not consider that this Deed will allow any further amendments to the Governing Rules that will have the effect of:
  - unless the fund's trustee is and remains a corporation, altering the fund's purpose so that it is no longer solely or primarily the provision of old age pensions under superannuation law; or
  - unless the fund's sole or primary purpose is to provide old age pensions to members, allowing any person except a corporation to be appointed a Fund trustee.

### **Compliance with superannuation law**

15. The parties agree that, in signing this deed, all relevant requirements of superannuation law have been met.
16. As required by superannuation law, the parties will notify the fund's members of the effect of this deed.

### **Continued operation**

17. 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.

## Interpretation

18. Unless the context otherwise requires, the words defined in the original deed have the same meaning wherever they appear in this deed.
19. A reference in this deed to the singular includes the plural and vice versa.
20. If a party consists of more than one person, this deeds binds them jointly and each of them severally.
21. In this deed, unless expressed or implied to the contrary:

**Deed** means this Change of Trustee and Variation Deed for a Self-Managed Superannuation Fund.

**Fund** means the trust known as 'OTTA INTERNATIONAL PTY LTD SUPERANNUATION FUND' established by the original deed.

**Governing Rules** has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.

**Original deed** means the document entitled OTTA INTERNATIONAL PTY LTD SUPERANNUATION FUND made on 29/06/1994 as amended by OTTA INTERNATIONAL PTY LTD SUPERANNUATION FUND dated 29/06/2016.

**Retire** includes retire, resign, vacate or any other term or phrase which means and gives effect to the retiring trustees ceasing to hold the office of fund trustee.

**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 Taxation Office, Australian Prudential Regulatory Authority, Australian Securities and Investments Commission 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.

**Vary** includes vary, alter, amend, replace, change, modify or rectify or any other term which means or gives effect to a change of the original deed, as the circumstances require.

**Execution**

Executed as a deed.

Dated: 11 June 2019

Signed sealed and delivered by THOMAS TEREI, in the capacity of trustee, in the presence of:

Ayumi Kimura  
Signature of witness

[Signature]  
THOMAS TEREI

Ayumi Kimura  
Name of witness (please print)

Signed sealed and delivered by ANN PATRICIA TEREI, in the capacity of trustee, in the presence of:

Ayumi Kimura  
Signature of witness

A. Terrei  
ANN PATRICIA TEREI

Ayumi KIMURA  
Name of witness (please print)

The common seal of  
OTTA INTERNATIONAL Pty. Ltd. ACN 002  
393 535 was affixed in accordance with  
section 127(2) of the *Corporations Act 2001*  
(Cwth) in the presence of:

  
\_\_\_\_\_  
THOMAS TEREI, director



  
\_\_\_\_\_  
ANN PATRICIA TEREI, director



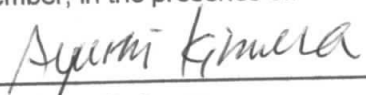
Signed sealed and delivered by  
THOMAS TEREI, in the capacity as member,  
in the presence of:

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

  
\_\_\_\_\_  
THOMAS TEREI

Ayumi Kimura  
Name of witness (please print)

Signed sealed and delivered by  
ANN PATRICIA TEREI, in the capacity as  
member, in the presence of:

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

  
\_\_\_\_\_  
ANN PATRICIA TEREI

Ayumi Kimura  
Name of witness (please print)