

SMSF TRUST DEED ESTABLISHMENT

**THE NORMAN O'REILLY SUPERANNUATION
FUND**

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DEED OF ESTABLISHMENT OF THE NORMAN O'REILLY SUPERANNUATION FUND

The Commencement Date of this Deed is taken to be the date upon which the last of the parties executes the Deed.

PARTIES

Trustee: Norman O'Reilly Super Pty Ltd - ACN 623 570 972 of
Unit 9 Level One 9 Capital Place, BIRTINYA, QLD 4575

Members: Mark John Norman and Meighan Elizabeth O'Reilly of
8 Bemboka Crescent, KALEEN, ACT 2617

RECITALS

- A. The Trustee wishes to establish an indefinitely continuing Self-Managed Superannuation Fund (**Fund**), for the purpose of providing Superannuation Benefits to the Members of the Fund, the Member's Dependants (should the Member die during membership) and such other allowable purposes permitted by the *Superannuation Industry (Supervision) Act 1993 (Cth) (SISA)*, *Superannuation Industry (Supervision) Regulations 1994 (Cth) (SISR)* and any other Federal or State legislation determinative on the matter.
- B. The Trustee accepts to act as Trustee of the Fund, and agrees to hold the Trust Assets on trust for the Members of the Fund in accordance with the Governing Rules shown at **Annexure One**.
- C. **Mark John Norman and Meighan Elizabeth O'Reilly** applied for membership in the Fund.
- D. The Trustee and Members settle the Fund as a Complying Self-Managed Superannuation Fund (**Complying SMSF**).
- E. The parties agree to the terms of the Operative Parts.

OPERATIVE PARTS:

1. **Establishment of the Fund:** The Trustee and Members establish the Fund as a trust to be administered in accordance with the Governing Rules shown at **Annexure One (Governing Rules)** on the date of this Deed.
2. **Name of the Fund:** The Fund shall be known by the name: **THE NORMAN O'REILLY SUPERANNUATION FUND**, and such other name or names resolved by the Trustee in accordance with the Governing Rules of the Fund.
3. **Initial Trustee:** The Trustee accepts to act as the Initial Trustee of the Fund and covenants to hold the Trust Assets on trust for the Members of the Fund, in accordance with the Governing Rules and the Superannuation Laws.
4. **Governing Rules of the Fund:** The Governing Rules of the Fund include those shown at **Annexure One**, and any further amendments, changes or additions to the Governing Rules made in accordance with the provisions of this Deed and such further instruments executed by the Trustee from time to time determinative on the matter.

5. **Operations of the Fund:** The parties settle the Fund as a Complying SMSF, which Fund shall be administered in accordance with the Governing Rules, including but not limited to processing the application by Members, receipting of Contributions, Rollovers and Transfers on behalf of Members, invest and deal with the Assets of the Fund, attend to the payment of Member's Benefits, and report and account to the Regulator and Members in accordance with the Governing Rules and the Superannuation Laws.
6. **Interpretation:** This Deed and the Governing Rules are subject to the interpretation and definition provisions shown in the Governing Rules.
7. **Consent to Electronic Signatures:** The parties consent to execution of this Deed by electronic signature, and deem the electronic execution (including witness execution by electronic signatures) to be valid, subject to any state or Commonwealth electronic transactions and/or property law statutory provisions restricting such execution by electronic signature.
8. **Defective Execution:** Should a party's execution of the Deed be defective and/or by electronic signature in a state in which electronic signature is not allowed in the circumstances, then the party and witness (whether the same or a different witness) may re-sign the Deed to correct the defect. Notwithstanding any such remediation of the execution, the effective date of the Deed shall be the date upon which the last of the parties executed the Deed, excluding any later remedial execution under the terms of this Clause.
9. **Stamping:** The Trustee shall bear the responsibility of doing all things necessary to cause the stamping of this Deed (if required).
10. **Counter-Parts:** The parties acknowledge and agree that this Deed may be executed in counterparts, and that each taken as a whole constitutes the duly constituted Deed.
11. **Severability:** The parties acknowledge and agree that should any term of this Deed be determined to be invalid, illegal or unlawful for any reason, such term shall be severed and the balance of this Deed shall be restated.
12. **Costs:** The costs of drawing, execution and holding of this Deed are to be met from the assets of the Fund.

Executed as a Deed.

The Trustee

Norman O'Reilly Super Pty Ltd - ACN 623 570 972 of Unit 9 Level One 9 Capital Place, BIRTINYA, QLD 4575 by being signed by the persons authorised to sign on behalf of the company pursuant to section 127 of the Corporations Act 2001 (Cth):



Mark John Norman
Director

Dated: 08/02/18



Meighan Elizabeth O'Reilly
Director

Dated: 8/2/18

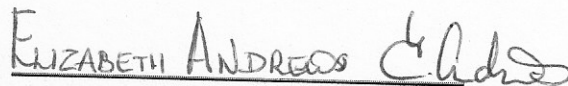
The Member

Mark John Norman and Meighan Elizabeth O'Reilly of 8 Bemboka Crescent, KALEEN, ACT 2617:

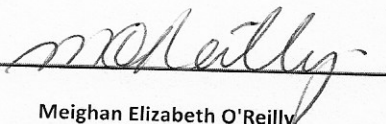


Mark John Norman
Member

Dated: 08/02/18

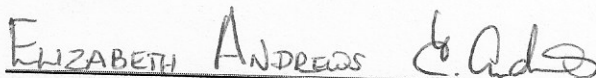


Witness Name / Signature



Meighan Elizabeth O'Reilly
Member

Dated: 8/2/18



Witness Name / Signature

ANNEXURE ONE
THE NORMAN O'REILLY SUPERANNUATION FUND
GOVERNING RULES

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Part One – The Fund Establishment

1. Establishment and Interpretation Guidance

- 1.1 A reference to the Fund is to **THE NORMAN O'REILLY SUPERANNUATION FUND (Fund)**.
- 1.2 The Trustee and Members settle the Fund as an indefinitely continuing complying Self-Managed Superannuation Fund (**SMSF**).
- 1.3 Subject to the law:
 - a) the Trustee must at all times be a constitutional Corporation; or
 - b) if the Trustee is not a constitutional Corporation, the sole or primary purpose of the Fund must be the provision of old-age pensions as that term is defined in the *Commonwealth of Australia Constitution Act*.
- 1.4 The Fund is settled as a Self-Managed Superannuation Fund, notwithstanding that the Trustee may resolve to change the nature of the Fund to a small APRA Fund, or such other type of fund permitted under the Superannuation Laws.

The Purpose of the Fund

- 1.5 A SMSF, as the term is read for purposes of this Deed, is defined at sections 10(1), 17A and 17B of the SISA as a legal entity, which includes conditions including:
 - (a) the Fund must have fewer than 5 (five) Members, and:
 - (i) if the Trustees of the Fund are Natural Person Trustees, then each Trustee of the Fund is a Member, excepting that a Member may nominate an Alternate Decision-Maker to act in his/her place as a Natural Person Trustee;
 - (ii) if the Trustee of the Fund is a Constitutional Corporation (**Corporate Trustee**), then each Member is a director of the Corporate Trustee, excepting that a Member may nominate an Alternate Decision-Maker to act in his/her place as a director of the Corporate Trustee (see *also Rules 4, 5 and 6*);
 - (iii) no Member of the fund is an employee of another Member, unless the Members concerned are relatives;
 - (b) if the Fund has a single Member, then:
 - (i) the single Member is one of two Natural Person Trustees, with the other Trustee being a Relative of the Member (**Relative**), or the Member is a sole director of a Corporate Trustee, or one of two directors and the other director is a Relative of the Member; or
 - (ii) no Member of the Fund is an employee of the other Member or the other director of the Corporate Trustee; and
 - (c) no Trustee (including a Corporate Trustee and/or a director of a Corporate Trustee) of the Fund receives any remuneration from the Fund, or from any Person, for any duties or services performed by the Trustee in relation to management of the Fund.
- 1.6 The covenants read at sections 52B and 52C of the SISA are expressly adopted herein as Governing Rules of the Fund.

except on the terms of the Special Rules. Special Rules are deemed in all later Governing Rules of the Fund to be incorporated, notwithstanding later deeds or amendments of the Governing Rules may refer to a replacement of the Governing Rules in whole. This Rule 1.11 is deemed incorporated in all later deeds or amendments of the Governing Rules.

Primacy of Superannuation Laws, Special Rules and Governing Rules

1.12 The Governing Rules, Special Rules and the Superannuation Laws are to apply as to primacy as below shown:

- (a) where the Governing Rules or Special Rules prescribe terms which are prohibited (as opposed to allowed) by the Superannuation Laws, then the Superannuation Laws shall take primacy over the Governing Rules or Special Rules. To the extent reasonable in the circumstances, the Trustee may notwithstanding, apply such of the terms of the prohibited Governing Rules or Special Rules as can be applied in an alternate manner which is not prohibited;

For example, if the Governing Rules allow Members to make Contributions at 80 years of age, but the Superannuation Laws limit the making of Contributions to 75 years of age – then the Superannuation Laws prevail and Members are prohibited from making Contributions beyond 75 years of age.

- (b) where the Governing Rules or Special Rules prescribe more restrictive terms than those provided in the Superannuation Laws, then the Governing Rules or Special Rules take primacy over the Superannuation Laws;

For example, the Trustee and Members resolve that membership is limited to the bloodline members of John Smith's family. The Superannuation Laws allow membership in a SMSF to be inclusive, notwithstanding bloodline relationship of Members. In this case, the Governing Rules take primacy over the Superannuation Laws.

- (c) where the Governing Rules or Special Rules do not prohibit a thing, matter, resolution or allowance which is permitted by the Superannuation Laws, then the Governing Rules and Special Rules shall be read as allowing the thing, matter, resolution or allowance;

For example, if the Governing Rules or Special Rules do not prohibit the Trustee from buying widgets, and the Superannuation Laws expressly allow the Trustee to buy widgets – then, notwithstanding the Rules do not specifically authorise the Trustee to buy widgets, the Trustee is allowed to do so.

- (d) the primacy read in this Rule 1.12 applies to any amendments to the Superannuation Laws made after the date of the Governing Rules or Special Rules; and

- (e) for clarity, a reference to Governing Rules includes any resolutions of the Trustee or Members made in accordance with the terms of this Deed, or any variations or amendments of the Governing Rules.

1.13 Nothing in the Governing Rules shall be read as allowing, ratifying or endorsing a transaction, undertaking, agreement or arrangement by the Trustee which has the effect of causing the Fund to be a Non-Complying SMSF, or giving rise to a breach of the Superannuation Laws. To the extent that a term of the Governing Rules may authorise conduct which breaches the Superannuation Laws, the term is to be read as void.

2. Establishment

- 3.3 The **Initial Trustee** (as constituted, being Natural Persons, a Corporate Trustee or any other Person or Persons permitted to act in such capacity in accordance with the Superannuation Laws) accepts to act in accordance with these Governing Rules and the Superannuation Laws (including but not limited to section 17A of the SISA).
- 3.4 The Initial Trustee, and each further appointed Trustee(s) of the Fund, shall in the undertaking of its duties in respect to the Fund:
- (a) hold the Fund (including all Earnings, profits, accumulations, and Contributions) on trust for the Members of the Fund in accordance with the Governing Rules;
 - (b) comply with the Superannuation Laws, and ensure the Fund maintains a Complying SMSF status as the term is interpreted in accordance with section 42A of the SISA;
 - (c) do all things necessary to ensure the Fund qualifies for Concessional Tax Treatment, and such other benefits or concessions as shall apply to a Complying SMSF;
 - (d) refrain from undertaking any transaction which would give rise to a penalty or obligation of the Fund which would not otherwise exist, but for a breach of the Superannuation Laws by the Trustee; and
 - (e) adhere to its obligations generally in respect to maintenance of the Fund Assets and Membership of the Fund.
- 3.5 In reading the preceding terms of Rule 3, where a Natural Person acting as Trustee, or as Director of a Corporate Trustee, is referred to, such Natural Person must:
- (a) not be a Disqualified Person;
 - (b) be a Member, or satisfy a criteria of section 17A of the SISA; and
 - (c) comply with the Superannuation Laws in respect to his/her appointment, conduct and retirement, including doing all things necessary to be vested or divested (as the case may be) in the Fund promptly, and having regard to the interests of the Members of the Fund.

4. Trustee as Natural Persons

- 4.1 This Rule 4 prescribes the terms for the conduct of the Trustee, where the Trustee is constituted by one or more Natural Persons.
- 4.2 Each Trustee must conduct himself/herself in a respectful manner, and communicate on terms reasonable to conduct the administration of the Fund in accordance with the Superannuation Laws.
- 4.3 **Members as Trustee**
- (a) If the Trustee consists of Natural Persons, then each Member must be a Trustee of the Fund, except as otherwise prescribed in Rules 4.3(b), 4.3(c) and 4.3(d).
 - (b) A Member may appoint an Alternate Decision-Maker to act in his/her place as Trustee as follows:

- (e) In any Trustee Meeting, each Natural Person Trustee (including one or more Persons acting collectively as an Alternate Decision-Maker) is to be afforded one vote, with the Chairman having a casting vote in the event of a deadlock.
- (f) A resolution at a Trustee Meeting shall be passed where not less than 51% (fifty-one percent) of the votes available at the Trustee Meeting are cast in favour of the resolution. The resolution shall be signed by any one or more of the Trustees and/or the Chairman, to reflect the passing of the resolution, and may include execution by electronic signatures of the party(ies).
- (g) The Trustees are to record and maintain all resolutions of the Trustee for such period as required by the Superannuation Laws.
- (h) For clarity, if an Alternate Decision-Maker (including one or more Persons acting collectively as an Alternate Decision-Maker) is also a Member of a Fund in their individual right, then such Person shall have the right to vote representatively, and individually.

For example, Jane appointed Sam, Slick and Stu to act as her Alternate Decision-Maker, but Bob (her Spouse), Jim and Sam are also Members of the Fund. Sam holds two positions, one as a Member of the Panel of Persons acting as Jane's Alternate Decision-Maker, and the other as a Natural Person Trustee in his own right. Sam can vote his own Superannuation Interests, notwithstanding he acts for Jane - and he can also vote Jane's Superannuation Interests, collectively with Slick and Stu as Alternate Decision-Maker for Jane.

5. Corporate Trustee

- 5.1 This Rule 5 prescribes the terms for the conduct of the Trustee, where the Trustee is a company (**Corporate Trustee**).

Note: A company acting as a Corporate Trustee must be a Constitutional Corporation.

- 5.2 Each Director of the Corporate Trustee must conduct himself/herself in a respectful manner, and communicate on terms reasonable to conduct the administration of the Fund in accordance with the Superannuation Laws.

- 5.3 The Corporate Trustee shall be administered in accordance the terms of its governance documents, subject to the Superannuation Laws and the Governing Rules of the Fund, subject to Rule 5 generally.

5.4 Members as Directors of Corporate Trustee

- (a) Each Member must be a Director of the Corporate Trustee of the Fund, except as otherwise prescribed in the terms of Rules 5.4(b), 5.4(c) and 5.4(d).
- (b) A Member may appoint an Alternate Decision-Maker to act in his/her place as Director of the Corporate Trustee as follows:
 - (i) if the Member wishes an Alternate Decision-Maker to act in his/her place for a reason unrelated to Mental Incapacity or death - refer to Rule 6.2; and/or
 - (ii) if the Member wishes an Alternate Decision-Maker to act in his/her place in the event of his/her Mental Incapacity or death - refer to Rule 6.3.
- (c) If the Member does not nominate an Alternate Decision-Maker to act, and the Member becomes Mentally Incapacitated or dies, then the Default Decision-Maker Rules apply - refer to Rule 6.4.

- (a) A Member may appoint an Alternate Decision-Maker to act in his/her place by written instrument (**Alternate Decision-Maker Nomination**) in the event of a Member's death, or upon and continuing for the period of a Member's Mental Incapacity. The Alternate Decision-Maker Nomination may provide cascading Nominations. A Member may submit his/her EPOA and/or Will for reference to the Trustee, in substitution to making an Alternate Decision-Maker Nomination.
- (b) An approved format **Alternate Decision-Maker Nomination** is provided at **Annexure A**; however, the Trustee may prescribe alternate or additional forms from time to time.
- (c) An Alternate Decision-Maker Nomination may, but is not required to be, accompanied by a copy of a Member's EPOA and/or Last Will. Notwithstanding, the Member may refuse to supply a copy of the EPOA and/or Last Will to the Trustee.
- (d) The Alternate Decision-Maker Nomination must be signed by the Member.
- (e) If there is a conflict between the Person or Persons nominated under the Alternate Decision-Maker Nomination made under this Rule 6.3, and:
 - (i) the Person or Persons appointed by an EPOA of the Member, then the appointment of Person or Persons under the EPOA shall be binding as the Alternate Decision-Maker, unless the EPOA otherwise provides; or
 - (ii) the Person or Persons appointed as Legal Personal Representative of the Member in a Member's Last Will, then the appointment of the Person or Persons nominated in the Last Will shall be binding as the Alternate Decision-Maker, unless the Last Will otherwise provides.
- (f) An Alternate Decision-Maker Nomination is deemed revoked if:
 - (i) withdrawn in writing by the Member, and communicated to the Trustee; or
 - (ii) the Member makes a subsequent Alternate Decision-Maker Nomination, and delivers such instrument to the Trustee.
- (g) If an Alternate Decision-Maker (or any one of them) dies or becomes Mentally Incapacitated, the Nomination of such Alternate Decision-Maker (if more than one Person acting in such capacity, then only as to the deceased or Mentally Incapacitated Alternate Decision-Maker) shall be deemed void, notwithstanding there may be no other Alternate Decision-Maker nominated by the Member in such instances. If all nominated Alternate Decision-Makers are unable or unwilling to act, then the Default Alternate Decision-Maker Rules shown at Rule 6.4 shall apply.
- (h) For clarity, an Alternate Decision-Maker is deemed appointed for the purposes of the Governing Rules upon:
 - (i) the acceptance by the Alternate Decision-Maker on the death or Mental Incapacity of the Member, which acceptance may be communicated orally, in writing or by other reasonable means to the Trustee; and
 - (ii) the Trustee shall be under no obligation to prove an EPOA or Last Will submitted by an Alternate Decision-Maker of the Member if the Alternate Decision-Maker Nomination has matching terms.

- (i) the acceptance by the Alternate Decision-Maker, which acceptance may be communicated orally, in writing or by other reasonable means to the Trustee; and
 - (ii) the happening of death or Mental Incapacity (as the case may be) of the Member, or upon membership of a Minor Member.
- (c) An Alternate Decision-Maker shall not be liable for any loss or damage caused to a Mentally Incapacitated Member, Minor Member or Member's Legal Estate as a consequence of a delay in appointment or acceptance, except where the Alternate Decision-Maker acted fraudulently, or a Court, Regulator or other Government authority having jurisdiction determines otherwise.
- (d) A Default Alternate Decision-Maker shall, in the remainder of the Deed, be read as an Alternate Decision-Maker.

6.5 Suspension:

- (a) In applying the terms of Rule 6, the Trustee of the Fund shall be prohibited from dealing with a Deceased Member's, Mentally Incapacitated Member's, or Minor Member's Superannuation Interest (**Suspended Interest**) until the Alternate Decision-Maker accepts to act; however:
- (i) if a Pension or other payment (or series of payments) of the Suspended Interest is arranged or subject to prior arrangement, then this Rule 6.5 shall not limit the continuation of that Pension or other payment (or series of payments);
 - (ii) if the Regulator or Court makes a direction in respect to the Suspended Interest, then this Rule 6.5 shall not limit the Trustee from attending on such request;
 - (iii) the Suspended Interest has a continuing right to receive Earnings and Reserves, and the Trustee is obligated to deal with the Suspended Interest and all allocations whatsoever in the Fund on a fair and reasonable basis notwithstanding this Rule 6.5; and
 - (iv) if the Suspended Interest has the benefit or burden of segregation, the benefit or burden is continuing until the Alternate Decision-Maker accepts to act.

6.6 Court Directions:

- (a) The Trustee may apply to a Court of competent jurisdiction for guidance in respect to the acceptance and/or terms of appointment of an Alternate Decision-Maker of a Deceased Member, Mentally Incapacitated Member and/or Minor Member.
- (b) Unless the Court or Superannuation Laws otherwise prohibit, the costs of seeking such guidance shall be borne from the Deceased Member, Mentally Incapacitated Member and/or Minor Member's Superannuation Interest(s).
- (c) This Rule is read as beneficial to all Members, given the importance of proper trusteeship of the Fund.

6.7 Voting Powers and Retirement of Alternate Decision-Maker:

- (a) For the purposes of the Voting Rules of either a Trustee constituted by Natural Persons or the Directors of a Corporate Trustee, an Alternate Decision-Maker shall have the same voting power as the Member

- terms of Governing Rules 4 or 5 (including but not limited to the appointment of Alternate Decision-Makers acting in the place of a Member as a Natural Person Trustee or a Director of the Corporate Trustee); and
- (d) if there is a delay between a Member's Mental Incapacity, Member's Death or Minor Member's membership commencement, and the acceptance of the Member's Alternate Decision-Maker, the other Member(s) of the Fund shall do all things necessary to comply with section 17A of the SISA and Governing Rules 4, 5 and 6 (as applicable).

8.3 Without varying a preceding term of Rule 8, a Person acting as a Natural Person Trustee or a Director of the Corporate Trustee, shall be deemed to be removed immediately upon the following:

- (a) the Natural Person becoming a Disqualified Person; or
- (b) the Natural Person committing an act of fraud, dishonesty or gross negligence in the conduct of the Fund matters;

and the other Trustees (if Natural Persons) or Directors of the Corporate Trustee, shall have Limited Power of Attorney to execute any and all legal documents, transfers, and other instruments necessary to divest the Natural Person of the powers and rights of such position (on the terms read at Governing Rules 4, 5 and 6).

8.4 The Trustee shall ensure disclosure is made of any change of trusteeship to the Regulator, and that all records, Accounts and Assets are updated accordingly.

8.5 Any change to the trusteeship of the Fund shall be effected by written instrument, and may be in the form of a:

- (a) deed executed by the retiring Trustee and new Trustee, and may include execution by the Members; or
- (b) written agreement executed by the retiring Trustee and new Trustee, and may include execution by the Members; or
- (c) deed or agreement executed by the new Trustee and the Members; or
- (d) written resolution of the retiring Trustee, provided that if the new Trustee is not shown to accept in the written resolution of the retiring Trustee, then the new Trustee (whether Natural Person Trustee(s) or a Corporate Trustee) must give notice in writing; and

this Rule is to be read with Rule 6, in respect to a Member's Alternate Decision-Makers.

8.6 If the change of trusteeship is orally resolved on a date earlier than the written instrument, and provided the parties consent and the Superannuation Laws allow, then the effective date of the change of trusteeship shall be the date of the oral resolution, notwithstanding the resolution is recorded by later-dated written instrument.

8.7 The written instrument made in accordance with Rule 8.5 shall be evidence of the changes to the trusteeship of the Fund, without need for registration or stamping of the written instrument. Notwithstanding, where the written instrument is required to be registered or stamped by State Law or the Superannuation Laws, the Trustee shall do all things necessary to cause the registration and stamping of the written instrument as soon as reasonably possible, and not later than otherwise permitted by the relevant State Laws and Superannuation Laws. A reference to a written instrument includes an