

# SMSF TRUST DEEDS

## Variation of SMSF Trust Deed and Governing Rules

### **Alwin Rose Koch Superannuation Fund**

SMSF Strategies Trust Deed and Governing Rules prepared by:

SMSF Strategies Pty Ltd

Phone: 07 5630 6548

Fax: 07 5630 6531

Email: [admin@smsfstrategies.com](mailto:admin@smsfstrategies.com)

# Minutes of the meeting to vary the rules of Alwin Rose Koch Superannuation Fund

**Date:** 12 FEBRUARY 2010

**Attended by:**

By the director of Alroko Pty Ltd - ACN: 120 338 687 of 2 Tarragundi Road, Epping, NSW, 2121 as Trustee for the Alwin Rose Koch Superannuation Fund.

**Present:**

Alwin Rose Koch.

**Held at:**

2 Tarragundi Road, Epping, NSW, 2121.

**Chairperson:**

Alwin Rose Koch was appointed Chairperson of the meeting.

**Table a Motion to vary the Governing Rules of the Fund:**

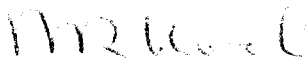
The Chairperson tabled a motion to amend the governing rules of the **Alwin Rose Koch Superannuation Fund** by deed in accordance with **Clause 66** of the Rules of the Fund. The purpose of the amendment is to enable the Trustees and the Members to take advantage of the Simpler Super reforms by adopting the SMSF Strategies governing rules as the governing rules of the fund.

**Trustee Resolutions:**

IT WAS RESOLVED to adopt the variation to the governing rules by replacing the rules as tabled before the meeting.

**Meeting Closed:**

**Signed by the Chairperson:**



---

Alwin Rose Koch

# Deed of Variation

Executed as a Deed on: 12 FEBRUARY 2010

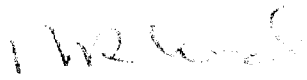
## Background:

1. The Trustee acts as Trustee of the Alwin Rose Koch Superannuation Fund ("the Fund").
2. Alwin Rose Koch and Anne Koch are the Members ("the Members") of the Fund.
3. The Fund was established by deed dated **22 June 2006** ("the Deed").
4. **Clause 66** of the Rules of the Fund allows the Trustee to vary the Deed so long as no amendment will reduce a Member's Benefit (as defined in those Rules). The purpose of the amendment is to enable the Trustees and the Members to take advantage of the Simpler Super reforms by adopting the SMSF Strategies governing rules as the governing rules of the fund.
5. The amendment to the Rules of the Fund effected by this Deed does not result in a resettlement of the Fund at law, equity or under any Superannuation Law.
6. The Trustee wish to amend the Deed by substituting in place of the existing Rules those Rules ("the New Rules") in the form annexed and marked "Annexure A" to this Deed.

## Adoption of New Rules:

The existing rules of the Fund are replaced in their entirety with the New Rules as marked Annexure A to this Deed.

Signed by the director of Alroko Pty Ltd – ACN: 120 338 687 as Trustee for Alwin Rose Koch Superannuation Fund:



-----  
Alwin Rose Koch

# Application of Membership to the Alwin Rose Koch Superannuation Fund

I, Anne Koch of 2 Tarragundi Road, Epping, NSW, 2121, hereby apply for membership of the fund. I agree, upon acceptance of my membership to:

1. be bound by all of the rules of the fund, a copy of which is at the office of the Trustees;
2. be bound by all decisions of the Trustees of the fund including decisions that may impact upon my membership benefits provided those decisions are made in accordance with the rules of the fund, the superannuation laws, the Trustee laws and that they do not detrimentally impact my benefits;
3. provide information to the Trustees where required including medical information enabling the Trustee to facilitate any death or incapacity insurance on my behalf;
4. provide my tax file number to the Trustees provided the Trustees abides by the laws relating to the collection and dissemination of my tax file number;
5. consent to the Trustees to hold that information despite anything to the contrary in the privacy legislation;
6. provide the Trustees, within a reasonable period of time a detailed estate plan that may include a binding death benefit nomination or request for a death benefit rule to be made on my behalf;
7. ensure that at the time of making any super contributions that those contributions are made in accordance with the superannuation laws;
8. notify the Trustees where I become incapacitated, retired, meet some other condition of release of my benefits from the preservation rules or if I become divorced.

Date of Birth: 29 March 1945

Tax File Number: 204 766 975

Signed by Alwin Rose Koch as  
Legal Personal Representative of Anne Koch:



Date: 12 FEBRUARY 2010

# Prescribed Power of Attorney

[Section 8, Powers of Attorney Act 2003 (NSW)]

**PLEASE PRINT CLEARLY USING A BLACK PEN**

**Note:** This form can be used to make a general power of attorney or an enduring power of attorney.

## PART 1 GENERAL

This power of attorney is made on the 4<sup>th</sup> day of FEBRUARY 2010

**Note:** Write the date you and your witness signed this form.

By ANNE KOCH (the "principal")  
(Full name)

of 2 TARRAGUNDI ROAD, EPPING NSW 2121  
(address)

### Clause 1 Attorney(s)

I appoint ALWIN ROSE KOCH  
(Full name)

of 2 TARRAGUNDI ROAD EPPING NSW 2121  
(address)

~~And \_\_\_\_\_  
(Full name)~~

~~of \_\_\_\_\_  
(address)~~

~~And \_\_\_\_\_  
(Full name)~~

~~of \_\_\_\_\_  
(address)~~

**to be my attorney(s).**

My attorney(s) may exercise the authority conferred on my attorney(s) by Part 2 of the *Powers of Attorney Act 2003* to do on my behalf anything I may lawfully authorise an attorney to do.

My attorney's/attorneys' authority is subject to any additional details specified in Part 2 of this document.

### Clause 2 Continuation of power of attorney if loss of mental capacity

I give this power of attorney with the intention that it will continue to be effective if I lack capacity through loss of mental capacity after its execution.

**Note:** Cross out this clause if you want this form to operate only as a general power of attorney. Do not cross out this clause if you want this form to operate as an enduring power of attorney. An enduring power of attorney must have a completed witness certificate (see page 3).

### Clause 3 Commencement of the power of attorney

**Note:** Cross out and initial the options below that you do not want to apply. If you include Clause 2, the power of attorney will not operate to confer any authority on an attorney until the attorney accepts the power of attorney by signing this form.

#### This power of attorney operates:

- immediately
- ~~• when my attorney accepts (or as each of my attorneys accept) the appointment~~

~~on and from \_\_\_\_\_ up to and including \_\_\_\_\_  
(insert date) (insert date)~~

- ~~• when my attorney considers that I need assistance managing my affairs~~

- ~~• other \_\_\_\_\_~~

~~(give details above)~~

If no option is selected or the options chosen are unclear or inconsistent, I intend that the power of attorney will operate immediately or, if Clause 2 is not crossed out, when my attorney accepts, or as each of my attorneys accept, the appointment.

### Clause 4 Appointment of more than one attorney

**Note:** Cross out and initial the options below that you do not want to apply.  
You should get legal advice if you are not sure which option to choose.

~~If I appoint more than one attorney, then I appoint them jointly and severally~~

~~OR~~

~~If I appoint more than one attorney, then I appoint them jointly~~

~~OR~~

~~If I appoint more than one attorney, then I appoint them severally.~~

### PART 2 ADDITIONAL POWERS AND RESTRICTIONS

**Note:** Clauses 5, 6 and 7 give your attorney(s) additional powers. If you wish to keep any of these clauses you should seek legal advice. Cross out and initial the clauses you do not want to apply.

#### Clause 5 Gifts

~~I authorise my attorney to give reasonable gifts as provided by section 11 (2) of the Powers of Attorney Act 2003.~~

#### Clause 6 Conferring benefits on the attorney

~~I authorise my attorney to confer benefits on the attorney to meet the attorney's reasonable living and medical expenses as provided by section 12 (2) of the Powers of Attorney Act 2003.~~

#### Clause 7 Conferring benefits on third parties

~~I authorise my attorney to confer benefits on \_\_\_\_\_  
(insert name)~~

~~of \_\_\_\_\_  
(insert address)~~

~~to meet their reasonable living and medical expenses as provided by section 13 (2) of the Powers of Attorney Act 2003.~~

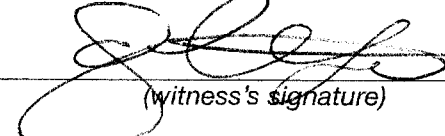
**Clause 8 Conditions and limitations**

**Note:** Cross out and initial if you do not want to add conditions and limitations

~~This power of attorney is subject to the following conditions and limitations:~~

**Principal's signature**

Signed, sealed and delivered by J. Koon (principal's signature)

in the presence of Christopher STEPTOF (witness's name)  (witness's signature)

of C/- HORNBY LOCAL COURT, 294 PACIFIC HWY, HORNBY NSW (witness's address)

**Certificate under section 19 of the Powers of Attorney Act 2003**

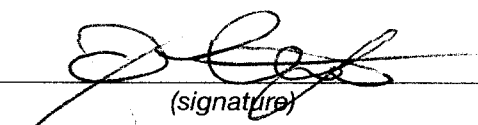
**Note:** This witness certificate is to be completed only if Clause 2 is retained and you want to create an enduring power of attorney.

I, Christopher STEPTOF (insert name)

of C/- HORNBY LOCAL COURT, 294 PACIFIC HWY, HORNBY NSW (insert address)

**certify the following:**

- I explained the effect of this power of attorney to the principal before it was signed.
- The principal appeared to understand the effect of this power of attorney.
- I am a prescribed witness.
- I am not an attorney under this power of attorney.
- I have witnessed the signature of this power of attorney by the principal.

 (signature) 4TH FEBRUARY 2010 (date)

- ~~solicitor/barrister~~
- ~~Public Trustee employee~~
- ~~registrar of a Local Court~~
- ~~trustee company employee~~
- ~~licensed conveyancer~~

(Delete inappropriate categories)

should delete the powers from Part 2 that the principal does not want to give the attorney.

(4) An attorney must always act in the best interests of the principal. Unless the attorney is expressly authorised, the

## Acceptance by attorney

**Note:** An enduring power of attorney must be signed by the attorney(s) before it can be used.

◆ I accept my appointment as an attorney under this enduring power of attorney.

Attorney's signature \_\_\_\_\_

*mr Koch*

Name ALWIN ROSE KOCH

Date 04/02/2010

~~◆ I accept my appointment as an attorney under this enduring power of attorney.~~

~~Attorney's signature \_\_\_\_\_~~

~~Name \_\_\_\_\_~~

~~Date \_\_\_\_\_~~

◆ I accept my appointment as an attorney under this enduring power of attorney.

Attorney's signature \_\_\_\_\_

~~Name \_\_\_\_\_~~

~~Date \_\_\_\_\_~~

### Important information for principals and attorneys

- (1) A power of attorney is an important and powerful legal document. You should get legal advice before you sign it. A power of attorney gives the attorney the authority to buy and sell real estate, shares and other assets for the principal, to operate the principal's bank accounts, to spend the principal's money on behalf of the principal and to exercise many other powers. It is not to be used after the principal dies.
- (2) A power of attorney cannot be used for health or lifestyle decisions. The principal should appoint an enduring guardian under the Guardianship Act 1987 if the principal wants a particular person to make these decisions. For further information, contact the Guardianship Tribunal (toll free 1800 463 928 or [www.gt.nsw.gov.au](http://www.gt.nsw.gov.au)) or the Public Guardian ((02) 8688 2650 or 1800 451 510 or [www.lawlink.nsw.gov.au/opg](http://www.lawlink.nsw.gov.au/opg)).
- (3) Part 2 of the power of attorney will permit the attorney to use the principal's money and assets for the attorney or anyone else as provided by clauses 5, 6 and 7. If the principal does not want this to happen, then the principal should delete the powers from Part 2 that the principal does not want to give the attorney.
- (4) An attorney must always act in the best interests of the principal. Unless the attorney is expressly authorised, the attorney cannot gain a benefit from being an attorney.
- (5) This power of attorney is for use in New South Wales only. If you need a power of attorney for interstate or overseas, you may need to make a power of attorney under their laws. The laws of some other States and Territories in Australia may give effect to this power of attorney. However, you should not assume this will be the case. You should confirm whether the laws of the State or Territory concerned will in fact recognise this power of attorney.
- (6) An attorney should keep the attorney's own money and property separate from the principal's money and property, unless they are joint owners, or operate joint bank accounts. An attorney should keep reasonable accounts and records about the principal's money and property.
- (7) If the attorney is signing documents that affect real estate, the power of attorney must be registered at Land and Property Information NSW.

For information on powers of attorney, the attorney's duties and registration, contact Land and Property Information NSW ((02) 9228 6666 for a fact sheet or [www.lpi.nsw.gov.au](http://www.lpi.nsw.gov.au)) or a solicitor, a trustee company or the Public Trustee ([www.pt.nsw.gov.au](http://www.pt.nsw.gov.au)).