

# AMENDMENT DEED

SUGAR BEAN SUPER FUND

ABN 98 219 531 773

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THIS AMENDMENT DEED is made at BALGOWLAM

on 28 OCTOBER 2012

**BY TSO PTY LTD ACN 159 978 668** whose registered office is situated at Ground Floor, Suite 1, 394 Sydney Road, Balgowlah NSW  
**as trustee for Sugar Bean Super Fund ABN 98 219 531 773**  
("the Trustee")

**AND THOMAS VUI CHUNG CHAI** of Ground Floor, 394 Sydney Road, Balgowlah NSW  
**as employer-sponsor for Sugar Bean Super Fund ABN 98 219 531 773**  
("the Employer-Sponsor")

#### RECITALS

- A. Sugar Bean Super Fund ABN 98 219 531 773 ("the Superannuation Fund") was established by a deed ("the Original Deed") dated 17 April 2009.
- B. The Trustee is the sole trustee of the Superannuation Fund.
- C. The Employer Sponsor is the Employer-Sponsor of the Superannuation Fund.
- D. The Amendment power in Rule 184 of the Original Deed allows amendments to be made by Deed, oral declaration or by Written Resolution with the written consent of the Employer-Sponsor.
- E. The Trustee is proposing to acquire certain real property as an investment which will be held to provide retirement benefits for each of the Specified Members who are the current registered proprietors of the Specified Property.
- F. The Trustee wishes to ensure that the transferred real property is to be used solely for the purpose of providing retirement benefits for each of the Specified Members in the manner required by section 62A(3A) of the *Duties Act 1997* of New South Wales.
- G. The Trustee has determined that if and when the property is transferred to the Trustee then the property will be held exclusively to provide retirement benefits for the Specified Members.
- H. The Trustee has determined to amend the Original Deed to ensure that if and when the real property is received it cannot be used for any other purpose.

- I. The Trustee wishes to amend the Original Deed in the manner set out below to expressly require the Trustee to hold the property solely for the purpose of providing retirement benefits for each of the Specified Members.
- J. The Trustee intends that the Superannuation Fund remains a complying superannuation fund for the purposes of the *Superannuation Industry (Supervision) Act 1993* (Cth).
- K. The Employer-Sponsor confirms their consent to the exercise of the Amendment Power and amendment of the Original Deed for the Superannuation Fund outlined below.

#### OPERATIVE PART

- 1. With effect on and from the Effective Date the Original Deed is amended by the insertion of a new Rule as follows; immediately after Rule 70 insert new Rule 70A as follows:

**"The trustee's power to hold property for a specified member**

70A The Trustee may at any time declare that

- (a) all or part of the current property of the Superannuation Fund or all or part of property which is to be acquired as property of the Superannuation Fund is to be held, or when the property is acquired, it will be held exclusively to provide retirement benefits for specified members;
- (b) such property will constitute a separate and discrete investment portfolio and all earnings from that property and all proceeds from the disposal of that property will be retained as part of the separate and discrete portfolio; and
- (c) the separate and discrete investment portfolio can, will and or must only be used for the purpose of providing retirement benefits for the specified members."

2. With effect on and from the Effective Date the Original Deed is amended by the insertion of a new Rule as follows: immediately after newly inserted Rule 70A insert new Rule 70B as follows:

**"The trustee's power to make an irrevocable determination**

**70B**

- (a) In respect of any Determination made by the Trustee pursuant to Rule 70A, the Trustee may, by deed, declare the Determination it to be irrevocable.
  - (a) Notwithstanding anything to the contrary contained herein any Determination by the Trustee declared to be irrevocable cannot be revoked by the Trustee, whether existing or future, or by any other party.
  - (b) This rule cannot be amended if the amendment would have the effect of altering the Determination unless such amendment is permitted by the *Duties Act 1997 (NSW)* or any successor legislation thereto or with the prior consent of the Chief Commissioner of State Revenue for New South Wales (or a duly authorised delegate of the Chief Commissioner)."
3. The Trustee and the Employer-Sponsor declare that the:
- (a) Irrevocable Determination by the Trustee of Sugar Bean Super Fund ABN 98 219 531 773 in relation to Thomas Vui Chung Chai in respect of 394 Sydney Road, Balgowlah NSW; and
  - (b) Irrevocable Determination by the Trustee of Sugar Bean Super Fund ABN 98 219 531 773 in relation to Veronica Hong Kun Cheng in respect of 394 Sydney Road, Balgowlah NSW
- are irrevocable.
4. The Trustee and Employer-Sponsor acknowledge that the Original Deed for the Superannuation Fund cannot be amended if the amendment would have the effect of altering any Irrevocable Determination unless such amendment is permitted by the *Duties Act 1997 (NSW)* or with the prior consent of the Chief Commissioner of State Revenue for New South Wales (or a duly authorised delegate of the Chief Commissioner).

5. The Trustee and Employer-Sponsor acknowledge that the amendment power conferred on the Trustee and Employer-Sponsor by the Original Deed cannot be exercised if the exercise of the amendment power would have the effect of altering any Determination unless such amendment is permitted by the *Duties Act 1997 (NSW)* or with the prior consent of the Chief Commissioner of State Revenue for New South Wales (or a duly authorised delegate of the Chief Commissioner).

## DEFINITIONS

7. For the purposes of this Deed including the Recitals
- (a) **Original Deed** means the deed dated 17 April 2009 made by the Trustee.
  - (b) **Effective Date** means the date of this Deed.
  - (c) **Superannuation Fund** means the superannuation fund originally established by a deed dated 17 April 2009 made by the Trustee and Employer-Sponsor and known as Sugar Bean Super Fund ABN 98 219 531 773.
  - (d) **The Determination** means the Determinations made by the Trustee and the Employer-Sponsor pursuant to Rule 70B of the Original Deed in respect of the Specified Property, copies of which are annexed to this Deed.
  - (e) **The Specified Property** means Folio Identifier 1/776824 and known as 394 Sydney Road, Balgowlah NSW.
  - (f) **The Specified Members** means
    - (i) Thomas Vui Chung Chai of 39 Battle Boulevard, Seaforth NSW;
    - and
    - (ii) Veronica Hong Kun Cheng of 39 Battle Boulevard, Seaforth NSW.

## INTERPRETATION

5. In this Agreement, unless the context otherwise requires:
- (a) words importing the singular include the plural and vice versa;
  - (b) words importing any gender include the other genders;

- (c) headings are for convenience only and will be ignored in construing the meaning of this Agreement;
- (d) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any subordinate legislation issued under, that legislation or legislative provision;
- (e) a reference to this Agreement includes any amendment, variation, replacement, novation of, supplement to or attachment to this Agreement;
- (f) references to parties or to any party include references to their or its respective successors, permitted assigns, executors and administrators; and
- (g) references to a person include references to any individual, company, body corporate, association, partnership, firm, joint venture, trust and governmental agency.

**EXECUTED AS A DEED**


**EXECUTED BY**  
**TSO PTY LTD ACN 159 978 668**  
 in accordance with s127 of the *Corporations Act 2001*

  
 .....  
**Thomas Vui Chung Chai**  
 Director

  
 .....  
**Veronica Hong Kun Cheng**  
 Director

Signed Sealed and Delivered by

**Thomas Vui Chung Chai as**  
**'Employer-Sponsor'** in the presence of:

  
 .....  
 Witness

  
 .....  
**Thomas Vui Chung Chai**

  
 .....  
 Print Name of Witness