



Maddocks

Lawyers
140 William Street
Melbourne Victoria 3000 Australia
Telephone 61 3 9288 0555
Facsimile 61 3 9288 0666
Email info@maddocks.com.au
www.maddocks.com.au
DX 259 Melbourne

Date 30 / 9 / 2005

Deed of Adoption Elliot Ashton Pty Ltd Superannuation Fund

Elliot Ashton Pty Ltd
ACN 076 811 482
and

Elliot John Ashton

Angela Ashton

Interstate office
Sydney
Affiliated offices
Adelaide, Beijing, Brisbane, Colombo,
Dubai, Hong Kong, Jakarta, Kuala Lumpur,
Manila, Mumbai, New Delhi, Perth,
Singapore, Tianjin

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Deed of Adoption Elliot Ashton Pty Ltd Superannuation Fund

DATE / /2005

BETWEEN

ELLIOT ASHTON PTY LTD ACN 076 811 482 in its capacity as trustee of the Elliot Ashton Pty Ltd Superannuation Fund of 59 Churchill Avenue, Strathfield, NSW 2135
(Trustee)

AND

ELLIOT JOHN ASHTON
of 59 Churchill Avenue, Strathfield, NSW 2135

AND

ANGELA ASHTON
of 59 Churchill Avenue, Strathfield, NSW 2135

(Members)

BACKGROUND

- A. The Trustee is the trustee of the Fund and the Members are the members of the Fund.
- B. Each of the Trustee and the Members have undertaken an exhaustive search to locate the original and counterpart copies of the Original Deed but have been unsuccessful. It is therefore considered that the Original Deed and counterpart copies have either been lost or destroyed.
- C. The Trustee has passed a resolution to amend the Governing Rules of the Fund by executing this Deed and thereby adopting the provisions of the Replacement Deed as a replacement of the provisions of the Original Deed.
- D. The parties wish to formalise the arrangements between them.

THIS DEED WITNESSES

1. CONFIRMATION OF TRUSTEE AND MEMBER

The Trustee and the Members confirm by this Deed that:

- 1.1 they have all used their best endeavours to locate the Original Deed;
- 1.2 they have all failed to locate the Original Deed or any copy of it;
- 1.3 the Trustee is the trustee of the Fund; and
- 1.4 the Members are current members of the Fund.

2. VARIATION

The Trustee confirms that, pursuant to the Resolution, the Governing Rules are to be amended by adopting the Replacement Deed as the replacement of the Original Deed and that the Trustee will administer the Fund in accordance with the terms of the Replacement Deed.

3. THE PARTIES CONSENT TO THE VARIATION

The parties consent to the variation of the Governing Rules by this Deed and each of them, with the exception of the Members, has passed a resolution to this effect.

4. CONTINUITY OF FUND

- 4.1 The parties confirm that there has been no break in the continuity of the Fund and the provisions of the Governing Rules, as varied by this Deed, shall continue to have full force and effect.
- 4.2 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 Governing Rules as varied by this Deed.

5. COMPLIANCE WITH ORIGINAL DEED

- 5.1 The parties do not consider that this Deed has either of the following effects:
- 5.1.1 reducing or adversely affecting the rights of the members to accrued entitlements that arose before the Effective Date.
- 5.1.2 reducing the amount of any other entitlement that is or may become payable in relation to a time before the Effective Date.
- 5.2 Furthermore, the parties do not consider that this Deed will allow any further amendments to the terms governing the Fund that will have the effect of:
- 5.2.1 unless the trustee is a corporation, altering the purpose of the Fund so that it is no longer solely or primarily the provision of old age pensions under superannuation law.
- 5.2.2 unless the sole or primary purpose of the Fund is to provide old age pensions to members, allowing any person except a corporation to be appointed trustee of the fund.

6. COMPLIANCE WITH SUPERANNUATION LAW

The parties are satisfied that the requirements of the Superannuation Law have been complied with. They will, if required to do so by Superannuation Law, notify the Fund's members of the variation to the Governing Rules effected by this Deed.

7. DEFINITIONS AND INTERPRETATION

- 7.1 Unless the context otherwise requires the words defined in the Original Deed have the same meaning whenever they appear in this Deed.

- 7.2 In this Deed, unless expressed or implied to the contrary:
- 7.2.1 **Deed** means this Deed of Variation.
 - 7.2.2 **Effective Date** means the date of execution of this Deed.
 - 7.2.3 **Fund** means the trust fund known as the Elliot Ashton Pty Ltd Superannuation Fund.
 - 7.2.4 **Governing Rules** has the same meaning as in the Superannuation Industry (Supervision) Act 1993.
 - 7.2.5 **Original Deed** means the document entitled Superannuation Trust Deed for a self managed fund for the Elliot Ashton Pty Ltd Superannuation Fund of 27 March 1997 between Elliot Ashton Pty Ltd in its capacity as Trustee of the Elliot Ashton Pty Ltd Superannuation Fund and Elliot John Ashton and Angela Ashton.
 - 7.2.6 **Replacement Deed** means the document replacing the provisions of the Original Deed annexed to this Deed and marked as "Schedule A".
 - 7.2.7 **Resolution** means the resolution of the Trustee on or about the date of this Deed by which the Trustee resolved to amend the Governing Rules by executing this Deed and thereby adopting the provisions of the Replacement Deed as a replacement of the provisions of the Original Deed.
 - 7.2.8 **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 Tax Office, APRA, ASIC 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.

EXECUTED by the parties as a deed

EXECUTED by **ELLIOT ASHTON PTY LTD ACN 076 811 482** by being signed by the person who is authorised to sign for the company:

)
)
)
)

Elliot Ashton

Director

Elliot John Ashton

Full name

59 Churchill Ave, Strathfield

Usual address

ANGELA ASHTON

Director/ Secretary

" "

Full name

59 Churchill Ave
Strathfield

Usual address

SIGNED SEALED AND DELIVERED by **ELLIOT JOHN ASHTON** in the presence of:

)
)

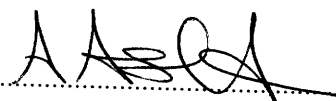


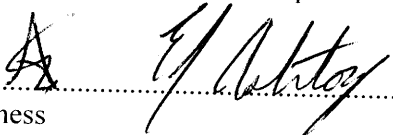


Witness

SIGNED SEALED AND DELIVERED by **ANGELA ASHTON** in the presence of:

)
)





Witness



Maddocks

Date 30 / 9 /2005

Lawyers
140 William Street
Melbourne Victoria 3000 Australia
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Facsimile 61 3 9288 0666
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**Superannuation Trust Deed
For the Elliot Ashton Pty Ltd Superannuation
Fund**

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A The fund

The fund

- 1 The Elliot Ashton Pty. Ltd. Superannuation Fund is a self-managed superannuation fund under the *Superannuation Industry (Supervision) Act 1993* (Cth). It is an indefinitely continuing superannuation fund.

Purpose of the fund

- 2 The sole or primary purpose of the fund is to provide old age pensions and other benefits to members on their retirement.

Trustee of the fund

- 3 The fund is vested in the trustee. No other person (including a member) has any legal or beneficial interest in any asset of the fund except to the extent expressly stated elsewhere in this deed. The trustee must manage the fund in accordance with this deed.

Method of decision by trustee under this deed

- 4 The trustee may only make decisions under this deed either:
- by resolution of the directors in accordance with its constitution; or
 - by a person authorised by the directors by resolution in accordance with the trustee's constitution to act on their behalf.

Decisions by employer under this deed

- 5 An employer that is a company may only make decisions under this deed either:
- by resolution of its directors in accordance with its constitution; or
 - by a person authorised by the directors by resolution in accordance with the employer's constitution to act on their behalf.

An employer that is more than one individual may only make decisions under this deed by a majority.

Deed subject to superannuation law

- 6 This deed is to be interpreted so as to comply with superannuation law. In particular, it is to be construed so that the fund it establishes qualifies as a self managed fund under superannuation law and qualifies for concessional tax treatment under the *Tax Act*. To the extent that anything in this deed is inconsistent with superannuation law, it is to be severed from the deed. Any obligation imposed by superannuation law in respect of the fund established by this deed that is not expressed in this deed is nonetheless to be regarded as incorporated in it by reference.

Elliot Ashton Pty. Ltd. Superannuation Fund

Schedule 1

1 Name and address and ACN of trustee

Elliot Ashton Pty. Ltd., ACN: 076811482
59 Churchill Ave
Strathfield, NSW 2135

2 Name and address of members

Elliot John Ashton
59 Churchill Ave
Strathfield, NSW 2135

Angela Ashton
59 Churchill Ave
Strathfield, NSW 2135 .