

faxed 19/1/12



SMSF Deed of Variation (and Appointment / Retirement of Trustee) Instruction Sheet

Acknowledgment

In placing this order I acknowledge that:

1. It is my responsibility to ensure that the order form is complete and correct. I also agree to supply, at my or my client's cost, a copy of the most recent deed of the fund.
2. The documents I will receive are in a standard form prepared by solicitors for NTAA Corporate.
3. If new documents have to be prepared as a result of errors, omissions, or if further work is required to attend to errors or omissions in respect of the documents provided, a further fee will be payable. Furthermore, NTAA Corporate may reject the order if all the prior documents cannot be produced, the documents are faulty, or if it requires rectification.
4. Stamp duty may apply in relation to the deeds. NTAA Corporate is not liable for advising on stamp duty, paying the stamp duty or arranging for lodgment of the documents for stamping (unless you use our stamping service).
5. The documentation for the SMSF will be prepared based on the instructions contained in this order form. NTAA Corporate has not provided any advice to the parties in relation to the SMSF. In particular, NTAA Corporate is not licensed to provide financial product (FP) advice under the Corporations Act 2001 (Cth) and I may consider taking advice from the holder of an Australian Financial Services Licence before making a decision on an FP. Furthermore, NTAA Corporate is not giving legal advice in arranging for the supply of these documents and if either I or my client requires legal advice in relation to this matter that will be arranged separately.

Person ordering deed

Person ordering: Susan Livingstone
 Firm: Simpson + Winslow NTAA Member Number: 40080
 Delivery Address (everything including tax invoices will be sent to this address): PO Box 806
Oxenford State & Postcode: Q 4210
 Phone: 07 55618800 Fax: 07 55618700
 Email: sf.livingstone@bigpond.com

By completing these instructions and sending them to NTAA Corporate, I/we and our client(s) hereby acknowledge and agree to the above terms and conditions and that I/we have read the explanatory material included in this form.

Payment details

Please tick the following products you require and provide credit card details for payment. For other payment options, contact us on 1800 700 666.

Deed of Variation (of NTAA Corporate SMSF Deed)	* \$275	<input type="checkbox"/>
Deed of Variation (of non NTAA Corporate SMSF Deed)	* \$350	<input checked="" type="checkbox"/>
Lost Deed service (no deeds)	* \$350	<input type="checkbox"/>
PLUS Deed of Appointment / Retirement of Trustee (if also ordering Deed of Variation)	*\$160	<input checked="" type="checkbox"/>
Deed of Appointment / Retirement of Trustee ONLY (if you already have an NTAA Corporate SMSF Deed)	*\$275	<input type="checkbox"/>
SMSF Register (binder & tabs)	*\$22	<input type="checkbox"/>

*NTAA Corporate SMSF Deed options are available for any deed which was last established or varied by NTAA Corporate. Please refer to the 'Ordering Options' in the notes on page 4 for more details.

Mastercard Visa Amex

Name on Card: Susan Livingstone
 Credit Card No: 5353 1652 7285 2354
 Expiry Date: 08/14 Signature: S Livingstone

- Fax credit card details to NTAA Corporate on 1300 361 816
- Post to NTAA Corporate, PO Box 7626, Melbourne, VIC 8004
- If you have any other queries, please call 03 9209 9799 or free call 1800 799 666

PLEASE COMPLETE ALL DETAILS IN LEGIBLE HANDWRITING AND PROVIDE FULL LEGAL NAMES

SECTION A – CURRENT FUND DETAILS

Name of Fund	DENBOW TRANSPORT PTY LTD SUPERANNUATION FUND	
Status of Trustee	Individual(s) <input checked="" type="checkbox"/>	Corporate <input type="checkbox"/>
Governing State	VIC <input type="checkbox"/> NSW <input type="checkbox"/> QLD <input type="checkbox"/> SA <input type="checkbox"/> WA <input type="checkbox"/> TAS <input type="checkbox"/> ACT <input type="checkbox"/> NT <input type="checkbox"/>	
Execution date of the original Trust Deed	29/4/1996	
Establishment date of the Fund (may be different to the above date)		29/4/1996
Dates on which variations to the Trust Deed were executed (if applicable)	1/7/07	
What is the clause number of the current deed which permits a variation?		39

Unless you have selected the 'Lost Deed' service, please send a copy (not original) of only the most recent deed. Copies will not be returned.

Please select the method of sending us the previous deed(s): By post: By email (PDF): By fax:

SECTION B – CURRENT CORPORATE TRUSTEE (if the Fund has a corporate trustee as at the date of completing this instruction sheet)

Name of Corporate Trustee (if any) _____

ACN _____

Address _____

SECTION C – CURRENT INDIVIDUAL MEMBERS / TRUSTEES / DIRECTORS

If the Fund currently has individual Trustees, all individual members will normally be Trustees. If the Fund currently has a corporate Trustee, all individual members will normally be Directors. Note that, if you are ordering a Deed of Appointment and Retirement in addition to a Deed of Variation, the Deed of Variation will ordinarily be executed first by the **current** trustee(s), before the Deed of Appointment and Retirement is executed.

1. Name and residential address	Wilton John BOWDEN 54 Pascoe Rd Ormeau Q 4208	<input checked="" type="checkbox"/> Current Member <input checked="" type="checkbox"/> Current Individual Trustee <input type="checkbox"/> Current Director
2. Name and residential address	Allison Elizabeth BOWDEN Site 30 Marlin Place 16 Holzheimer Rd Bethania Q 4205	<input checked="" type="checkbox"/> Current Member <input checked="" type="checkbox"/> Current Individual Trustee <input type="checkbox"/> Current Director
3. Name and residential address		<input type="checkbox"/> Current Member <input type="checkbox"/> Current Individual Trustee <input type="checkbox"/> Current Director
4. Name and residential address		<input type="checkbox"/> Current Member <input type="checkbox"/> Current Individual Trustee <input type="checkbox"/> Current Director

**SECTION D – OPTIONAL (unless using 'Lost Deed Service' – Refer to notes on Section D on page 5):
OTHER PARTY REQUIRED TO BE INVOLVED WITH THE VARIATION (e.g. Principal Employer, Founder, etc.)**

Role of Other Party (Please tick) Principal Employer Founder Sponsor If other please specify:

Name _____

ACN (If applicable) _____

Address _____

Names of Director(s) (if applicable)

Director 1	Director 3
Director 2	Director 4

SECTION E.1 – CHANGE OF TRUSTEE(S): NEW INDIVIDUAL MEMBERS / TRUSTEES / DIRECTORS

If you also want to change the trustee(s) of the Fund, please complete the following section. If you already have an NTAA Corporate deed, you can choose to complete this section *without* also varying the deed. Please provide the details below of who will be the members and trustees/directors **after** the change. Any members/trustees/directors not included below will be retired/removed from their position. Please indicate if any individuals are deceased.

Name (and residential address if not included above) <u>Wilton John BOWDEN</u>	<input checked="" type="checkbox"/> Continuing/ New Member
	<input type="checkbox"/> Continuing/New Individual Trustee
	<input checked="" type="checkbox"/> Continuing/New Director
_____	<input type="checkbox"/> Continuing/New Member
	<input type="checkbox"/> Continuing/New Individual Trustee
	<input type="checkbox"/> Continuing/New Director
_____	<input type="checkbox"/> Continuing/New Member
	<input type="checkbox"/> Continuing/New Individual Trustee
	<input type="checkbox"/> Continuing/New Director
_____	<input type="checkbox"/> Continuing/New Member
	<input type="checkbox"/> Continuing/New Individual Trustee
	<input type="checkbox"/> Continuing/New Director

SECTION E.2 – NEW CORPORATE TRUSTEE (if the Fund is appointing a new corporate trustee)

Name of New Corporate Trustee W J BOWDEN PTY LTD

ACN 155 167 445

Address 54 Pascoe Rd Ormeau Q 4208

SECTION F – SPECIAL INSTRUCTIONS (if any)

Appointment of Corporate Trustee to be 16/1/12 please

HOW TO COMPLETE THIS ORDER FORM

This document must be read in conjunction with the enclosed order form

Please note:- As employers can pay contributions into the fund without being a party to the deed, there is no requirement to have a specific employer sponsored deed, and the deed being provided to you under this deed of variation is for a personal superannuation fund. If you believe you need to maintain an employer sponsored deed, please telephone our office to discuss your requirements, and we should be able to refer you to our lawyers.

ORDERING OPTIONS - You have a number of options when ordering a deed of variation (and/or appointment / retirement of trustee).

- **NTAA Corporate option:** If NTAA Corporate provided the last deed for the fund (whether by setting up the fund or by providing the last variation to the deeds of the fund), you can select the NTAA Corporate SMSF Deed option, and simply send us that NTAA Corporate deed (our legal team will not look at any other documents sent in with the \$275 option).
- **Non-NTAA Corporate option:** If the latest deed for the fund was not provided by NTAA Corporate, you must choose the non NTAA Corporate SMSF Deed option for \$350 and send us the latest deed for the fund. Our legal team will ensure that the variation is made in accordance with the provisions of that deed, but will not look at the document trail to see if previous variations were correctly performed (and will not look at any other documents sent in with the \$350 option).
- **Appointment / Retirement of Trustee:** If you wish to change the trustees to a corporate trustee (or sometimes from a corporate trustee to individual trustees) the fee is \$275 if the latest deed is an NTAA Corporate deed. However, if you request this service at the same time as ordering our Deed of Variation service, we will prepare a Deed of Appointment and Retirement of Trustee for a reduced additional fee of \$160.
- **Lost Deed Service:** If your client cannot find a copy of their latest deed, all is not lost! Our lost deed service can provide a replacement deed for the fund, acknowledging that, despite their best efforts, the trustees can't find the fund's deed and need a new one. Best of all, this replacement deed will be totally up to date with current law. However, it should be remembered that this is an option of last resort.

SECTION A – CURRENT FUND DETAILS

This section refers to the details of the fund as it is currently in place.

If there have been variations made to the trust deed, you must provide us with a copy of the latest variation to the trust deed.

If you are aware of the clause number which permits the variation to take place, please complete. If you do not know, or you are unsure, please leave this blank.

If you have selected the Lost Deed service, there is no need to send in any deeds or provide a variation clause number.

SECTIONS B & C – TRUSTEE AND MEMBER DETAILS

Please indicate the names and residential addresses of all individual members, selecting the applicable boxes depending on whether they are a current individual trustee or director of a corporate trustee.

- **Single Member Funds**
 - Where the fund has one member and does not have a corporate trustee, there must be two individual trustees, one of whom is the member and the other is either a relative of the member or is any other person where the member is not an employee of the other person (see the employment test under "Trustee / Membership Rules" below).
 - Where there is a corporate trustee for the fund, the member must generally be the sole director. There are some exceptions to this, but our system is only designed to deal with this ordinary situation.
- **Multiple Member Funds (Two to Four Members)**
 - Where the fund has individual trustees, each individual member must generally be a trustee of the fund, and each trustee must generally be a member.
 - Where there is a corporate trustee for the fund, all members must generally be directors of the corporate trustee and there must generally be no other trustees or directors. No member may be an employee of any other member, unless the member is a relative of the employer.

- **Minors and Persons under Other Disabilities**
 - Special rules apply in these circumstances. We will presume, and you acknowledge that, you are aware of all of these rules when completing the Order Form. However, we cannot currently process any orders outside the ordinary situation outlined above (although we should be able to refer you to our lawyers). Nonetheless, additional members can be added later (up to the maximum) using the membership form in the schedule to the deed.

Trustee / Membership Rules

The rules for SMSFs require that the fund may not have more than four members at any time. Members include active contributing members, pensioners and those with deferred benefits.

The rules also require that no person who is a disqualified person under the SIS Act may be a member of a SMSF. Disqualification applies to persons:

- who have prior convictions involving dishonest conduct, wherever or whenever such conviction may have occurred
- who are an insolvent under administration (for example, a bankrupt)
- in relation to whom a civil penalty order has been made under the SIS Act
- disqualified by either the ATO or APRA under section 120A(3) of the SIS Act as not being a fit and proper person.

The rules for SMSFs require that where members are employees of other members, they must also be relatives. For this purpose, the rules provide that the term "employee" has its ordinary meaning and the extended meaning provided under section 15A of the SIS Act to include persons working under a contract for their labour.

In a fund which accepts contributions from the employer of a member, a member who is an employee of the employer will also be an employee of another member (other member) where the employer is:

- a relative of the other member
- either of the following:
 - a body corporate of which the other person, or a relative of the other person, is a director
 - a body corporate related to that body corporate
- the trustee of a trust of which the other person, or a relative of the other person, is a beneficiary
- a partnership, where the other person, or a relative of the other person:
 - is a partner in the partnership
 - is a director of a body corporate that is a partner in the partnership
 - is a beneficiary of a trust, if the trustee of the trust is a partner in the partnership.

SECTION D – OTHER PARTY TO BE INVOLVED WITH THE VARIATION

Please complete the details of any other party who must be involved with the variation. For example, the variation clause of the deed may require the consent of a Principal Employer, in which case we would need these details to proceed.

If you are using our "Lost Deed" Service, you must complete the details of all parties involved in the establishment of the superannuation fund. Many funds commence with a 'Founder' or 'Principal' (or if it is an Employer Sponsored Fund then it will be the Principal Employer). If this is left blank, you are instructing us that only the trustee(s) and member(s) were involved in establishing the fund.

SECTION E – CHANGE OF TRUSTEE(S)

If you are ordering a Deed of Variation, you can also change the trustees of the Fund for an extra \$160 by ticking the appropriate box on page 1 of this instruction sheet. Alternatively, if you already have an NTAA Corporate deed, you may order the documents to effect a change of trustees by ticking the appropriate box on page 1 of this instruction sheet and paying \$275.

In either case, please first complete the details of the current trustees *before* the change is to be made at Sections B and C, and then the details of who the trustees/directors are to be *after* the change at Section E.

If one or more individuals are continuing, you do not need to provide their residential addresses a second time.

Any members/trustees/ directors who are included in Section B but who are not included in Section E will be retired/removed from their position.

Please indicate if any individuals are deceased, as this may necessitate some slight changes to the documents, and also their legal personal representatives (e.g., their executor under will) who are acting for them after they have died.