

**Deed of Death Benefit Agreement for the  
David Nichols Superannuation Fund**

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**Trustee:**

**Nichols Creative Direction Pty Ltd ACN 074 660 012**

**Member:**

**Gaynor Nichols**

**Gaynor Nichols Death Benefit Agreement for the  
David Nichols Superannuation Fund**

1. This Agreement, executed as a deed, is between the Fund's trustees listed below and the Fund's member listed below.
2. This Agreement is an addition to the "*Superannuation Trust Deed for a Self-Managed Fund*" for the Fund (**Deed**), which was adopted via a Deed of Variation dated 4/3/21. It has effect in the way described in Part H of that Deed. This Agreement is not a binding death benefit notice given in accordance with regulation 6.17A of the *Superannuation Industry (Supervision) Regulations, 1994 (Cth)*. Therefore:
  - (a) it continues in force until amended or terminated; and
  - (b) it does not end after 3 years as binding death benefit notices are required to do by the law.
3. On execution, this Agreement forms part of the Deed.
4. If I am a retirement phase recipient of a superannuation income stream at the time of my death, then I direct the trustees that 100% of that income stream will automatically revert to DAVID NICHOLS. This direction does not apply and has no effect in relation to a pension, which has previously been entered into that required or specified an automatic reversionary pension.
5. In respect of any death benefits not paid by operation of the previous clause (clause 4), the member directs the trustee that on my death that DAVID NICHOLS is to receive any death benefit payable and in the form specified by this beneficiary as permitted by law.
6. In respect of any death benefits not paid by operation of the previous clauses 4 and 5, I direct the trustees that, on my death, the persons named in the following table are to receive the proportion specified in that table of any benefit that is payable and in the form specified as permitted by law:

Person	Relationship to member	Proportion of death benefit	Form of benefit
<u>DAVID WILLIAM NICHOLS</u>	<u>SPOUSE</u>	<u>100%</u>	In the form specified by this beneficiary.
<u>/</u>	<u>/</u>	<u>/</u>	In the form specified by this beneficiary.
<u>/</u>	<u>/</u>	<u>/</u>	In the form specified by this beneficiary.
Total (which must total 100%)		100%	

7. If any one of the persons named in the table above predeceases the member, then the member directs the trustee to distribute their proportion of the member's death benefit in accordance with Part H of the Deed.
8. If every person named in the table above predeceases the member, then the member directs the trustee to pay the member's benefit in accordance with Part H of the Deed.
9. The trustee consents to acting on this direction as evidenced by it executing this Agreement.

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10. If the member's death benefit is paid to the member's legal personal representative in accordance with this Agreement, then the member directs the representative to apply the funds for the sole benefit of the member's estate.
11. If compliance with superannuation law prevents any part of the benefit being paid to the named persons then that part of the benefit will be dealt with under Part H of the Deed.
12. The parties agree that:
  - (a) the member may terminate this Agreement by serving a notice terminating the Agreement on the trustee;
  - (b) this Agreement may be replaced by the trustee and the member executing a later death benefit agreement at which time this Agreement terminates; and
  - (c) this Agreement is not terminated, varied or otherwise affected by any variation to the Fund's Deed from time to time, unless the trustee and the member expressly agree to the contrary.
13. The trustee is:
  - (a) Nichols Creative Direction Pty Ltd  
ACN 074 660 012 of  
Unit 91  
3 Wulumay Close  
ROZELLE NSW 2039
14. The member's name is Gaynor Nichols of Unit 91, 3 Wulumay Close  
ROZELLE NSW 2039

### **Definitions**

**Pension dependant** means a person who satisfies the requirements of regulation 6.21(2A) of the *Superannuation Industry (Supervision) Regulations, 1994 (Cth)*.

**Retirement phase recipient** has the meaning given to that term in the Tax Act.

**Superannuation income stream** has the meaning given to that term in the Tax Act.

**Tax Act** means the *Income Tax Assessment Act, 1936 (Cth)* or the *Income Tax Assessment Act, 1997 (Cth)*, as appropriate, and the regulations made under the relevant Act.

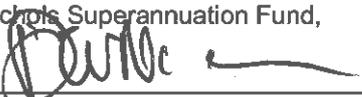
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Executed by the parties as a deed:

Dated: 4/3/2021

EXECUTED by )  
Nichols Creative Direction Pty Ltd, )  
ACN 074 660 012 )

In accordance with Section 127(1)  
of the Corporations Act, 2001(Cth):  
in the capacity as Trustee of the David  
Nichols Superannuation Fund,

  
\_\_\_\_\_  
Signature of David William Nichols  
Director

  
\_\_\_\_\_  
Signature of Gaynor Nichols  
Director

Signed sealed and delivered by Gaynor  
Nichols, in the capacity as a member of the  
David Nichols Superannuation Fund, in the  
presence of

  
\_\_\_\_\_  
Signature of witness

  
\_\_\_\_\_  
Signature of Gaynor Nichols

Pauline van Winzen  
\_\_\_\_\_  
Name of witness (please print)

438199 JONES ST ULTIMO 2007  
\_\_\_\_\_  
Address of witness (please print)

## **Gaynor Nichols Death Benefit Agreement for the David Nichols Superannuation Fund**

### **First Notice: The types of death benefit arrangements and the order in which they take effect**

The Fund's Deed allows three types of death benefit payment arrangements. They, and the order in which they take effect, are as follows:

- the above form of **death benefit agreement** — which binds the trustee and which does not expire, see Part H of the Deed;
- **binding death benefit notices or binding nomination forms** — which bind the trustee but which expire after 3 years or earlier if replaced or revoked; and
- **non-binding nomination forms** — which do not bind the trustee but which do not expire until replaced or revoked.

*Death benefit agreements take priority over binding death benefit notices and non-binding nomination forms.*

### **What you need to consider**

When you, as a member, are considering signing a binding death benefit notice or a non-binding nomination form it is important to consider that:

- a death benefit agreement takes priority over any binding death benefit notice or any non-binding nomination form;
- to the extent permitted by superannuation law, the trustee must pay or apply the relevant benefit in accordance with the death benefit agreement. Therefore if you sign a binding death benefit notice or a non-binding nomination form, then they will have no effect on any earlier or later death benefit agreement that you sign; and
- if any part of a death benefit agreement is invalid, then the trustee (as required by the Fund's Deed) will pay or apply the "invalid" part of the death benefit in accordance with any binding death benefit notice, or by reference to any non-binding nomination form, you have signed.

### **Second Notice: Consistency of death benefit arrangements with pension terms**

It is important to consider how any death benefit nomination or death benefit agreement interacts with the arrangements for payment of a pension to a reversionary beneficiary. The terms of the pension and the terms of the death benefit nomination or death benefit agreement should be considered together.

For instance, if the pension terms require an automatic reversionary pension, then the death benefit nomination or death benefit agreement has no effect in relation to that pension. If the member wants to ensure all these arrangements – under pension terms, a death benefit nomination or death benefit agreement – are consistent, or to deliberately vary from one to the other, then careful drafting is required and the member should seek professional advice.