

# Self Managed Superannuation Fund Establishment Deed

## IMMI Superannuation Fund

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Version 8  
Ref: MAH  
Date: October 2008

**THIS TRUST DEED** is made at Dee Why on  
10 June 2011

**BY IMMI Super Pty Ltd ACN 151 420 601 of Suite 6, 13-15  
Francis Street, DEE WHY, NSW, 2099 ("Trustee")**

## **RECITALS**

- A. The Trustee wishes to establish a superannuation fund to be known as "IMMI Superannuation Fund" ("Superannuation Fund") for the sole purpose of providing superannuation benefits for or in respect of the Members of the Superannuation Fund.
- B. The Trustee intends that the Superannuation Fund will be a self managed superannuation fund and will be taxed as a complying superannuation fund.
- C. The Directors of the Trustee have consented to the Trustee acting as trustee of the Superannuation Fund and for this purpose have confirmed in writing their consents by signing Part 1 of the Annexure to this Deed.
- D. The Trustee has settled \$5 as the initial contribution to the trust fund of the Superannuation Fund for the benefit of the first member of the Superannuation Fund.

## **OPERATIVE PART**

### **1. Establishment of Superannuation Fund**

#### *Establishment*

- (a) The Trustee declares that it holds the trust fund of the Superannuation Fund pursuant to the trusts, powers and discretions of the Trust Deed for the benefit of the Members and their Dependants.

#### *Indefinitely continuing*

- (b) The Superannuation Fund will be an indefinitely continuing fund which will provide individual personal benefits, pensions or retiring allowances for the Members and their Dependants.

#### *Name*

- (c) The Superannuation Fund will be known as "IMMI Superannuation Fund" or by such other name as the Trustee determines.

### *Initial Members*

- (d) Each of the persons ("Initial Members") identified in Part 2 of the Annexure ("Schedule of Initial Members") is admitted as a Member of the Superannuation Fund on establishment of the Superannuation Fund.
- (e) Each of the Initial Members authorises the Trustee to use their tax file numbers in accordance with the authorisations set out in Part 3 of the Annexure ("Tax File Number Authorisations").

## **2. Amendment Powers**

### *Donees & scope of amendment powers*

- (a) The Trustee may by deed amend, alter, delete or replace any or all of the provisions of the Trust Deed or of the SuperCentral Governing Rules.
- (b) Super Governing Rules Pty Limited ACN 117 737 381 ("SGR") may by deed amend, alter, delete or replace any or all of the provisions of the SuperCentral Governing Rules.
- (c) Any amendment, alteration, deletion or replacement may:
  - (i) be retrospective and apply from a date preceding the date on which the amendment is made;
  - (ii) be prospective and apply from a date following the date on which the amendment is made; and
  - (iii) operate by way of complete replacement of all of the current provisions with new provisions.

### *Limitation to the scope of amendments*

- (d) The amendment powers:
  - (i) at any time when the Trustee consists of one or more natural persons – cannot be used to change the primary purpose of the Superannuation Fund from the provision of old-age pensions;
  - (ii) at any time when the primary purpose of the Superannuation Fund is not the provision of old-age pensions – cannot be used to remove the requirement that the Trustee of the Superannuation Fund be a constitutional corporation;
  - (iii) cannot be used to reduce the amount standing to the credit of the benefit accounts of a Member unless that Member has consented to the reduction or the reduction is permitted by Superannuation Law, by the Regulator or by Court Order;
  - (iv) in the case of the power conferred on the Trustee – cannot be exercised until the amendment power conferred on SGR has been terminated in accordance with either clause 2(j) or 2(k); and
  - (v) cannot be used to amend this clause 2(d).

*Trustee and Members bound by amendments to SuperCentral Governing Rules*

- (e) The Trustee and each Member of the Superannuation Fund is bound by any amendment made pursuant to this clause in the same manner as if the amendment had been made immediately before the Member joined the Superannuation Fund.

*Trustee may request amendment made by SGR not to apply*

- (f) The Trustee may by notice to SGR request that an amendment ("current amendment") made by SGR to the SuperCentral Governing Rules not apply to the Superannuation Fund.
- (g) For the request to be effective, the notice must be in writing and be given to SGR within 14 days of the Trustee being notified of the current amendment.
- (h) Where the Trustee makes an effective request for the current amendment not to apply to the Superannuation Fund, then SGR will by deed revoke the current amendment so far as it applies to the Superannuation Fund and the current amendment will be taken never to have applied to the Superannuation Fund.

*Repatriation of amendment power*

- (j) Where SGR at the request of the Trustee has revoked an amendment made to the SuperCentral Governing Rules then the following provisions apply:
  - (i) the amendment power conferred on SGR terminates; and
  - (ii) amendments previously made by SGR to the SuperCentral Governing Rules continue to apply to the Superannuation Fund despite the fact that the amendment power conferred on SGR has terminated.

*Release of amendment power*

- (k) SGR may by deed or written notice to the Trustee release the power conferred by clause 2(b) in which event:
  - (i) the amendment power conferred on SGR terminates; and
  - (ii) amendments previously made by SGR to the SuperCentral Governing Rules continue to apply to the Superannuation Fund despite the fact that the amendment power conferred on SGR has terminated.

### 3. **Trust Deed, Annexure & SuperCentral Governing Rules**

*Deed includes annexure, rules and schedules*

- (a) This Trust Deed includes the Annexure to this Deed and the SuperCentral Governing Rules.

*Incorporation of SuperCentral Governing Rules*

- (b) For the purposes of Clause 3(a), the SuperCentral Governing Rules are expressly incorporated into this Trust Deed as if they had been set out at length in this Trust Deed.

*Identification of SuperCentral Governing Rules*

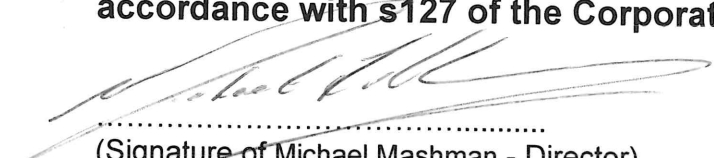
- (c) The SuperCentral Governing Rules are the Governing Rules made by SGR which apply as at the date of this Deed as those Rules are subsequently amended from time to time by SGR pursuant to clause 2(b).

*Inconsistency between parts of deed*

- (d) Where any provision of the SuperCentral Governing Rules or the Annexure is inconsistent with the Deed then, to the extent of the inconsistency, the provision of the Deed shall take precedence.

### **Executed as a Deed**

**EXECUTED BY IMMI Super Pty Ltd ACN 151 420 601 in  
accordance with s127 of the Corporations Act 2001**

  
.....  
(Signature of Michael Mashman - Director)

## Annexure

### Part 1 Directors – Consent and Declaration

We each understand that it is proposed to establish a superannuation fund which will be both a regulated superannuation fund and also a self managed superannuation fund.

We each individually hereby consent to the Company acting as Trustee of the fund.

To this end each of us confirms that, as at the date of this declaration:

- (a) I have attained the age of 18 years;
- (b) no notice of disqualification has been made against me pursuant to s120A of the *Superannuation Industry (Supervision) Act, 1993*;
- (c) I am not an insolvent under administration;
- (d) no civil penalty order under the *Superannuation Industry (Supervision) Act, 1993* has been made against me; and
- (e) I have not been convicted (whether in Australia or elsewhere) of any offence involving dishonest conduct.

Each of us understands that, should any of the matters listed in paragraphs (b) to (e) subsequently apply to me, I will cease to be eligible to act as a director of a company which acts as trustee of a superannuation fund regulated under the *Superannuation Industry (Supervision) Act 1993* and that I will immediately advise our fellow directors and that I will, as and when required by my fellow directors, resign as a director.

Sign here.....

  
Michael Mashman of 85 Hall Drive, MENAI, NSW, 2234

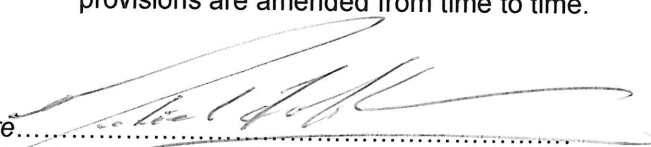
## Part 2 Schedule of Initial Members

Michael Mashman of 85 Hall Drive, MENAI, NSW, 2234

Each of us, by signing below, confirms the following:

- (a) I have (and know that I have) access to a Product Disclosure Statement in respect of superannuation interests in the Superannuation Fund;
- (b) I understand that as a member of the Superannuation Fund I will be bound by the provisions of the Trust Deed (including the provisions of the SuperCentral Governing Rules) which apply to the Fund, as those provisions are amended from time to time.

Sign here.....

  
Michael Mashman of 85 Hall Drive, MENAI, NSW, 2234

### Part 3 Tax File Number Authorisations

Each of the Initial Members understands that there is no legal obligation to provide to the Trustee their Tax File Number ("TFN") but is aware of the adverse consequences of not providing their TFN.

Each of the Initial Members individually authorises the Trustee to use their TFNs in the manner set out below.

#### *Statutory Basis for requesting your TFN*

The Trustee is authorised under the *Superannuation Industry (Supervision) Act, 1993* to request and collect TFNs of members and prospective members of the Fund.

#### *Uses to which TFNs will be put*

If a member or prospective member provides their TFN, the Trustee is only permitted to use the TFN for lawful purposes including:

- (a) identifying the members/prospective members superannuation benefits where other information is not sufficient;
- (b) calculating tax due on any ETP payable to the member/prospective member;
- (c) providing the TFN to the Commissioner of Taxation for the purpose of assessing any tax on any ETP payable to the member/prospective member and for assessing any surcharge payable on superannuation contributions and other amounts made by or for the member/prospective member; and
- (d) providing the TFN to the Commissioner of Taxation for the purpose of determining an entitlement of members to a Government Co-Contribution under the *Superannuation (Government Co-Contribution for Low Income Earners) Act 2003*.

The lawful purposes to which TFNs are used may, because of legislative changes, alter in the future.

#### *No obligation to provide TFN*

A member/prospective member is under no legal obligation to provide their TFN. Consequently, by not providing their TFN, a member/prospective member will have committed no offence.

#### *Consequences of not providing TFN*

If a member/prospective member does not provide their TFN then the following may happen:

- (a) more tax than is otherwise due may be withheld from benefits paid to you from the Fund;
- (b) superannuation surcharge or a greater amount of surcharge may be payable in respect of surchargeable contributions of members than would otherwise be the case;



- (c) it may be more difficult to locate, identify and consolidate superannuation benefits in other funds; and
- (d) an entitlement to a Government Co-Contribution may not be payable.

The consequences of not providing TFNs may, because of legislative changes, alter in the future.

*Providing TFN to other Superannuation bodies*

The Trustee may provide your TFN to the trustee of another superannuation fund or to a Retirement Savings Account provider where that trustee or provider is to receive from the Fund any of the transferred/rolled over benefits of a member or prospective member. However, a TFN will not be provided to another superannuation body if the member/prospective member instructs the Trustee not to provide their TFN.

The Trustee may provide your TFN to the Commissioner of Taxation.

Sign here.....

  
Michael Mashman of 85 Hall Drive, MENAI, NSW, 2234

