Renunciation of Beneficiary Instruction Sheet

Discretionary Trust and Hybrid Trust

*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 deed of the trust.

2. The documents I will receive are in a standard form prepared by solicitors for DocsCentre.

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, DocsCentre may reject the order if all the relevant documents cannot be produced, the documents are faulty, or if it requires rectification.

4. Stamp duty may apply in relation to the deeds. DocsCentre is not liable for advising on stamp duty, paying the stamp duty or arranging for lodgment of the documents for stamping. In some states, there may be adverse stamp duty consequences as a result of these changes.

5. We cannot guarantee that the enclosed deed of variation will have the desired effect of providing that the Trust will not be subject to the stamp duty and/or land tax surcharges, especially as we are not experts on stamp duty or land tax (which are state-based taxes). It may be appropriate for you or your client to obtain advice in relation to the deed of variation from stamp duty and land tax experts based in the relevant state.

6. The documentation will be prepared based on the instructions contained in this order form. DocsCentre has not provided any legal advice to the parties in relation to the suitability of the documents. In particular, DocsCentre 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, DocsCentre 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:

Firm:  Constitute Member Number:

Phone:  Email:

*By completing these instructions and sending them to DocsCentre, 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.*

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| --- | --- | --- |
| Payment details Please tick the following products you require and provide credit card details for payment. For other payment options, contact us on 1800 799 666.  | Deed of renunciation: Trust – Change of Beneficiary **$440** **[ ]**  |  |
|  **Please provide a scanned copy of the executed Trust Deed** |  |
| *Note: The documents will be sent to the nominated email address in PDF format.* |  |
|  |  |

[ ]  Mastercard [ ]  Visa [ ]  AMEX [ ]  On Account\*

Name on Card:

Credit Card No:

Expiry Date: Signature

*\* Note that our staff will call you to request the CVV when payment is processed.*

*\* On account option is only available if a 30 day credit account application has been completed and approved.*

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|  Email to info@docscentre.com.au **** If you have any other queries, please call 03 9209 9799 or free call 1800 799 666 |

***PLEASE COMPLETE ALL CURRENT DETAILS THROUGHOUT THIS ORDER FORM (WHERE APPROPRIATE), NOTWITHSTANDING THAT YOU WILL ALSO PROVIDE A SIGNED COPY OF THE DEED***

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| **SECTION A – CURRENT TRUST DETAILS** |
| Name of Trust |  |
| Law Governing Fund | VIC [ ]  NSW [ ]  QLD [ ]  SA [ ]  WA [ ]  TAS [ ]  ACT [ ]  NT [ ]  |
| Date the original Trust Deed was executed/signed |  | Please include a copy (not original) of the deed (and details of any changes made since that deed was executed). Copies will not be returned unless requested. |
| Type of Trust: Discretionary Trust  |
| What is the clause number of the deed which permits the relevant change(s)?(leave blank if not known) |
| **SECTION B - TRUSTEE(S) DETAILS** |
| **CURRENT INDIVIDUAL TRUSTEES** |
| **TRUSTEE 1-** Full Name  |  |
| Residential Address |  |
|  |
| **TRUSTEE 2-** Full Name  |       |
| Residential Address |       |
|   |
| **TRUSTEE 3-** Full Name  |  |
| Residential Address |  |
|  |
| **TRUSTEE 4-** Full Name  |  |
| Residential Address |  |
|  |

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| --- |
| **CURRENT CORPORATE TRUSTEE** |
| Name of Corporate Trustee ACN |  |
| Address |  |
| Names of Director (1)  |
| Names of Director (2)  |
| Names of Director (3)  |
| Names of Director (4):  |

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| --- |
| **SECTIONS C - CURRENT APPOINTOR(S) AND OR GUARDIAN(S)**  |
| Appointor / GuardianName and address |  |
|  |
| Appointor / Guardian Name and address |  |
|  |
| Appointor / GuardianName and address |  |
|  |
| Appointor / GuardianName and address |  |
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| **SECTION D – BENEFICIARIES**  |
| **RENOUNCING BENEFICIARY** |
| Beneficiary 1 Name and address |  |
|  |
| Beneficiary 2Name and address |  |
|   |
| Beneficiary 3 Name and address |   |
|   |
| Beneficiary 4 Name and address |   |
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| **SPECIAL INSTRUCTIONS (IF ANY):**                |
|       |
| **How to complete THE order form for A TRUST deed AMENDMENT** |

***This section must be read in conjunction with the above order form***

PLEASE ENSURE YOU COMPLETE ALL REQUIRED INFORMATION, NOTWITHSTANDING THAT WE ALSO REQUIRE A SIGNED COPY OF THE TRUST DEED.

**SECTION A – CURRENT TRUST DETAILS**

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

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.

**SECTION B – CURRENT TRUSTEE DETAILs**

If appropriate, please indicate the names, residential addresses of all current individual trustees.

If appropriate, please indicate the name, ACN and address of the corporate trustee as well as the names of the directors.

**SECTION C – CURRENT APPOINTOR**

Please indicate the names and residential addresses of all individual appointors. Please note that appointors can also be referred to as principal or nominator.

**SECTION D – RENOUNCING BENEFICIARY/IES**

Please indicate the names and residential addresses of all renouncing beneficiaries. If the renouncing beneficiary is a company, trust or unincorporated entity please also provide details of the appropriate representative/s.

**SCOPE OF THIS PACKAGE**

The Docscentre deed of renunciation package (“this/the package”) is designed for the party seeking to renounce their interest in the trust (i.e. to no longer benefit from the trust) (“the renouncing party”) to declare that all of their interest in the trust be renounced by them from the date of the deed of renunciation and for the trustee to execute the deed of renunciation to accept the deed renunciation as notice and acceptance of the renunciation by the renouncing party.

**CHOOSING BETWEEN A DEED OF RENUNCIATION, A DEED OF EXCLUSION AND A DEED OF VARIATION**

A deed of renunciation is made by one party to, despite them being a beneficiary under the trust deed (by name or by relationship), declare themselves to be renounced of any interest in the trust. A deed of renunciation is often not prepared in accordance with any term or power under the trust deed. However, some trust deeds do contain a provision allowing a beneficiary of the trust to renounce their interest in the trust, which if included should be followed in preparation of a deed of renunciation. Entering into a deed of renunciation, particularly where the renouncing party is a default beneficiary of the trust, may have taxation consequences for the renouncing party to consider before entering into the deed of renunciation.

A deed of exclusion is made by the trustee to declare in accordance with a power of the trustee under the trust deed (if such power is included) that a person is no longer a beneficiary of the trust. A deed of exclusion is prepared in accordance with the relevant trustee power under the trust deed. Entering into a deed of exclusion may have taxation consequences (including where relevant and still applicable under ATO rules and guidance, the creation of a new trust) for the trustee and the renouncing party to consider before entering into the deed of exclusion.

A deed of variation to remove a beneficiary is made by the trustee to vary the trust deed to remove named beneficiaries from the schedule or other list of beneficiaries in the trust deed. A deed of variation to remove a beneficiary is prepared in accordance with the relevant trustee power under the trust deed. Entering into a deed of variation to remove a beneficiary almost invariably carries some risk of taxation consequences arising from resettlement of the trust for the trustee to consider before entering into the deed of variation.

Often the party or regulator requesting the deed of variation to remove a beneficiary may be satisfied instead to accept a deed of renunciation which may carry less risk of taxation consequences for both the trustee and for the renouncing party, so it is valuable to ask that question before choosing a documentation package to order.

Neither Docscentre Pty Ltd nor Docscentre Legal Pty Ltd will be engaged to advise the parties as to whether any of the above choices is most appropriate to satisfy the parties’ needs, objectives and circumstances, nor will any specialist taxation advice be provided regarding any different taxation outcomes for any of the parties between any of the above options, nor will any advice or review be provided to confirm which of the above option would best satisfy any requirements of a regulator, other party or a court order.

If you have any questions regarding this package or any other documentation package choices in this information sheet (note that we will only be able to provide general information regarding this package and not legal advice – you will need to consider the general information we provide, and its validity for your client’s circumstances, before ordering the package) you may contact us on 03 9209 9799 or at legal@docscentre.com.au to discuss.