

1. DEFINITIONS

1.1. Defined terms

In this deed, except to the extent that the context otherwise requires:

“Act” means the Income Tax Assessment Act 1936 and the Income tax Assessment Act 1997;

“Appointor” means **Marisa Wiman**

“Beneficiaries” means:

- a) the primary beneficiaries;
- b) the secondary beneficiaries; and
- c) the tertiary beneficiaries

“capital component” means the amount received by the Trustee which although not being income of the trust fund, is taken into account in the calculation of net trust income;

“capital gain” and “net capital gain” have the same meaning as ascribed to those terms by the Act;

“capital of the trust fund” means all money and property forming the trust fund including all money and property applied pursuant to clause 3.2 but excluding all money or property capable of being applied pursuant to clause 3.1.

“financial year” or “year” means each period of 12 calendar months commencing on 1 July each year and ending on the following 30 June provided that the first financial year ends on 30 June following the date of this deed and the last financial year ends on the vesting day even though those periods may be for durations of less than 12 calendar months;

“income component” means the income of the trust fund derived by the Trustee;

“income of the trust fund” means receipts of the kind to which that expression ordinarily applies;

“net trust income” means the amount calculated in relation to the trust fund for each financial year pursuant to section 95 of the Act;

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“person” and “persons” include individuals, firms, partnerships, bodies corporate, associations and governments and governmental, semi-governmental and local authorities and agencies;

“primary beneficiary” means **Kelvin Andrew Davis**

“secondary beneficiaries” means:

- a) any child, adopted child, grandchild or remoter issue or any parent or grandparent of any of the primary beneficiaries;
- b) any sister or brother, niece or nephew, aunt or uncle or any cousin to the second degree of the primary beneficiaries;
- c) any spouse or de facto spouse of any of the primary or secondary beneficiaries referred to in any of the above paragraphs of this definition;
- d) any company at least one share in which is held by or on behalf of any of the primary beneficiaries; and
- e) any person who is or was a director or employee of or consultant to the Trustee in any business, trade, venture or activity carried on by the Trustee pursuant to this deed.

“Settlement Sum” means the amount of \$5 referred to in Item B of Background at the commencement of this deed;

“tertiary beneficiaries” means:

- a) the trustee of any trust or settlement, the capital or income of which is or may be held (absolutely, contingently or otherwise) in whole or in part for:
 - i. any one or more of the primary beneficiaries or secondary beneficiaries; or
 - ii. any trust of which at least one of the primary beneficiaries or the secondary beneficiaries is or may be an eligible beneficiary

provided that none of the capital or income of such trust or settlement is or may be held for the Settlor or any other person settling property upon the trust created by this deed:

- b) shareholders of the trustee company, BFL (QLD) Pty Ltd ACN 168 004 135
- b) any company at least one share in which is held by or on behalf of anyone or more of the primary or secondary beneficiaries or by or on behalf of the trustee of any trust referred to in paragraph (a) of this definition;

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- c) any religious, charitable, educational (primary, secondary or tertiary) or benevolent institution as the primary beneficiary before the vesting day by deed or memorandum or oral notice to the Trustee, appoints to be a tertiary beneficiary for the purpose of this deed;
- d) any person (including the trustee of any other trust or settlement in which the Settlor has no right to capital or income) as the primary beneficiary shall before the vesting day by deed or, memorandum or oral notice to the Trustee appoint to be a tertiary beneficiary for the purpose of this deed;
- e) the trustee of any unit trust in which any of the units are hold by a discretionary trust which discretionary trust has any of the primary or secondary beneficiaries as potential beneficiaries (whether absolutely contingently or otherwise);
- f) the personal representatives of the deceased estate of any one or more of the primary beneficiaries or secondary beneficiaries; and
- g) the trustee of any superannuation fund the member or members of which include any one or more of the primary beneficiaries or secondary beneficiaries;

“trust fund” means:

- a) the Settlement Sum;
- b) any other money or any property the Settlor or another person gifts, transfers, assigns or vests to the Trustee to be held upon the trust created by this deed;
- c) any other money or property acquired by the Trustee in accordance with the terms of this deed;
- d) the investments into which any money or property may be converted in accordance with the terms of this deed; and
- e) any income accumulated by the Trustee in accordance with the terms of this deed

‘vesting day’ means the day upon which the period of 80 years, commencing on the date of this deed (which is deemed to be the perpetuity period for the purpose of the trusts created by this deed), expires or such earlier date as the Trustee, at any time not earlier than one year after the date of this deed in writing or by oral declaration subsequently recorded in writing or, where the trustee is a company, by oral resolution of its board of directors passed in the manner provided in its constitution, appoints to be the vesting day.