



LEGAL
CONSOLIDATED
BARRISTERS & SOLICITORS

National Law Firm

Head Office
39 Stirling Highway
Nedlands WA 6009

T: 1800 141 612

legalconsolidated.com.au

Your Reference: Binding Death Benefit Nomination – SMSF
Deed of Variation
Enquiries: Adj Professor, Dr Brett Davies
Direct Telephone: 1800 141 612
Email: brett@legalconsolidated.com

Monday, 22 March 2022

Akash Khan
24 Evans Lane
Fairfield Heights NSW
Australia

Shivani Khan
24 Evans Lane
Fairfield Heights NSW
Australia

*Build this legal document at
[https://www.legalconsolidated.com.au/
smf-bdbn-intro/](https://www.legalconsolidated.com.au/smf-bdbn-intro/) – telephone us, we
can help you complete the questions.*

Adj Professor, Dr Brett Davies – Partner

Dear Trustee,

**Self-Managed Superannuation Fund
Deed of Variation relating to dealing with Benefits
at death and a member's death
the Khan Retirement Fund Trust**

Thank you for instructing us to prepare the attached **Self-managed Superannuation Fund Full Replacement Kit**.

How to print your document

When you and your accountant are satisfied that the document is according to your instructions please:

1. Download the PDF (Don't print directly from the browser.)
2. Print the PDF Printer settings: A4 paper
100% scale (turn off 'fit to page')
3. Print single sided (NOT duplex).
4. Once signed keep this covering letter with the document
(However, do not staple the covering letter to the document.)

We confirm that we act for:

Akash Khan of 24 Evans Lane, Fairfield Heights NSW 2165, Australia

Shivani Khan of 24 Evans Lane, Fairfield Heights NSW 2165, Australia

(collectively **Trustee**)

Being the Trustee of the Self-Managed Superannuation fund Deed entitled the Khan Retirement Fund (**Fund**) in which membership is comprised of:

Akash Khan of 24 Evans Lane, Fairfield Heights NSW 2165, Australia

Shivani Khan of 24 Evans Lane, Fairfield Heights NSW 2165, Australia

(collectively **Membership**)

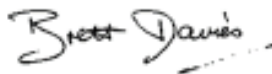
We confirm that we have been instructed to prepare and now enclose:

1. Deed of Variation relating to dealing with Benefits at death and a member's death
2. The forms and agreement required for:
 - (a) Non-Binding Nomination Form (not binding on Trustee)
 - (b) Binding Death Benefit Notice (binding on the Trustee, but expires after 3 years, unless renewed)
 - (c) Death Benefit Agreement (binding on Trustee and does not expire)
3. Supplemental Product Disclosure Statement

We confirm that we have not been instructed to give advice as to whether the trust deed that first established the Khan Retirement Fund or any variations (if any) since then allows for this Deed of Variation. We can't comment on any papers, correspondence or documents (such as the Trust Deed and variations to the Trust Deed, if any, from time to time). We can only comment on this Deed of Variation.

This now concludes our instructions. If you require any further help please contact us.

Yours sincerely,



Adj Professor, Dr Brett Davies, CTA, AIAMA, BJuris, LLB, LLM, MBA, SJD
National Taxation Partner
LEGAL CONSOLIDATED BARRISTERS & SOLICITORS

**Minutes to Accept the Deed of Variation
The Khan Retirement Fund Fund**

Held at

Present:

Akash Khan of 24 Evans Lane, Fairfield Heights NSW 2165, Australia

Shivani Khan of 24 Evans Lane, Fairfield Heights NSW 2165, Australia

(collectively **Trustee**)

Akash Khan of 24 Evans Lane, Fairfield Heights NSW 2165, Australia

Shivani Khan of 24 Evans Lane, Fairfield Heights NSW 2165, Australia

(collectively **Membership**)

Quorum: It was noted that a quorum was present at the meeting.

Notice of Meeting: It was confirmed that the Trustee and the Membership of the Khan Retirement Fund received notice of this meeting and that there is unanimous consent to the meeting being held and waive the requirement for any specified period of the notice of the meeting. It was resolved unanimously that the meeting is validly constituted regardless of any failure to give notice as required under the *Corporations Act 2001*.

The Deed of Variation to allow for variations relating to dealing with Benefits at death, a member's death and binding death benefit agreements that do not expire and other similar matters for the self-managed superannuation fund known as the Khan Retirement Fund was tabled.

It was resolved that:

1. No Trustee is a disqualified person under the SIS Regulations.
2. The Trustee accepts and agrees to be bound by the Deed and Deed of Variation.
3. The Deed of Variation was tabled and is adopted to govern the superannuation fund and has been duly executed.

There being no further business the meeting was declared closed.

Signed as a true and correct record of the meeting immediately after the meeting.

Akash Khan (Trustee) Date: 20

Shivani Khan (Trustee) Date: 20

Akash Khan (Member) Date: 20

Shivani Khan (Member) Date: 20

This is a sample of the document you are building on our law firm's website.

Depending how you answer the questions the document and our letter may be different.

We have a 100% money back guarantee. For any reason you can return the document to us for a full refund.

*Dr Brett Davies
Partner
Legal Consolidated Barristers & Solicitors*

Build the legal document at <https://www.legalconsolidated.com.au/smsf-bdbn-intro/> – telephone us. We can help you answer the questions.

On our law firm's website, you:

1. Retain legal professional privilege
2. Receive legal advice
3. Get a signed letter on our law firm's letterhead with the legal document
4. We take responsibility for the legal document

Only a law firm provides the above. We also offer a 100% money back guarantee on every document you build.

Adj Professor, Dr Brett Davies – Partner



LEGAL
CONSOLIDATED
BARRISTERS & SOLICITORS

National Law Firm

Head Office
39 Stirling Highway
Nedlands WA 6009

T: 1800 141 612

[legalconsolidated.com.au](https://www.legalconsolidated.com.au)

Deed of Variation for Binding Nominations for the Khan Retirement Fund

This Deed of Variation is made by:

Akash Khan of 24 Evans Lane, Fairfield Heights NSW 2165, Australia

Shivani Khan of 24 Evans Lane, Fairfield Heights NSW 2165, Australia

(collectively Trustee)

1 Trust Variation

1. The Trustee is the current trustee of the self-managed superannuation fund known as the Khan Retirement Fund established by a deed dated [Date] and that deed is amended from time to time (**Deed**).
2. Current membership comprises of:
Akash Khan of 24 Evans Lane, Fairfield Heights NSW 2165, Australia
Shivani Khan of 24 Evans Lane, Fairfield Heights NSW 2165, Australia
3. The Trustee has satisfied itself, or sought professional advice, that the Deed allows for variations, such as the variations contained in this Deed of Variation.
4. The Khan Retirement Fund contains assets and has not vested.
5. The Trustee varies the Deed effective from, unless the Trustee decides otherwise, when the Deed of Variation is signed (**Start Date**).

Binding death benefit nominations provide certainty. They ensure that upon your death, your super is paid according to your wishes, and are not left to the trustee's discretion.

2 No Resettlement

1. This Deed of Variation is supplemental to the Deed. The Deed of Variation amends the Deed in all Australian jurisdictions as required to effect the variations relating to dealing with Benefits at death and a member's death (**Purpose**).
2. If any of the terms of the Deed are inconsistent with the terms of this Deed of Variation, then the terms of this Deed of Variation prevail to give full meaning and effect to the Purpose. However, this Deed in no way constitutes a resettlement of the Khan Retirement Fund or any part of it. If anything in the Deed of Variation establishes a resettlement of the Khan Retirement Fund then the applicable words are read down so as not to constitute a resettlement.

3 Protecting grandfathered structures & defined benefits

In house asset rules

1. If any clause in this Deed of Variation adversely affects the grandfathering provisions for any structures or transactions that the Khan Retirement Fund has in place for the in-house asset rules including for sections 71A to 71E *Superannuation Industry (Supervision) Act 1993* then the offending words are read down so as not to adversely affect any such transactions or structures that are in place.

Defined Benefit Pensions

1. Further, the Deed of Variation is read down so as to preserve any payments of defined benefit pensions and any other pensions and payments. Any power to pay a defined benefit pension (under the Deed) is preserved.
2. Should any inconsistency occur between the preserved provisions and the remaining provisions of this Deed of Variation, then the preserved provisions prevail.

4 Dictionary

4.1 Unless a contrary intention appears:

Asset-test Exempt Pension includes a benefit exempt from the assets test under law including under the *Social Security Act 1991* and the *Veterans Entitlement*

Beneficiary a person immediately and absolutely entitled to a Benefit under a member and it only includes a member where that member is immediately absolutely entitled to a Benefit for another member

Benefit an amount payable out of the Fund to or for a member or Beneficiary

Dependant for a current or former member or Beneficiary, as the Trustee of the Fund includes:

- 4.2 spouse
- 4.3 of any age, child (including a child born any time after death) and a nuptial, legally adopted, legally adopted out, genetically related offspring by DNA offspring, cloned, from (or partly from) the sperm or egg (frozen or otherwise) child
- 4.4 interdependency relationships
- 4.5 any other person who, in the Trustee's opinion, was partly or substantially, maintained, educated or dependent including as defined in the Tax Act or SIS Legislation (including regulation 6.21(2A) SIS Regulations)
- 4.6 Nominated dependant
- 4.7 any person who can be paid a concessional tax superannuation benefit on their death

Deed as defined above

Fund the superannuation fund established by the Deed known as the Khan Retirement Fund

Member is a person who is a member, from time to time, of the Khan Retirement Fund

Nominated dependant a person nominated (except in a death benefit notice) by a member as their 'nominated dependant'

Purpose as defined above

Responsible Authority as the case requires, the relevant body responsible for superannuation including the Australian Taxation Office, the Australian Prudential Regulation Authority and the Australian Securities & Investments Commission

Superannuation is for your retirement. However, a dead person no longer needs retirement money. Therefore, the Superannuation must leave the low taxation environment. It is paid out at death.

SIS Act the *Superannuation Industry (Supervision) Act 1993*

SIS Legislation all superannuation acts, including, together with their regulations and administrative guidelines, including, by way of example:

- (a) SIS Act and SIS Regulations
- (b) *Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 2011*
- (c) *Superannuation (Financial Assistance funding) Levy Act 1993, Superannuation (Resolution of Complaints) Act 1993, Superannuation (Rolled-Over Benefits) Levy Act 1993*
- (d) *Superannuation Industry (Supervision) Consequential Amendments Act 1993, Superannuation Supervisory Levy Amendment Act 1993*
- (e) *Occupational Superannuation Standards Amendment Act 1993*
- (f) *Superannuation Act 2005, Superannuation Act 1990, Superannuation Act 1976*
- (g) *Superannuation (Productivity Benefit) Act 1998*
- (h) *Superannuation Benefits (Supervisory Mechanisms) Act 1993*
- (i) *Superannuation (Family Law - Superannuation Act 1992) and Superannuation (Family Law - Superannuation Act 2004)*
- (j) *Superannuation Guarantee (Administration) Act 1992*

However, your Superannuation is not an estate asset. It does not automatically go into your Will. What happens if you have no binding nomination? The SMSF trustee pays out your Super as it sees fit.

SIS Regulations *Superannuation Industry (Supervision) Regulations 1994*

spouse includes spouse, widow, widower and defacto spouse, widow or widower of any sex including a non-member spouse also including within the meaning of that term under Part VIIIIB *Family Law Act 1975* or as defined under the SIS Legislation and a person involved with on a genuine domestic basis

Start Date unless the Trustee decides otherwise, the Deed of Variation starts when signed

Superannuation law includes:

- (a) SIS Legislation
- (b) any common law or law including the *Corporations Act 2001* and the *Social Security Act 1991*, relating to superannuation or the taxation of superannuation
- (c) any lawful requirement to the Fund by a Responsible Authority
- (d) any other body that has responsibility for the regulation of superannuation including an Asset-test Exempt Pension
- (e) changes to any superannuation law after the date of this Deed
- (f) any proposed law or lawful requirement that the Trustee believes may have retrospective effect

Tax Act *Income Tax Assessment Act 1936* and *Income Tax Assessment Act 1997* as appropriate

- 4.8 Unless the Trustee, from time to time, states otherwise, and subject to a contrary intention, these terms have the same meaning, as per the SIS Legislation, as the case requires:

interdependency relationship, non-binding nomination form, pension age, pension dependant, preservation age, regulated superannuation fund, self-managed superannuation fund

5 Deed subservient & augmented by legislation

5.1 At all times, the Deed and this Deed of Variation are interpreted so that the Khan Retirement Fund:

- 5.1.1 complies with the Superannuation law
- 5.1.2 is construed as a qualifying self-managed superannuation fund
- 5.1.3 qualifies for concessional tax treatment including under the T
- 5.1.4 has its members and Beneficiaries retain entitlement to tax d
- 5.1.5 for income streams, qualifies as an Asset-test Exempt Pensi
- 5.1.6 does not give rise to a fringe benefit which is taxable to an en
(the employer expressly chooses to incur a fringe benefit tax)
- 5.1.7 does not suffer a penalty on the Benefit, member, Dependand
dependant, Trustee or directors of a Trustee

(collectively Requirements)

5.2 To achieve the Requirements, from time to time:

- 5.2.1 the Deed and this Deed of Variation are read down and parts severed, as necessary
- 5.2.2 this Deed is deemed to contain any provision that is required by the Superannuation law
- 5.2.3 this Deed is deemed not to contain any provision that is required to be excluded by Superannuation law
- 5.2.4 Trustee and member rights, privileges, benefits, powers, authority, permissions and the allowance of omissions, permitted under the Superannuation law, are read into this Deed
- 5.2.5 Trustee and member mandatory requirements, actions, restrictions and omissions, in the Superannuation law are read into this Deed
- 5.2.6 any covenant or other requirement made necessary by the Superannuation law to be included in this Deed is deemed to be included
- 5.2.7 if the Superannuation law no longer requires any such covenant or requirement to be so included then the covenant or requirement ceases to be included
- 5.2.8 if any such covenant or requirement or its operation is pursuant to the provisions of the Superannuation law modified then the Trustee is only required to comply with the covenant or requirement as it may be so modified
- 5.2.9 where there is a non-mandatory change to the Superannuation law, which in the Trustee's view is beneficial to members, then the Deed is taken to be so amended so as to take advantage of these non-mandatory changes

5.3 The Superannuation law prevails over the terms of this Deed of Variation to the extent of any inconsistency.

If your super goes to an adult child then the tax rate can be 17% or 32% tax. A [superannuation testamentary trust](#) in your Will often reduces that non-dependency death tax to zero.

- 5.4 The Deed of Variation is interpreted to avoid any illegality. If any clause is nonetheless illegal, it is severed from the Deed of Variation to the extent of the illegality.
- 5.5 The Deed of Variation is read down so that no mandatory taxation impost (both State and federal) or Responsible Authority direction in force at any time, is contravened that would lead to an unfavourable taxation outcome.
- 5.6 Irrespective of the Deed of Variation, the Trustee complies with (and is authorised to so act on) any mandatory directions of any Responsible Authority.
- 5.7 Every part of this Deed of Variation, every clause and term is subject to the above clauses.

Without a binding nomination, the Superannuation trustee has the unfettered discretion. This is to pay the benefits as it deems appropriate. The trustee:

- is only bound by the superannuation trust deed; and*
- is not bound by any supplementary direction – your wishes and Will are not relevant.*

6 Trustee Powers

In augmentation of the powers set out in the Deed, the Trustee (acting with or without more than one and, when a company, the directors acting unanimously) has all the powers of a natural person, company and as available under the Superannuation Act 2001. This is as though the Trustee had both legal and beneficial ownership of the Fund. In addition, the Trustee has the power to do all things necessary to manage the Fund in an efficient and economical manner. Such power includes, as the Trustee sees fit, subject to direction of any other person in exercising any power), liberty of discretion to exercise the power or not exercise the power. Such power includes ratifying, recalling, revoking, repairing, correcting, changing and rectifying any action, non-action or decision. All Trustee decisions are final and binding. The interpretation of the Deed of Variation is final. To exclude any possible doubt, the Trustee has the power to do also any of the following:

Payments and pensions

- 6.1 paying any Benefit, in kind, including a death benefit at any age, including, but not limited to:
 - 6.1.1 death
 - 6.1.2 paying a death benefit
 - 6.1.3 under a death benefit agreement
 - 6.1.4 binding death benefit notice (including under regulation 6.17A SIS Regulations)
 - 6.1.5 a non-binding death benefit notice (including under Part 2 of Schedule 2 SIS Regulations) and non-binding nomination forms to any person, including a dependant, legal personal representative or any other person and where the requirement is binding on the Trustee then the Trustee must so comply
- 6.2 being bound to follow a binding death benefit agreement

Death Benefit Agreement

- 6.3 to set up rules and forms for death benefit agreements including to deal with a notice given by a member or Beneficiary to the Trustee under Regulation 6.17A SIS Regulations

Varying the Trust

- 6.4 unless otherwise expressly stated, any variation of the Deed does not vary or adversely affect any death benefit agreement already in place

7 Death Benefits

The Trustee must pay the full Benefit for the member standing to the credit of the accumulation account, and any pension account residue either as a lump sum, or as one or more pensions or annuities, or both. The Trustee pays the death benefit on the death of a member under:

Death benefit agreement (binds Trustee, no expiry)

- 7.1 On the death of a member or beneficiary who has a death benefit agreement:
- 7.1.1 the death benefit agreement prevails over any binding death benefit nomination form or non-binding nomination form
 - 7.1.2 the Trustee must pay, or apply, the relevant benefit according to the terms of the death benefit agreement
- 7.2 A death benefit agreement need only be signed by the Trustee as a member or beneficiary, and replaces any previous death benefit agreement. On signing, the terms of any death benefit agreement forms part of the Deed. Variation
- 7.3 If there is any inconsistency between the death benefit agreement and the remaining provisions of the Deed, then the terms of the death benefit agreement prevails to the extent of that inconsistency
- 7.4 If part of the death benefit agreement is invalid because it directs the Trustee to pay Benefits to a person to whom those death benefits may not be paid under Superannuation law, then such disallowed benefits are not so paid, but are paid as per the remainder of the death benefit agreement which remains valid under the Superannuation law

Who is the trustee of your [Self-Managed Super Fund](#)? Is your trustee your second wife? Is it only the children of your first marriage. It is just one of your children? The Trustee can and often does, greedily transfer the superannuation just to themselves. This is unless you make a non-lapsing binding nomination.

Binding death benefit notices (binds Trustee but expires after 3 years)

- 7.5 After the death of a member or Beneficiary who has given the Trustee a binding death benefit notice (binding nomination forms) the Trustee must comply with that notice

Non-binding nomination forms (not binding on Trustee)

- 7.6 If after the death of a member or Beneficiary, not all death benefits are paid or applied under a death benefit agreement or binding death benefit notice, then the Trustee pays or applies the relevant benefit as the trustee thinks fit under the SIS Legislation

Discharge of Trustee

- 7.7 If a Dependant, Beneficiary, legal personal representative, relative or other person receives any part of a Benefit then that discharges the Trustee from

liability for that Benefit. The Trustee is not responsible for seeing how the Benefit is applied

- 7.8 The Trustee is at liberty to require any person to provide a guarantee and indemnity and complete statutory declarations on any matter, on any terms for the benefit of the Trustee or any other person

8 Trustee

8.1 The Trustee may appoint any person as an additional or a replacement Trustee at any time, including the following:

- 8.1.1 a deceased member's legal personal representative including from the date of the member's death
- 8.1.2 a member's legal personal representative, including while they hold an enduring power of attorney for the member or while the member is under a legal disability
- 8.1.3 a member's legal personal representative, parent or guardian including where the member is a minor
- 8.1.4 a corporation, natural person or other entity

8.2 The Trustee is discharged from all liability for a Benefit where the Trustee pays the Benefit in good faith to a person or another person, on behalf of that person, they believe is entitled to it

9 Signing the Deed of Variation in different locations

The Deed of Variation may be executed by signing identical documents (counterpart)

10 Interpreting the Deed

In the Deed of Variation unless the context indicates a contrary intention

- 10.1 headings are for convenience only and do not affect interpretation
- 10.2 a reference to a person includes a reference to: individual; body corporate (wherever incorporated); body politic; association of persons (whether incorporated or unincorporated) partnership; trust; superannuation fund; in the capacity as a trustee, custodian or personal representative of an estate
- 10.3 the plural includes the singular and vice versa and a reference to a gender includes every other gender or no gender
- 10.4 a reference to the Deed or Deed of Variation includes a reference to an amendment, novation, variation, supplemental deed or replacement deed at any time
- 10.5 references to any party to this Deed of Variation include its successors and permitted assigns
- 10.6 references to laws in the Deed of Variation refer to those laws and regulations consistent with the overall purpose of the Deed of Variation and does not lead to an anomaly
- 10.7 reference to any statute, subordinate legislation or instrument includes all statutes, subordinate legislation and instruments amending, modifying,

Many SMSF Deeds state that a binding nomination can only be completed on the exact Nomination Form contained in the Deed. However, most Nomination Forms don't comply with the new laws. Therefore, it is impossible for that SMSF to have binding nominations.

consolidating, re-writing, re-enacting or replacing them and a reference to a statute includes all subordinate legislation and instruments made under that statute

10.8 if any part of the Deed of Variation is invalid, that does not affect the validity of the remainder of the Deed of Variation

Executed as a Deed on20.....

SIGNED, SEALED AND DELIVERED by
Akash Khan (as Trustee)

_____ **Ak**

(Signature of witness)

(Name of witness)

SIGNED, SEALED AND DELIVERED by
Shivani Khan (as Trustee)

_____ **Shivani Khan**

(Signature of witness)

(Name of witness)

Who gets my Super at death?
You can only nominate a:

1. Superannuation dependent; or
2. Legal personal representative (which is the trustee in your Will)

The membership consents to this Deed:

SIGNED, SEALED AND DELIVERED by
Akash Khan (as Member)

Akash Khan

(Signature of witness)

(Name of witness)

SIGNED, SEALED AND DELIVERED by
Shivani Khan (as Member)

Shivani Khan

(Signature of witness)

(Name of witness)

Information on who gets your Superannuation when you die

In dealing with your Superannuation fund after you die, under the Superannuation laws, you can only nominate

Individual

1. Your husband, wife, spouse, defacto spouse and same sex partners (suffice to say you can have more than one).
2. Children including adopted, step, from your spouse and other *Family Law Act 1975*.
3. Individuals that are 'financially dependent' on you – calculated at the moment of your death (this can be a good friend's child that you have taken care of fees and giving other financial support). Superannuation law defines this widely, than under the taxation laws.
4. Someone in an 'interdependency relationship' with you (such as a partner who live together), often with financial and domestic support based on the law – calculated at the moment of your death.

Legal Personal Representative

5. If you write in the exact expression 'Legal Personal Representative' (the percentage you select) of your superannuation goes to the executor (to be distributed under your Will, upon death. If you have no valid Will, the superannuation administrator to be distributed according to a government form).

Can I nominate my friends?

Sorry, but the Superannuation law only allows direct nomination to a dependent and interdependency relationship. To get around this, you can nominate Superannuation at death to your 'Legal Personal Representative' (LPR). You can nominate such friends in your Will to receive your Superannuation. This may be subject to tax.

A 'dependent' includes:

1. your spouse and de facto (includes same-sex)
2. your children of any age (includes adopted)
3. any person financially dependent on you
4. any person in an interdependency relationship with you
5. your 'legal personal representative' – the executor in your Will (LPR).

Beneficiary Nomination - What happens to my Superannuation when I die?

'Death Benefit Table'

Person (full name) or, to leave it to your estate (Will) tick 'Legal Personal Representative'	Date of Birth	Relationship to me (eg Spouse, child, financially dependent, interdependency relationship)	Percentage of my Death Benefit
			%
			%
			%
			%
			%
<input type="checkbox"/> Legal Personal Representative	N/A	Not applicable	%
The total must equal			100%

ONLY COMPLETE AND SIGN ONE OF THE THREE OPTIONS BELOW:

Non-Binding Nomination Form (this direction is not binding on the Trustee) Option One

I of
being a member of the Khan Retirement Fund direct the Trustee of the Khan Retirement Fund that
the persons named in the above Death Benefit Table are to receive the proportion of the benefit
upon my death. I acknowledge that this direction to the Trustee is a non-binding direction and
the Trustee retains the discretion as to how to apply any benefit payable on my death.

Signed on 20.... Member signature:

Witness Name: Witness signature:

Binding Death Benefit Notice (Binding on Trustee, expires after 3 years)

I of
being a member of the Khan Retirement Fund direct the Trustee of the Khan Retirement Fund that
the persons named in the above Death Benefit Table (being one or more of my dependants or
representative) are to receive the percentage stated of the benefit payable upon my death.
this direction to the Trustee is a binding death benefit notice and the direction is binding on the Trustee.

Member Signature

We, the two witnesses below, declare that we are over 18 years of age, we are not related to the Member signing this Notice in both our own right and together during the entire signing.

Name of 1st Witness Signature of 1st Witness

Address of 1st Witness

Name of 2nd Witness Signature of 2nd Witness

Address of 2nd Witness

Your adult children pay 17% or 32% tax on your Superannuation. The death tax is on the concessional amount. Put a 'Superannuation Testamentary Trust' in your Will. The Super Testamentary Trust seeks to reduce death tax down to zero.

Death Benefit Agreement (this direction binds the Trustee and never expires) Option Three

1. This deed is between (Member) of DOB:
as member of the Khan Retirement Fund and the Fund's Trustee as named below.
2. This deed is an addition to the deed known as the self-managed superannuation deed called the Khan Retirement Fund
3. This deed is not a binding death benefit notice given (including how that term is used under regulation 6.17A Superannuation Industry (Supervision) Regulations). Therefore, it continues in force until amended or terminated and it does not end after 3 years as binding death benefit notices are required to do.
4. On signing this deed, this deed forms part of the Khan Retirement Fund
5. The Member directs the Trustee that, on the Member's death, the persons named in the Death Benefit Table (which is incorporated into this deed) receive the proportion of any benefit that is payable.
6. The Trustee consents to act on the direction and confirms that the Member has the capacity to understand their right to require the trustee to provide the benefits and that the persons nominated must be a dependant or the legal personal representative of the Member and that the proportion of the benefit is certain or readily ascertainable.
7. If compliance with Superannuation law prevents any part of the benefit being paid to the named person, then that part of the benefit is dealt with under the Superannuation law.
8. The Member may terminate this deed by serving a notice terminating the deed on the Trustee. This deed may be replaced by the Trustee and the Member signing a later death benefit agreement, at which time this deed terminates.

Three things control where your Superannuation goes at death:

1. Trust Deed
2. Trustee's discretion
3. Binding Nominations

Signed sealed and delivered as a deed on20...

Member Signature

We, the two witnesses below, declare that we are over 18 years of age, we are not mentioned or benefit under the Death Benefit Table and witnessed the Member signing this Notice in both our presence. All 3 of us were together during the entire signing.

Name of 1st Witness Signature of 1st Witness
Address of 1st Witness

Name of 2nd Witness Signature of 2nd Witness
Address of 2nd Witness

Signed by the Trustee:

[When Trustees are individuals]

Trustee one name: Trustee one signature
Witness name: Witness Signature

Trustee two name: Trustee two signature
Witness name: Witness Signature

Trustee three name (if any): Trustee three signature
Witness name: Witness Signature

Trustee four name (if any): Trustee four signature
Witness name: Witness Signature

[When the Trustee is a company]

The common seal of ACN
in its capacity as trustee, under s127(2) Corporations Act 2001 in the presence of:

.....
Director/Secretary

.....
Director (if any)

Witness Declaration - 1st Witness

I,
.....
..... Date of Birth
.....
of
.....
... in the State of state:
1. that on20..... I witnessed
.....
(Member) signing the attached Death Benefit Agreement between the Member and the Trustee of the Khan Retirement Fund as the First Witness.
2. that I also, at the same time, witnessed the signature of the other witness (2nd Witness) who also witnessed the Member's signature.
3. I confirm that all three of us, being myself, the Member and the 2nd Witness, were present at the same time during the entire signing process.
4. The Member stated that the Member understood the nature of the Death Benefit Agreement to both myself and the 2nd Witness.
5. I confirm that I am not related to the Member, not mentioned in the Death Benefit Agreement and have no pecuniary interest in the Member's Estate or superannuation benefits either directly or indirectly.

Signed, Sealed and Delivered as a deed on

.....
.....

1st Witness Name:

1st Witness Signature

Name of person witnessing the 1st Witness signature in this declaration:
.....

and
signature:.....

Witness Declaration - 2nd Witness

I,
.....
..... Date of Birth:
.....
of
.....
... in the State of state:

1. that on20..... I witnessed
.....
(Member) signing the attached Death Benefit Agreement between the Member and the Trustee of the Khan Retirement Fund as the 2nd Witness.
2. that I also, at the same time, witnessed the signature of the other witness (1st Witness) who witnessed the Member's signature.
3. I confirm that all three of us, being myself, the Member and the 1st Witness, were present at the same time during the entire signing process.
4. The Member stated that the Member understood the nature of the Death Benefit Agreement to both myself and the 1st Witness.
5. I confirm that I am not related to the Member, not mentioned in the Death Benefit Agreement and have no pecuniary interest in the Member's Estate or superannuation benefits either directly or indirectly.

Signed, Sealed and Delivered as a deed on
.....20...

2nd Witness Name:

2nd Witness Signature

Name of person witnessing the 2nd Witness signature in this declaration:
.....

You can build this document here:
<https://www.legalconsolidated.com.au/smsf-bdbn-intro/>