

NOMINEE DEED

relating to the property known as

*Lot 47, 399 – 413 Boundary Road (Proposed Lot 47 on Sp
292891) Thornlands Qld 4164*
('the Underlying Property')

made as between

Hills Super Investments (Aust) Pty Ltd ACN 622 641 927
as trustees of the
The Hills Superannuation Fund
('the RSF Trustee')

and

Hills Investments (Aust) Pty Ltd ACN 622 641 936
'the Security Nominee'



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NOMINEE DEED

Date 13 / 04 / 2018

This Deed is made

BETWEEN Hills Super Investments (Aust) Pty Ltd ACN 622 641 927 of
15 Eungai Place
North Narrabeen NSW 2101

('the RSF Trustee')

AND Hills Investments (Aust) Pty Ltd ACN 622 641 936 of
15 Eungai Place
North Narrabeen NSW 2101

('the Security Nominee')

Background

- A. The RSF Trustee is the trustee of The Hills Superannuation Fund which is a complying self-managed superannuation fund as defined in section 17A of the *Superannuation Industry (Supervision) Act 1993* (Cth) (**'the SIS Act'**).
- B. The RSF Trustee wishes to purchase a property, known as Lot 47, 399 – 413 Boundary Road (Proposed Lot 47 on Sp 292891) Thornlands Qld 4164 (**'the Underlying Property'**).
- C. The RSF Trustee is to provide the whole of the purchase price and any other costs referable to the acquisition (including the stamp duty) of the Underlying Property.
- D. The Security Nominee will obtain the legal title in, and become the registered proprietor of, the Underlying Property and will hold the Underlying Property under the terms of this Deed.
- E. The Underlying Property is to be held under a bare trust relationship by the Security Nominee.
- F. The RSF Trustee will hold a beneficial interest in the Underlying Property at all times.

The parties agree

1. Definitions

In this Deed unless the contrary intention appears:

- 1.1 **'Beneficial Interest'** means the beneficial interest of the RSF Trustee in the Underlying Property as contemplated by section 67A of the SIS Act.
- 1.2 **'Deed'** means this deed.
- 1.3 **'GST'** means goods and services tax which is levied or may be levied as a consequence of an application of *A New Tax System (Goods and Services Tax Act) 1999* (Cth).
- 1.4 **'Party'** means a party to this Deed.
- 1.5 **'Underlying Property'** has the meaning given to it in **clause B** of the Background.

2. Interpretation

In this Deed unless the contrary intention appears:

- 2.1 the **singular** includes the plural and vice versa;
- 2.2 a **gender** includes all other genders;
- 2.3 where a **word** or **phrase** is defined, its other grammatical forms have a corresponding meaning;
- 2.4 a reference to a **person** includes any corporation, partnership, joint venture, trust, association, government, or public authority and vice versa;

- 2.5 a reference to a **clause** or **annexure** is to a clause of or annexure to this Agreement;
- 2.6 a reference to a **request** or **notice** means a request or notice in writing;
- 2.7 a reference to any **party** to this or any other document includes the party's successors and permitted assigns;
- 2.8 a reference to a **document** is to that document as amended, novated, supplemented, varied or replaced from time to time and includes any annexures, schedules and appendices to that document, except to the extent prohibited by that document;
- 2.9 a reference to any **legislation** or legislative provision includes any statutory modification, substitution or re-enactment and any subordinate legislation issued under that legislation or provision;
- 2.10 a reference to **conduct** includes any act, omission, representation, statement or undertaking whether or not in writing;
- 2.11 mentioning anything after **include, includes** or **including** does not limit what else might be included;
- 2.12 a reference to a **person** that comprises two or more persons means those persons jointly and severally;
- 2.13 the **headings** are for convenience only and do not affect the interpretation of this Deed;
- 2.14 a reference to a **month** means a calendar month;
- 2.15 a reference to **dollars** means Australian dollars;
- 2.16 a reference to **time** means Sydney time;
- 2.17 the **Background** is correct and forms part of this Deed.

3. **Background**

The Parties hereby declare that the matters described in the **Background** are true and correct in every material particular and form part of this Deed.

4. **Agency and Bare Trust Relationship**

4.1 The Parties declare and acknowledge that:

4.1.1 The RSF Trustee is to provide the whole of the purchase price and any other costs referable to the acquisition (including the stamp duty) of the Underlying Property.

4.1.2 The Security Nominee will act as the RSF Trustee's agent nominee and will obtain the legal title and become the registered proprietor of the Underlying Property.

- 4.1.3 The Underlying Property is to be held under a bare trust relationship by the Security Nominee for the benefit of the RSF Trustee.
- 4.1.4 The RSF Trustee will at all time have the Beneficial Interest in the Underlying Property.
- 4.1.5 The RSF Trustee may request that the Security Trustee transfer legal title to the RSF Trustee (or an entity nominated by the RSF Trustee) after the RSF Trustee makes one or more payments relating to the Underlying Property, provided that the transfer of legal title does not breach any provision of the SIS Act or the *Superannuation Industry (Supervision) Regulations 1993* (Cth).
- 4.1.6 The Security Trustee must act in accordance with the directions of the RSF Trustee

5. **Beneficial Interest in the Underlying Property to subsist in the RSF Trustee**

- 5.1 The RSF Trustee is absolutely entitled to the Beneficial Interest in the Underlying Property held by the Security Nominee on behalf of the RSF Trustee.
- 5.2 The Underlying Property is held by the Security Nominee for the benefit of the RSF Trustee subject to a bare trust relationship.
- 5.3 To the maximum extent permitted by the law, the Security Nominee has no right to indemnification with respect to the Underlying Property.

6. **Rent and other distributions from the Underlying Property**

- 6.1 Any rent or other distributions referable to, and paid with respect to the Underlying Property will be derived by the RSF Trustee.
- 6.2 Any rent or other distributions referable to, and paid in respect to the Underlying Property will be held by the Security Nominee as agent of the RSF Trustee for the benefit of the RSF Trustee
- 6.3 The RSF Trustee may direct the Security Nominee to pay any amount due to the RSF Trustee under clause 6.1 to a third party, on behalf of the RSF Trustee.

7. **The RSF Trustee is the purchaser of the Underlying Property**

Both the Security Nominee and the RSF Trustee declare and acknowledge that the Security Nominee holds the Underlying Property in the capacity of bare trustee for the RSF Trustee and that the real purchaser of the Underlying Property is the RSF Trustee

8. **Government taxes, charges and stamp duty**

- 8.1 The Security Nominee will not be responsible for the payment of any stamp duty, GST or any other tax or impost imposed by any authority as the result of the transfer of the Underlying Property.

8.2 The Security Nominee shall be reimbursed by the RSF Trustee requesting or causing a transfer of the Underlying Property of any stamp duty, GST or other tax paid by the Security Nominee as a consequence of the transfer of the Underlying Property.

9. **Change of Security Nominee and amendment of Deed**

9.1 The power of removing and appointing the Security Nominee and amending this deed is vested in the RSF Trustee.

9.2 The Security Nominee may resign as bare trustee on giving not less than two (2) weeks notice addressed to the RSF Trustee

10. **Appointment of the Security Nominee as agent and nominee of the RSF Trustee**

Both the Security Nominee and the RSF Trustee declare and acknowledge that subsection 22(3) of the *Duties Act 2001 (Qld)* applies to the relationship as between the Security Nominee and the RSF Trustee with respect to the Underlying Property. Specifically:

10.1 The Security Nominee acknowledges that it is the 'agent', as contemplated by subsection 22(3) of the *Duties Act 2001 (Qld)* with respect to the Underlying Property;

10.2 The Underlying Property is to be held upon bare trust by the Security Nominee for the RSF Trustee, with the RSF Trustee the 'principal', as contemplated by subsection 22(3) of the *Duties Act 2001 (Qld)* with respect to the Underlying Property; and

10.3 All of the money for the acquisition of the Underlying Property (including stamp duty) has been or will be provided by the RSF Trustee.

11. **Mortgage**

The Security Trustee must, at the direction of the RSF Trustee, grant a mortgage and execute such documentation as may be required to secure moneys borrowed by the RSF Trustee under arrangements pursuant to, and in accordance with, section 67A of the SIS Act.

12. **Governing Law**

This Deed shall be governed by and construed in accordance with the laws of Queensland.

Executed as a Deed

EXECUTED AS THE RSF TRUSTEE

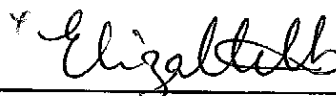
Signed for and on behalf of
Hills Super Investments (Aust) Pty Ltd
ACN 622 641 927
in accordance with section 127 of the
Corporations Act 2001

C J H SIGN



Colin John Hills - director/sole director

E E J H SIGN



Eliza Emily Jane Hills - director

EXECUTED AS THE SECURITY NOMINEE

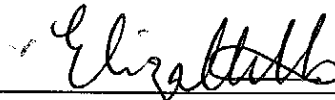
Signed for and on behalf of
Hills Investments (Aust) Pty Ltd
ACN 622 641 936
in accordance with section 127 of the
Corporations Act 2001

C J H SIGN



Colin John Hills - director/sole director

E E J H SIGN



Eliza Emily Jane Hills - director

STATUTORY DECLARATION

Commonwealth of
Australia

I / We, Colin John Hills, of
15 Eungai Place
North Narrabeen NSW 2101

AND Eliza Emily Jane Hills, of
15 Eungai Place
North Narrabeen NSW 2101

Being the only directors and shareholders of Hills Super Investments (Aust) Pty Ltd ACN 622 641 927 do solemnly and sincerely declare that:

1. **Hills Investments (Aust) Pty Ltd ACN 622 641 936 ('the Company')** is the 'agent', for the purposes of subsection 22(3) of the *Duties Act 2001 (Qld)* of a property known and situated at **Lot 47, 399 – 413 Boundary Road (Proposed Lot 47 on Sp 292891) Thornlands Qld 4164 ('the Property')**;
2. The 'purchaser' of the property for the purposes of subsection 22(3) of the *Duties Act 2001 (Qld)* is the **The Hills Superannuation Fund ('the Fund')**, which is a complying self-managed superannuation fund as defined in section 17A of the *Superannuation Industry (Supervision) Act 1993 (Cth) ('the SIS Act')*;
3. Hills Super Investments (Aust) Pty Ltd ACN 622 641 927 is the trustee of **the Fund**
4. The Fund will provide the purchase money for the Property, including:
 - 4.1 any deposit payable under any agreement for the purchase of the Property; and
 - 4.2 any stamp duty payable for the acquisition of the Property;
5. The Fund and the Company have entered into a deed entitled 'Nominee Deed' and dated ; and
6. When the Company executes the agreement to acquire the Property, the Company will be acting as an agent of the Fund (as the principal) under a current written authority, as evidenced by the Nominee Deed

and I/we make this solemn declaration by virtue of the *Statutory Declarations Act 1959* (Cth) and subject to the penalties provided by that Act for the making of false statements in statutory declarations, conscientiously believing the statements contained in this declaration to be true in every particular.

Declared at [Allambie Heights] this
[Thirtieth] day of
[April] 20. 18]
before me

J.P. SIGNATURE [Signature]
Signature of person before whom the declaration is made

J.P. NAME J.P. 134080
Title of person before whom the declaration is made

C. J. SIGNATURE [Signature]
Signature of person making the declaration

X COCIN HILLS
Full name of declarant

Declared at [Allambie Heights] this
[Thirtieth] day of
[April] 20. 18]
before me

J.P. SIGNATURE [Signature]
Signature of person before whom the declaration is made

J.P. NAME J.P. 134080
Title of person before whom the declaration is made

E. J. SIGNATURE [Signature]
Signature of person making the declaration

X ELIZA HILLS
Full name of declarant

Declared at [.....] this
[.....] day of
[.....] 20. [.....]
before me

.....
Signature of person before whom the declaration is made

.....
Title of person before whom the declaration is made

.....
Signature of person making the declaration

.....
Full name of declarant

Declared at [.....] this
[.....] day of
[.....] 20. [.....]
before me

.....
Signature of person before whom the declaration is made

.....
Title of person before whom the declaration is made

.....
Signature of person making the declaration

.....
Full name of declarant

RESOLUTIONS OF THE DIRECTOR(S) OF HILLS SUPER INVESTMENTS (AUST) PTY LTD AS TRUSTEE OF THE HILLS SUPERANNUATION FUND

INVESTMENT STRATEGY:

IT WAS RESOLVED to adopt a revised investment strategy for the fund. The revised strategy provides for the trustees to invest in direct assets using a limited recourse borrowing arrangement under Section 67A of SIS.

(cross out & initial if not adopting a new investment strategy)

PURCHASE OF PROPERTY:

IT WAS RESOLVED that the fund purchase a property at Lot 47, 399 – 413 Boundary Road (Proposed Lot 47 on Sp 292891) Thornlands Qld 4164.

BORROWINGS:

IT WAS RESOLVED that the fund borrow under one or more arrangements that satisfy section 67A of the Superannuation Industry Supervision Act (SISA) for the purpose of purchasing the property.

FUND TO PAY FOR THE PROPERTY:

IT WAS RESOLVED that all monetary requirements for the purchase of the Property subject to any borrowings and monetary requirements incidental to the purchase (eg loan insurance and establishment fee etc) will be paid for by the Fund;

APPOINTMENT OF NOMINEE:

IT WAS RESOLVED that the trustees appoint Hills Investments (Aust) Pty Ltd ACN 622 641 936(the Security Trustee) as their nominee to hold the property on trust for the trustee of the Fund so that the beneficial interest in the property will at all times rest solely with the trustees of the Fund

LEGAL DOCUMENTATION:

IT WAS RESOLVED that the trustees enter into a deed with the Security Trustee that will set out all the terms under which the Security Trustee holds the Property – particularly for the absolute benefit of the trustees of the Fund

IT WAS FURTHER RESOLVED to execute all the necessary documentation to purchase the property and enter into the borrowing arrangements.

COMPLIANCE:

IT WAS RESOLVED that the Fund will continue to operate in accordance with the law to maintain the Fund's status as a complying superannuation fund according to the *Superannuation Industry (Supervision) Act 1993*.

**PRODUCT DISCLOSURE
STATEMENT:**

All of the members of the fund are also trustees of the fund and all of them have access to all of the documentation of the fund. Accordingly, the fund is exempt from the requirement to issue a PDS under section 1012D(2A) of the Corporations Act.

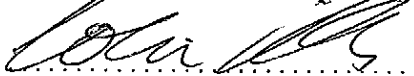
IT WAS RESOLVED that the fund not issue Product Disclosure Statements as a result of this transaction.

or

The Trustees have decided to issue an updated Product Disclosure Statement for the Fund as it is now borrowing.

(cross out & initial if inapplicable)

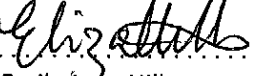
CJH SIGN



Colin John Hills

dated: 30/4/18

EEJH SIGN



Eliza Emily Jane Hills

dated: 30.4.2018

RESOLUTIONS OF THE DIRECTORS OF HILLS INVESTMENTS (AUST) PTY LTD

**APPOINTMENT AS
NOMINEE:**

IT WAS RESOLVED that the company accept the position of Security Trustee to hold a property at Lot 47, 399 – 413 Boundary Road (Proposed Lot 47 on Sp 292891) Thornlands Qld 4164 for and on behalf of the trustees of The Hills Superannuation Fund.

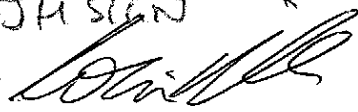
EXECUTION OF DEED:

IT WAS RESOLVED that the company execute a deed that details the terms by which the company holds the property on trust for, and acts for, the benefit of the trustees of the Fund.

IT WAS FURTHER RESOLVED that the company execute any other documentation necessary to effect the purchase of the property and the appointment as Security Trustee

CJH SIGN

x



.....
Colin John Hills

dated: x

30/9/18
.....

EESH SIGN

x



.....
Eliza Emily Jane Hills

dated: 1.30.9.2018

.....