

NOMINEE DEED

relating to the property known as

50/11 Emerald Place Bridgeman Downs QLD 4035
('the Underlying Property')

made as between

Wayne and Jennifer Watters SMSF Pty Ltd ACN 615 417 288 as
trustees of the
Wayne and Jennifer Watters SMSF
('the RSF Trustee')

and

Watters Bridgeman Down Pty Ltd ACN 615 417 386
'the Security Nominee'



www.accesslawgroup.com.au

Table of Contents

Title	Clause Number
Definitions	1
Interpretation	2
Background	3
Agency and Bare Trust Relationship	4
Beneficial Interest in the Underlying Property to subsist in the RSF Trustee	5
Rent and distributions from the Underlying Property	6
The RSF Trustee is the Purchaser of the Property	7
Government taxes, charges and stamp duty	8
Change of Security Nominee and amendment of deed	9
Apparent Purchaser Provisions.	10
Mortgage	11
Governing Law	12

NOMINEE DEED

Date 27/10/16

This Deed is made

BETWEEN

Wayne and Jennifer Watters SMSF Pty Ltd ACN 615 417 288 of
Level 17, 2 Chifley Square
Sydney NSW 2000

('the RSF Trustee')

AND

Watters Bridgeman Down Pty Ltd ACN 615 417 386 of
Level 17, 2 Chifley Square
Sydney NSW 2000

('the Security Nominee')

Background

- A. The RSF Trustee is the trustee of Wayne and Jennifer Watters SMSF 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 50/11 Emerald Place Bridgeman Downs QLD 4035 (**'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.

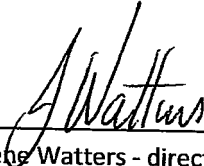
12. **Governing Law**

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
Wayne and Jennifer Watters SMSF Pty Ltd
ACN 615 417 288
in accordance with section 127 of the
Corporations Act 2001



Jennifer Irene Watters - director/sole director



Wayne Arthur Watters - director

EXECUTED AS THE SECURITY NOMINEE

Signed for and on behalf of
Watters Bridgeman Down Pty Ltd
ACN 615 417 386
in accordance with section 127 of the
Corporations Act 2001



Jennifer Irene Watters - director/sole director



Wayne Arthur Watters - director