

SECURITY TRUST DEED

relating to the property known as

Lot 2/1 Olive Avenue Normanville SA 5204
(‘the Underlying Property’)

made as between

Amily Holdings Pty Ltd ACN 163 929 619
as trustees of the
A & E Superannuation Fund
(‘the RSF Trustee’)

and

Emlex Pty Ltd ACN 610 814 492
(‘the Security Trustee’)



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SECURITY TRUST DEED

Date 17 FEBRUARY 2016

This Deed is made

BETWEEN Amily Holdings Pty Ltd ACN 163 929 619 of
31 Hauteville Terrace
Eastwood SA 5063

('the RSF Trustee')

AND Emlex Pty Ltd ACN 610 814 492 of
31 Hauteville Terrace
Eastwood SA 5063

('the Security Trustee')

Background

- A. The RSF Trustee is the trustee of A & E 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 2/1 Olive Avenue Normanville SA 5204 (**'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 Trustee 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 Trustee.
- 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. **Bare Trust**

- 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 Trustee 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 Trustee 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).

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 Trustee on behalf of the RSF Trustee.
- 5.2 The Underlying Property is held by the Security Trustee 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 Trustee has no right to indemnification with respect to the Underlying Property.
- 5.4 For the avoidance of doubt, and to the maximum extent permitted by the law, subsection 35(2) of the *Trustee Act 1936* (SA) has no application to the bare trust relationship as between the Security Trustee and the RSF Trustee 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 The RSF Trustee may direct the Security Trustee 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 Trustee and the RSF Trustee declare and acknowledge that the Security Trustee 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 Trustee 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 Trustee 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 Trustee as a consequence of the transfer of the Underlying Property.

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

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

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

10. **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.


11. **Governing Law**

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

Executed as a Deed

EXECUTED AS THE RSF TRUSTEE

Signed for and on behalf of)
Amily Holdings Pty Ltd)
ACN 163 929 619)
in accordance with section 127 of the)
Corporations Act 2001)


_____)

Alexander Lewis Stabolidis - director/sole
director)


_____)

Emily Kate Stabolidis - director

EXECUTED AS THE SECURITY TRUSTEE

Signed for and on behalf of)
Emlex Pty Ltd)
ACN 610 814 492)
in accordance with section 127 of the)
Corporations Act 2001)


_____)

Alexander Lewis Stabolidis - director/sole
director)


_____)

Emily Kate Stabolidis - director