



LONGDEN FINANCE TRUST SUPERANNUATION SECURITY TRUST DEED

21 JANUARY 2015

Precedent supplied by Mendelawitz Morton Commercial Lawyers
39 Richardson Street
West Perth WA 6005

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SCHEDULE 1

THIS SECURITY TRUST DEED is made between:

EMPERICA PTY LTD ACN 603 809 267 as trustee for **THE LONGDEN SUPERANNUATION FUND** of 10 ANDREW CLARKE ROAD, WHITESIDE, QLD 4503

(the **Super Fund Trustee**)

AND

LONGDEN FINANCE PTY LTD ACN 603 809 490 of 10 ANDREW CLARKE ROAD, WHITESIDE, QLD 4503

(the **Security Trustee**)

AND

BERNADETTE EDWINA LONGDEN of 10 ANDREW CLARKE ROAD, WHITESIDE, QLD 4503

AARON LONGDEN of 10 ANDREW CLARKE ROAD, WHITESIDE, QLD 4503

(the **Participating Members**)

BACKGROUND:

- (A) Pursuant to the Super Fund Trust Deed, the Superannuation Fund was established for the benefit of the Members.
- (B) The Super Fund Trustee is the trustee of THE LONGDEN SUPERANNUATION FUND.
- (C) The Super Fund Trustee is required to establish the Security Trust Fund to comply with the provisions of sections 67A and 67B of SIS in order for the Security Trustee to purchase the Superannuation Asset in accordance with the Requirements.
- (D) The Super Fund Trustee has paid to the Security Trustee \$10 to be applied to an expense incurred by the Security Trustee in connection with the borrowing or acquisition of the Superannuation Asset (**the Settled Sum**), such amount having been contributed by the Participating Members.
- (E) The Super Fund Trustee will provide to the Security Trustee all of the purchase monies to enable the Security Trustee to purchase the Superannuation Asset.
- (F) The Super Fund Trustee has authorized the Security Trustee to complete the purchase of the Superannuation Asset and to sign all documents and do all other acts, matters and things related to the Superannuation Asset, as instructed by the Super Fund Trustee from time to time.
- (G) The Super Fund Trustee is and will at all times be absolutely entitled to the benefit of the Superannuation Asset and all profit, earnings and other financial benefits generated by the Superannuation Asset.
- (H) The Security Trustee will hold the Security Trust Fund on bare trust for the benefit of the Super Fund Trustee.
- (I) The Security Trustee undertakes to deal with the Superannuation Asset and exercise and perform all the rights, duties and powers relating to the Superannuation Asset only as directed by the Super Fund Trustee.

1. DEFINITIONS AND INTERPRETATION

1.1 The following words have the following meanings:

Agreement means this document, including the Schedules as amended from time to time;

interest includes any interest, contingent interest, possibility or expectancy of whatever nature and whether liable to be defeated or diminished by the exercise of any power or by reason of any other matter or circumstances;

ITAA means the Income Tax Assessment Act 1936 and the Income Tax Assessment Act 1997 as applicable and the regulations thereunder;

Members means BERNADETTE EDWINA LONGDEN, AARON LONGDEN;

pay includes transfer, convey and assign;

perpetuity period shall mean the perpetuity period applicable to dispositions effected by this Agreement under the rule known as the Rule against Perpetuities (as modified by Statute) and that period shall be

eighty years commencing on the date of this Agreement, or such shorter period as may be prescribed by law from time to time;

person shall include corporations, partnership and all juristic persons recognized by the law applicable to this Agreement or by any other law;

Regulator means the regulator to whom the Super Fund Trustee must provide reports under SIS or whose determination is relevant in the circumstances, being the Australian Securities and Investment Commission, the Australian Taxation Office or Australian Prudential Regulation Authority as the case may be (including the authorized officers of these bodies, or such other persons or bodies empowered to administer the Requirements);

Replacement Asset means an asset that replaces the original Superannuation Asset as contemplated by section 67B(2) of SIS;

Requirements means SIS, the SIS Regulations, ITAA and any other laws or legislation, or the requirements of the Regulator or any other competent authority, which must be satisfied so that:

- (a) the Superannuation Fund obtains concessional tax treatment;
- (b) the Superannuation Fund remains a regulated superannuation fund;
- (c) the Employer (being an employer sponsor) or Member retains any entitlement to a tax deduction unless they choose not to claim a tax deduction;
- (d) no dealing with the Superannuation Fund gives rise to a taxable fringe benefit to an Employer unless the Employer chooses to incur a fringe benefits tax liability;
- (e) benefits are concessionally taxed;
- (f) if appropriate, a Pension Benefit is asset test exempt for social security purposes; and
- (g) no penalty is imposed on the Super Fund Trustee or directors of the Super Fund Trustee for a breach of the Requirements;

Schedule means a schedule to this Agreement;

Security Trust means this Security Trust known as **LONGDEN FINANCE TRUST**;

Security Trust Fund means the Super Contribution and subsequently the Superannuation Asset together with all profits, income, accumulations, accretions and additions to the Security Trust Fund and other benefits arising out of the Superannuation Asset;

SIS means the Superannuation Industry (Supervision) Act 1993 (and includes the SIS Regulations where the context requires);

SIS Regulations means the Superannuation Industry (Supervision) Regulations;

Superannuation Asset means the asset being acquired in accordance with sections 67A and 67B of SIS namely a property details of which will be provided by the Super Fund Trustee and the Security Trustee in the form of Schedule 1 or any Replacement Asset;

Superannuation Fund means the Superannuation Trust Fund known as THE LONGDEN SUPERANNUATION FUND established pursuant to the Super Fund Trust Deed;

Super Contribution means such amounts to be paid out of the accumulation accounts of the Participating Members and paid by the Super Fund Trustee to the Security Trustee to be applied to an expense incurred by the Security Trustee in connection with the borrowing or acquisition of the Superannuation Asset;

Super Fund Trust Deed means the deed dated 10 SEPTEMBER 2004 and signed by the Super Fund Trustee that established THE LONGDEN SUPERANNUATION FUND and subsequently amended by deed(s) dated 21 JANUARY 2015;

Super Fund Trustee means the trustee for the time being of the Superannuation Fund (and where the context permits includes the directors of a corporate Trustee), the current Trustee being **EMPERICA PTY LTD** ACN 603 809 267.

- 1.2 The singular shall mean and include the plural and vice versa and any gender shall mean and include all other genders.
- 1.3 The provisions of the Schedules constitute part of this Agreement.
- 1.4 References to any statutory enactment shall mean and be construed as reference to that enactment as amended modified and re-enacted from time to time.
- 1.5 References to a party include their respective successors and permitted assigns. **party** and **parties** means a party and parties to this Agreement.
- 1.6 The index does not form part of this Agreement and shall not affect the interpretation of this Agreement.
- 1.7 Clause headings and highlighting of text shall not affect the interpretation of this Agreement.

- 1.8** The construction and interpretation of this Agreement is to be governed by the laws in force in QLD and of all courts competent to hear appeals therefrom in relation to any legal action, suit or proceeding arising out of or with respect to this Agreement.
- 1.9** This Agreement has been entered into for the purposes of compliance with the Requirements and in particular sections 67A and 67B of SIS. Accordingly every clause and obligation specified in this Agreement is subject to the Requirements. If any clause or obligation contained in this Agreement is contrary to the Requirements, then it shall be read down to enable it to comply, and if not capable of being read down, it is to have no application.
- 1.10** Where the Security Trustee has a discretion under this Agreement, every discretion to be made by the Security Trustee is conditional upon the Security Trustee receiving from the Super Fund Trustee a prior written direction as to how to exercise the relevant discretion.
- 1.11** It is expressly stipulated that those restraints (if any) placed upon the ability for a sole trustee to act as the Security Trustee of the Security Trust by the Trusts Act 1973 (Queensland), shall not apply to the Security Trustee including but not limited to Section 12(2)(c), Section 33(1)(l), Section 61 Trusts Act 1973, (Queensland) and all other corresponding provisions of comparable legislation, and it shall be permissible for one trustee only to act as Trustee of this settlement irrespective of the number of Trustees appointed whether or not originally appointed at the time of creation of the settlement constituted by this Agreement. For the absence of doubt, it shall at all times be permissible for a single person or corporation to occupy the office of Trustee of the trust.

2. DECLARATION OF TRUST

- 2.1** The Security Trustee declares that it will as from the date of this Agreement hold initially the Settled Sum and subsequently the Super Contribution and the Security Trust Fund upon trust for the benefit of the Super Fund Trustee and ultimately the Participating Members in accordance with the Requirements. For the avoidance of doubt, the Settled Sum is to be applied to an expense incurred by the Security Trustee in connection with the borrowing or acquisition of the Superannuation Asset.
- 2.2** The Security Trustee declares that it will complete the purchase of the Superannuation Asset and sign all documents and do all other acts, matters and things as may be required by the Super Fund Trustee in order to purchase the Superannuation Asset on trust for the Super Fund Trustee.

3. PROCEDURE CONCERNING THE SUPERANNUATION ASSET

- 3.1** The Security Trustee and the Super Fund Trustee have entered into this Agreement in order to comply with the provisions of sections 67A and 67B of SIS.
- 3.2** The Security Trustee shall keep the Superannuation Asset entirely separate and distinct from any other trust fund.
- 3.3** The Super Fund Trustee will provide the Security Trustee with all funds necessary to purchase the Superannuation Asset and will pay all costs, fees, taxes and duties incurred by the Security Trustee in holding of the Superannuation Asset.
- 3.4** The:
- (a) Security Trustee will be the legal owner of the Superannuation Asset;
 - (b) Super Fund Trustee will be the beneficial owner of the Superannuation Asset and be absolutely entitled to all profit, earnings and other financial benefits generated by the Superannuation Asset;
 - (c) Super Fund Trustee, subject to the Requirements, may at any time require the Security Trustee to assign the legal title of the Superannuation Asset to the Super Fund Trustee. The notice by the Super Fund Trustee must be in writing (**Transfer Notice**);

4. OBLIGATIONS AND RIGHTS OF THE SECURITY TRUSTEE

4.1 Super Fund Trustee's instructions

The Security Trustee holds the Superannuation Asset on bare trust and unconditionally agrees to deal with the Superannuation Asset as the Super Fund Trustee directs. The Security Trustee will not incur liability or be responsible by reason of the Security Trustee acting on, or carrying out, an instruction or direction given the Super Fund Trustee.

4.2 Security Trustee indemnity

The Security Trustee (and in the case of a corporate trustee, each director of the corporate trustee (referred to as **each director** in this clause)) is, except in the case of:

- (a) fraud;

- (b) wilful or reckless failure to exercise proper care and diligence; or
- (c) a civil penalty order pursuant to SIS,

indemnified by the Super Fund Trustee to the maximum extent permitted by the Requirements against all liabilities incurred by the Security Trustee (and each director) in the exercise of the trusts, powers and authorities vested in the Security Trustee (and each director) pursuant to this Agreement **SUBJECT ALWAYS** to such indemnity being limited to the Superannuation Asset (or Replacement Asset, if any).

5. APPOINTMENT, RESIGNATION AND REMOVAL OF SECURITY TRUSTEES

- 5.1** The power to remove the Security Trustee and appoint a new Security Trustee is vested in the Super Fund Trustee.
- 5.2** A Security Trustee shall be disqualified from holding office if being an individual shall die, be found to be a lunatic or of unsound mind or if they enter into a Deed of Arrangement, assignment or composition with their creditors, or if such trustee is a company has a receiver appointed, enters into official management, passes a resolution for its winding up, is wound up or enters into a scheme of arrangement.
- 5.3** A Security Trustee may retire upon giving one (1) month's notice in writing to the Super Fund Trustee of the Security Trustee's desire to do so, but such retirement shall not take effect until the Super Fund Trustee has appointed a Security Trustee in place of the retiring Security Trustee and that Security Trustee has executed the deed referred to in clause 6.5.
- 5.4** A Security Trustee shall on retirement take such action as is necessary to vest the assets of the Security Trust Fund in any new Security Trustee and shall deliver to such new Security Trustee all books documents records and other property relating to the Security Trust Fund and a continuing Security Trustee shall take such action as is necessary to cause title to any assets of the Security Trust Fund to be amended to include any additional Security Trustee.
- 5.5** A new Security Trustee shall execute a deed (in such form may be approved by the Super Fund Trustee) pursuant to which the new Security Trustee covenants with the Super Fund Trustee to assume all of the obligations of a Security Trustee under this Agreement.
- 5.6** The costs, charges and expenses of and in connection with the retirement and replacement of any Security Trustee or the appointment of any additional Security Trustee shall be paid by the Super Fund Trustee.
- 5.7** Upon the resignation or removal of a Security Trustee, the Security Trustee must do all things reasonably required by the Super Fund Trustee to vest title to all assets of the Trust Fund in the remaining Security Trustee(s) or a new Security Trustee as the Super Fund Trustee may require.

6. VARIATION

- 6.1** Subject to prior written approval of the Super Fund Trustee, the Security Trustee may at any time by deed vary, amend or add to the terms and conditions contained in this Agreement.

7. NOTICES

- 7.1** Any notice required or permitted to be given pursuant to this Agreement shall be in writing and may be:
 - (a) Personally delivered;
 - (b) Sent by pre-paid security post to the parties at the address specified in this Agreement;
 - (c) Sent by facsimile to the relevant party's nominated facsimile address;
 - (d) Sent by email to the relevant party's nominated email address.
- 7.2** Notices shall be deemed to have been given and received:
 - (a) Upon receipt, if delivered personally;
 - (b) Two (2) days after posting, if sent by mail;
 - (c) Upon receipt of the recipient's answer back facsimile code, if sent by facsimile;
 - (d) Unless the contrary is proved, at 10.00 am on the first day that professional businesses are open (except public holidays) in Queensland following the day the email was sent.
- 7.3** Any party may change its address by written notice to the other parties. All notices and all documents or instruments delivered in accordance with this clause shall be in the English language.
- 7.4** The addresses of the Parties for the purposes of this clause are as set out in this Agreement.

8. LAW AND JURISDICTION

- 8.1** This Agreement shall be governed by and construed in accordance with the laws in force in Queensland and the parties agree to submit to the jurisdiction of the Courts of Queensland and of all courts competent to hear appeals from those Courts in relation to any legal action, suit or proceeding arising out of or with respect to this Agreement.
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9. COUNTERPARTS

- 9.1** This Agreement may be executed in any number of counterparts each of which is an original and all of which constitute one and the same instrument. A facsimile copy of this Agreement constitutes a counterpart for the purposes of this clause.
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10. COMPLETE AGREEMENT

- 10.1** This Agreement supersedes all prior agreements, documents, writings, representations, warranties and verbal understandings between the parties relating to the subject matter of this Agreement.
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11. SEVERABLE

- 11.1** Each provision of this Agreement shall be deemed to be separate and severable from the others of them. If any provisions of this Agreement are determined to be invalid or unenforceable in any jurisdiction, such determination and the consequential severance (if any) shall not invalidate the rest of the Agreement which shall remain in full force and effect as if such provision had not been made a part of this Agreement, nor shall it affect the validity or enforceability of such provision in any other jurisdiction.
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12. WAIVER

- 12.1** No waiver of any provision of this Agreement nor consent to any departure from any provision, by any of the parties shall be effective unless the same shall be in writing and then such waiver or consent shall be effective only in the specific instance and for the purpose for which it is given. No default or delay on the part of any of the parties in exercising any rights, powers or privileges pursuant to this Agreement (together referred to as rights) shall operate as a waiver of any of those rights; nor shall a single or partial exercise of those rights preclude any other or further exercise of them, or the exercise of any other right, power or privilege.
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13. DURATION AND TERMINATION OF THE SECURITY TRUST

- 13.1** The Security Trust shall commence on the date of this Agreement and shall terminate on the date it is validly terminated in accordance with this clause.
- 13.2** The Security Trust may be terminated at any time:
- (a) prior to the sale of the Superannuation Asset, upon written notice by the Super Fund Trustee; or
 - (b) upon the sale of the Superannuation Asset; or
 - (c) upon the transfer of the Superannuation Asset to the Super Fund Trustee in accordance with clause 3.4(c).
- 13.3** If this Security Trust is terminated in accordance with clause 13.2, the obligations of the Security Trustee as trustee under this Agreement will be discharged in full.

SCHEDULE 1

This notice is given in accordance with Schedule 1 and the definition of Superannuation Asset in clause 1.1 of the Deed establishing LONGDEN FINANCE TRUST made between EMERICA PTY LTD ACN 603 809 267 as trustee for THE LONGDEN SUPERANNUATION FUND, LONGDEN FINANCE PTY LTD ACN 603 809 490 (subsequently the trustee of LONGDEN FINANCE TRUST), BERNADETTE EDWINA LONGDEN as a Member of THE LONGDEN SUPERANNUATION FUND, AARON LONGDEN as a Member of THE LONGDEN SUPERANNUATION FUND and dated the 21 day of JANUARY 2015.

The property to be purchased by the Security Trustee at the request of the Super Fund Trustee is as follows:

Street address:	10 CLARENCE ST MURRUMBA DOWNS
Title particulars	

Signed on the 28 day of APRIL 2015:

Executed for and on behalf of
LONGDEN FINANCE PTY LTD
(ACN 603 809 490)

by the authority of its Directors and in accordance
with s127 of the Corporations Act 2001, by:

Director Signature

AL

[Sole director*]

Director/Secretary Signature

B Longden

[*1]

[*If not a sole director, delete]

[*1 if a sole director do not sign here. If company has another director or secretary, that person signs here]

Executed for and on behalf of
EMERICA PTY LTD
(ACN 603 809 267) ATF THE LONGDEN
SUPERANNUATION FUND

by the authority of its Directors and in accordance
with s127 of the Corporations Act 2001, by:

Director Signature

AL

[Sole director*]

Director/Secretary Signature

B Longden

[*1]

[*If not a sole director, delete]

[*1 if a sole director do not sign here. If company has another director or secretary, that person signs here]

Signed by **BERNADETTE EDWINA LONGDEN**
as a Member of THE LONGDEN
SUPERANNUATION FUND

B Longden

Signed by **AARON LONGDEN** as a Member of
THE LONGDEN SUPERANNUATION FUND

AL

EXECUTED AS A DEED on the 21ST day of JANUARY 2015

Executed for and on behalf of
LONGDEN FINANCE PTY LTD
(ACN 603 809 490)

by the authority of its Directors and in accordance
with s127 of the Corporations Act 2001, by:

Director Signature

AL
[Sole director*]

Director/Secretary Signature

Longden [*1]

[*If not a sole director, delete]

[*1 if a sole director do not sign here. If company has another director or secretary, that person signs here]

Executed for and on behalf of
EMPERICA PTY LTD
(ACN 603 809 267) ATF THE LONGDEN
SUPERANNUATION FUND

by the authority of its Directors and in accordance
with s127 of the Corporations Act 2001, by:

Director Signature

AL
[Sole director*]

Director/Secretary Signature

Longden [*1]

[*If not a sole director, delete]

[*1 if a sole director do not sign here. If company has another director or secretary, that person signs here]

Signed by **BERNADETTE EDWINA LONGDEN**
in their capacity as a Member,
in the presence of:

Longden

Witness Name:

JEREMY TROST

Witness Signature:

J.T. A

Signed by **AARON LONGDEN**
in their capacity as a Member,
in the presence of:

AL

Witness Name:

JEREMY TROST

Witness Signature:

J.T. A

Order #26304
LONGDEN FINANCE PTY LTD
(Superannuation - Security Trust (also called Bare Trust))

Mendelawitz Morton
Mendelawitz Morton
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