

## BARE TRUST DEED (custodian with no borrowing)

These documents appoint a custodian to act as a bare trustee for an SMSF and establish a bare trust in respect of fund assets that are not held in the name of the SMSF trustee.

Note, these documents do not establish a bare trust for the purposes of satisfying the requirements for limited recourse borrowing arrangement in s 67A of the *Superannuation Industry (Supervision) Act 1993* (Cth). The documents should broadly only be used to enable an SMSF to assert ownership over a fund asset that is not held in the name of the SMSF trustee. For bare trust documents that are required as part of limited recourse borrowing arrangements, please see the order form available here: <https://www.dbalawyers.com.au/smsf-borrowing/>

## IMPORTANT NOTE

Advisers who complete this order form on behalf of an SMSF trustee or related party agree that DBA Lawyers may seek to contact the bare trustee directly. Alternatively, the adviser undertakes to communicate our feedback including concerns to the SMSF trustee.

In particular, the covering letter provided with our bare trust deed (custodian with no borrowing) documents will contain important information. It is important that the adviser ensures that the bare trustee reads this letter and contacts us if they wish to discuss this information further.

## BARE TRUST DOCUMENTATION

Firm ordering (if applicable):

Person ordering:

Street address:

Postal address (if different):

Phone:

Email:

Tick here ☐ if we are to invoice the fund's trustee (otherwise, our invoice will be made out to the person ordering)

By completing this order form, you confirm that you have read the 'Important Note' on page 1 of this order form.

Documents will be delivered by email as PDF files

Tick here ☐ for hardcopy delivery (fee applies)

## ASSET TO BE HELD ON BARE TRUST FOR THE SMSF

Asset type: real estate ☐ listed shares ☐ unlisted shares ☐ other ☐

Is this asset being acquired from a related party of the fund? no ☐ yes ☐ unsure if 'related' ☐

**Option 1:** No asset has been found yet: ☐

**Option 2:** Description of asset:

For real estate, please supply the property address and certificate of title information (eg, volume & folio reference(s)) or attach an extract of the title(s). It is important we are provided with exact title details. If in any doubt, consult with the fund's conveyancer to confirm the title details. If you do not provide at least volume and folio references, we may perform a title search and disburse the cost (approx \$20) to you.

**We take it that the fund is acquiring 100% of the property/asset. If less than 100%, please contact our office.**

**For Queensland real estate please complete this box**  
(for non-Queensland real estate please proceed to the 'Bare Trustee Details' section)

### DETAILS OF THE BARE TRUST

(aka 'security trust', 'holding trust', 'custodian trust', 'property trust')

**Name of bare trust\*:** \_\_\_\_\_

\*It is generally not our preference to name bare trusts. However, we prepare bare trusts that are given a name in respect of Queensland property, because a trust relationship can be registered on title. For non-Queensland property, we will only name the bare trust at your request. If you do not provide us with a name for a Queensland bare trust, we will name it at our discretion with reference to the SMSF name or the asset being acquired.

### NAME OF FUND

Name of SMSF:

### SMSF COMPANY TRUSTEE

Company name:

ACN:

Registered office:

Full names of all directors

T1		T2	
T3		T4	

### OR, SMSF INDIVIDUAL TRUSTEES

T1	Full name:	
	Street address:	
T2	Full name:	
	Street address:	

If there are more trustees, please provide their details under 'Special instructions' on the last page.

### BARE TRUSTEE DETAILS

(aka 'security trustee', 'holding trustee', 'custodian'; this entity holds the asset on trust for the SMSF)

<b>COMPANY BARE TRUSTEE</b>	If company ordered from DBA, tick here <input type="checkbox"/> and proceed to next section (a new company order form should also be completed).
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Company name:

ACN:

Registered office:

Full names of all directors

BT1	T1? <input type="checkbox"/>	BT2	T2? <input type="checkbox"/>
BT3	T3? <input type="checkbox"/>	BT4	T4? <input type="checkbox"/>

OR, INDIVIDUAL BARE TRUSTEES	
BT1	Full name: <span style="float: right;">T1? <input type="checkbox"/></span>
	Street address:
BT2	Full name: <span style="float: right;">T2? <input type="checkbox"/></span>
	Street address:

SPECIAL INSTRUCTIONS
Note that DBA is not licensed to provide financial product advice under the <i>Corporations Act 2001</i> (Cth).

BARE TRUST ARRANGEMENTS
<p>Note, that incorrectly implemented bare trust arrangements can potentially give rise to stamp duty, tax and super compliance issues as well as significant penalties. They can also increase the risk of additional duties and taxes being incurred. By ordering the 'Bare Trust Deed (custodian with no borrowing)' documents, you acknowledge that DBA has only been instructed to provide documents and not to be involved in implementation, such as liaising with the fund's conveyancer or assisting any other parties involved in implementing the arrangement.</p> <p>DBA Lawyers does not provide duty advice for jurisdictions outside of Victoria. However, we are pleased to provide general guidance to interstate conveyancers regarding the implementation of these types of arrangements.</p> <p>If our further assistance is required, we would be pleased to assist and in this case our attendances will be charged at our hourly rates. This also applies if any changes to documentation are later required as a result of incorrect or altered instructions. Our lawyers' hourly rates are available on request.</p> <p>Some key points to bear in mind during implementation are:</p> <ul style="list-style-type: none"> <li>• It is the trustee's responsibility to ensure their conveyancer is properly briefed and understands the structure of the arrangement. These arrangements are more complex than a usual property purchase and give rise to additional duty issues, which the trustee should seek state or territory-specific advice on. The signing of the sale contract and payment of any deposit often impacts the duty position. Please refer to the 'Important Note' on page 1 of this order form.</li> <li>• The entity acting as bare trustee should not have any duties other than passively holding the property for the benefit of the fund's trustee.</li> </ul>