

Bare Trust

HWLEBSWORTH
LAWYERS

Deed of Nomination & Bare Trust

Winter Hayfield Holdings Pty Ltd

and

Winter Management Pty Ltd

Ref 583666

Doc ID 330115173/v1

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Deed of Nomination & Bare Trust

Date 06/12/2015

Parties

Winter Hayfield Holdings Pty Ltd

ACN 609 643 012 of 41 Filmer Avenue, Para Hills SA 5096

(Security Trustee)

Winter Management Pty Ltd

ACN 609 643 058 of 41 Filmer Avenue, Para Hills SA 5096, in its capacity as trustee of the Winter Superannuation Fund

(Beneficiary)

Recitals

- A. The Beneficiary wishes to acquire the Property pursuant to a limited recourse borrowing arrangement in accordance with section 67A of the SIS Act.
- B. The Beneficiary has or will provide the deposit and all purchase monies (including stamp duty) to the Security Trustee to enable the Security Trustee to enter into the Contract to acquire the Property as nominee and bare trustee for the Beneficiary.
- C. The Beneficiary and Security Trustee acknowledge that:
 - (a) the bare trust provided for in this document will come into effect upon the execution of the Contract;
 - (b) the Security Trustee will hold the Property as nominee and bare trustee for the Beneficiary; and
 - (c) the name of the bare trust provided for in this document shall be 'Winter Hayfield Holding Trust'.

This deed witnesses that in consideration of, among other things, the mutual promises contained in this deed the parties agree as follows:

1. Definitions and interpretation clauses

1.1 Definitions

In this document, unless the context otherwise requires, the following words have the following meanings:

- Contract** means the contract to be entered into by the Security Trustee to acquire the Property as nominee and bare trustee for the Beneficiary.
- Property** means the real property known as Unit 3, 174 Hayfield Avenue, Blakeview SA 5114.
- SIS Act** means the *Superannuation Industry (Supervision) Act 1993* (Cth).

1.2 Interpretation

In this document, unless the contrary intention appears:

- (a) words denoting the singular include the plural and vice versa;
- (b) a reference to a person or entity includes a natural person, a partnership, corporation, trust, association, unincorporated body, authority or other entity;
- (c) headings and the table of contents (if any) are for convenience only and do not affect interpretation;
- (d) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (e) a reference to a party to this document includes that party's executors, administrators, successors and permitted assigns;
- (f) a reference to a recital, clause, schedule or annexure is to a recital, clause (including sub-clause, paragraph, sub-paragraph or further subdivision of a clause), schedule or annexure of or to this document and a reference to a paragraph is to a paragraph in a schedule;
- (g) a reference to any legislation or legislative provision includes any regulations or other delegated legislation or instruments made or issued under it and any consolidations, amendments, re-enactments or replacements of it and them and any of them; and
- (h) the word (**including**) is not to be treated as a word of limitation.

2. Acquisition of Property

The Security Trustee:

- (a) **hereby acknowledges and agrees** that it will acquire and hold the Property on bare trust for the absolute benefit of the Beneficiary; and
- (b) **hereby undertakes** to transfer legal title to the Property:
 - (i) to the Beneficiary after the Beneficiary has made one or more payments in respect of a loan obtained by the Beneficiary to fund the acquisition of the Property by the Security Trustee on the Beneficiary's behalf; or
 - (ii) to any other person or entity,
 as directed by the Beneficiary from time to time.

3. Income and expenses

- (a) The Beneficiary is absolutely entitled to receive all income derived (whether of a capital or income nature) in respect of the Property.
- (b) The Beneficiary is responsible for payment of all expenses incurred in respect of the Property including but not limited to:
 - (i) council rates, water rates and land tax (if any);
 - (ii) repairs;
 - (iii) finance costs;
 - (iv) property management costs; and
 - (v) insurance premiums.

4. Dealing with Property

- (a) The Security Trustee must only deal with the Property as directed by the Beneficiary from time to time.
- (b) The Beneficiary **hereby acknowledges** that it will not direct the Security Trustee to transfer legal title to the Property to the Beneficiary if such transfer would be contrary to the provisions of the SIS Act.

5. Power of Appointment

The power to appoint a new trustee or remove an existing trustee of these presents is vested in the Beneficiary.

6. Costs and stamp duty

6.1 Costs Generally

The Beneficiary will pay all costs in connection with the negotiation, preparation and execution of this document.

6.2 Stamp Duty

The Beneficiary will bear the stamp duty incurred on this document and any instrument or transaction contemplated by this document, and must indemnify the Security Trustee against any liability for such duty.

7. General

7.1 Amendment

This document may only be amended in writing signed by all the parties and may not be amended in any other manner.

7.2 Severance

If any provision of this document is prohibited, invalid or unenforceable in any jurisdiction, that provision will, as to that jurisdiction, be ineffective to the extent of the prohibition, invalidity or unenforceability without invalidating the remaining provisions of this document or affecting the validity or enforceability of that provision in any other jurisdiction.

7.3 Governing Law

This document is governed by the law in force in South Australia. The parties submit to the non-exclusive jurisdiction of the courts of that State and the South Australian Registry of the Federal Court of Australia in respect of all proceedings arising in connection with this document.

7.4 Further Assurances

Each party will promptly do all things required by law or reasonably requested by any other party to give effect to this document.

7.5 Counterparts and Multiple Originals

This document may be executed in any number of counterparts and all of those counterparts taken together will be deemed to constitute the same document.

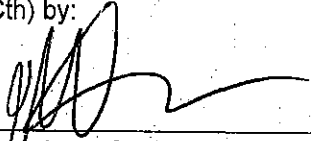
7.6 Authority to Execute Document

Each party warrants, undertakes and represents to the other party that it has the necessary power and authority to execute, deliver and perform this document and to become bound by it and that all necessary corporate action has been taken to authorise the execution of this document.

Signing page

Executed as a deed

**Executed by Winter Hayfield Holdings Pty
Ltd ACN 609 643 012** in accordance with
section 127 of the *Corporations Act 2001*
(Cth) by:

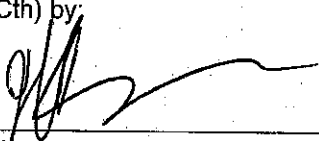


Signature of sole Director and sole
Company Secretary

Jamie Nathan Heath Winter

Full name (print)

**Executed by Winter Management Pty Ltd
ACN 609 643 058** in accordance with
section 127 of the *Corporations Act 2001*
(Cth) by:



Signature of sole Director and sole
Company Secretary

Jamie Nathan Heath Winter

Full name (print)