



## **INSTRUCTIONS FOR THE COMPLETION OF YOUR DOCUMENTS**

### **FACIT STREET PROPERTY TRUST**

Where the details of the asset to be purchased by the Trust (or any other details) have not been completed by us, you **MUST** complete those details **BEFORE** the Trust Deed is signed or dated.

#### **Execution of Documents**

Please have the relevant parties carefully check the details and execute the documents as indicated, simultaneously with a contract or agreement for the acquisition of the relevant asset. Signing the Trust Deed after the date of a contract may result in double stamp duty being imposed. Witnesses to any signatures must be independent - i.e. they must not be a party to the document.

#### **Stamp Duty**

Some of the enclosed documents may require assessment and payment of stamp duty. Details for the various statutory authorities are provided in the attached Stamp Duties Information Sheet.

#### **Registration**

Any Mortgage documentation should be lodged for registration with the relevant statutory authority. Where you require assistance in attending to the registration of transfers or mortgage documentation, please call to obtain a no obligation estimate of the fees which are likely to be incurred.

#### **Important Notes**

Prior to completing the enclosed documentation, please refer to the Important Notes attached to these Instructions.

You must satisfy yourself that the enclosed documents comply with the relevant legislation and the law regarding arrangements of this type particularly the Superannuation Industry (Supervision) Act 1993 and Regulations ("Act").

Nothing contained in the enclosed documents or any conversation or correspondence constitutes advice nor should you construe anything in any of them as advice of any kind.

Please contact our office should you have any queries or require any assistance.

Yours faithfully,

Pro-Super



## Stamp Duties Information Sheet

### Transfer of Asset to the Custodian Trust

In all cases, the Trust Deed **MUST** be presented for the assessment of stamp duty simultaneously with the contract for the acquisition of the asset and any associated transfer documentation.

Where the table below states that ad valorem stamp duty may be payable in relation to document, there may or may not be relief available where ad valorem duty is also paid on the transfer of the asset to the Custodian Trust. Some states may impose double stamp duty in some cases. In each case, you are strongly urged to seek confirmation of this from your legal advisers and the relevant State authority before deciding on a structure and before executing any documents under these arrangements.

The table below is provided for general guidance only. It is not intended nor should it be treated as legal advice regarding the imposition or liability to stamp duty of any document or transaction.

The contact details for the relevant stamping authorities are also listed in the table.

State/ Territory	Contact	Trust	Loan Agreement and Security
QLD	Ph 1300 300 734 Office of State Revenue <a href="http://www.osr.qld.gov.au">www.osr.qld.gov.au</a>	ad valorem duty payable on the value of the asset.	NIL
NSW	Ph 1300 139 814 Office of State Revenue <a href="http://www.osr.nsw.gov.au">www.osr.nsw.gov.au</a>	ad valorem duty payable on the value of the asset.	currently \$5 plus \$4 for each \$1000 over \$16000 NIL after 01/07/2016
VIC	Ph 13 21 61 State Revenue Office <a href="http://www.sro.vic.gov.au">www.sro.vic.gov.au</a>	ad valorem duty payable on the value of the asset.	NIL
ACT	Ph (02) 6207 0028 ACT Revenue Office <a href="http://www.revenue.act.gov.au">www.revenue.act.gov.au</a>	ad valorem duty payable on the value of the asset.	NIL
TAS	Ph (03) 6166 4400 State Revenue Office <a href="http://www.sro.tas.gov.au">www.sro.tas.gov.au</a>	ad valorem duty payable on the value of the asset.	NIL
SA	Ph (08) 8226 3750 Revenue SA <a href="http://www.revenuesa.sa.gov.au">www.revenuesa.sa.gov.au</a>	ad valorem duty payable on the value of the asset.	NIL
WA	Ph (08) 9262 1400 State Revenue <a href="http://www.finance.wa.gov.au/staterevenue">www.finance.wa.gov.au/staterevenue</a>	ad valorem duty payable on the value of the asset.	NIL
NT	Ph 1300 305 353 Territory Revenue Office <a href="http://www.treasury.nt.gov.au">www.treasury.nt.gov.au</a>	ad valorem duty payable on the value of the asset.	NIL

## Stamp Duties (Cont'd)

### Transfer of Asset from the Custodian Trust to the SMSF

Stamp duty authorities in the various States and Territories may, or may not, impose stamp duty on the transfer of the asset by the trustee of the Custodian Trust to the trustee of the SMSF.

You **MUST** satisfy yourself as to the liability to stamp duty of the transfer to the SMSF at the time when the transfer is to be effected. We strongly recommend that you do so **BEFORE** the loan is repaid in its entirety.

Stamp duty relief may be available where ad valorem duty is paid on the original transfer of the asset to the Custodian Trust. Some States or Territories may impose double stamp duty in some cases - firstly on the transfer to the Custodian Trust and secondly on the transfer from the Custodian Trust to the SMSF. In some States or Territories the enclosed Agency Agreement may be required in order to access stamp duty relief. We do not warrant that the Agency Agreement will satisfy the requirements for stamp duty relief in any State or Territory.

We strongly recommend that you seek advice from your legal advisers and the relevant authority before fully repaying the loan or deciding on a transfer back from the custodian trustee to the trustee of the SMSF.



## **SMSF Records**

In order to complete your superannuation fund records following the acquisition of the SMSF borrowings, you should keep copies of each of the following in the fund register:

- Investment Strategy - the fund's Investment Strategy must be amended to permit borrowings and to fully record the risks and returns relating to the borrowings and the investment;
- Detailed examination of the case for purchasing the asset;
- Expert reports (if any) obtained in relation to the acquisition including valuations;
- Copies of advice from the fund's accountant or financial planner regarding the investment;
- Custodian Trust Deed;
- Loan offer document;
- Contract for the purchase of the asset;
- Loan Agreement documentation;
- Evidence of the payment of the deposit (if any), settlement moneys and any loan instalments e.g. bank statements;
- SMSF Trust Deed;
- Executed Resolutions (enclosed);
- Copies of any security given over the asset being acquired including any registered caveat in the case of real property;
- Copy of the Title or Title Deed in the case of real property.



## **Important Notes**

### **Asset Acquisition**

We have not determined whether the proposed transaction is authorised by your SMSF's trust deed. It is essential, before entering into this transaction, that you satisfy yourself that the transaction is authorised and appropriate for the Fund particularly in relation to the trust deed, the Fund's investment strategy and the Fund trustee's obligations under the Superannuation Industry (Supervision) Act 1993 and its Regulations. We make no warranty or representation that the proposed transaction is authorised or appropriate and accept no responsibility in relation to any matter whether or not it is authorised or appropriate. In particular, we have not examined and make no comment nor express any opinion whatever, regarding:

- the trust deed for the superannuation fund;
- the terms of or proper execution of any contract of sale;
- the taxation or stamp duty implications for the transaction;
- the appropriateness or commercial viability of the investment the subject of the trust;
- the Investment Strategy of the superannuation fund or whether this investment complies with it;
- whether or not any loan in favour of the superannuation fund or security given complies with the Act or the requirements of the Australian Taxation Office or is applied strictly in accordance with section 67A of the Act;
- whether or not the asset being acquired is an "in house" asset as defined in the Act;
- the compliance status of the superannuation fund and in particular whether or not any acquisition or the borrowing complies with any requirements of the Act or of the Australian Taxation Office.

### **Compliance**

It is possible that:

1. the Australian government or the ATO may attempt to limit the ways in which SMSFs borrow or maintain borrowings and how the provisions of the Act permitting such transactions are used in practice.
2. the provisions of the Act which allow superannuation funds to borrow may be repealed or amended to restrict the practice.
3. the ATO may issue binding rulings which affect the ways in which "limited recourse borrowing arrangements" are used or the asset classes which may be accessed using them.

Any changes in practice may have retrospective affect. It is essential therefore to seek professional accounting and legal advice before utilising any of the structures mentioned in this material.

### **Associated Fees**

Our fees do not include additional out of pocket expenses required for the completion of the transaction documents. For example, in addition to stamp duties, registration fees, search fees and registrations agents fees may be payable and are not included in our quoted fees.

## Trustee/s Resolution

### KLS INVESTMENTS SUPERANNUATION FUND

The persons signing below being all of the Trustees or all of the directors of the corporate Trustee of the Fund resolve as follows:

#### **Resolved**

To consider a Trust titled FACIT STREET PROPERTY TRUST between FACIT SUPERANNUATION PTY LTD ACN 650 567 810 as Trustee and DELTON SUPER PTY LTD ACN 650 503 594 As Trustee For KLS INVESTMENTS SUPERANNUATION FUND as Beneficiary.

#### **Resolved**

That the documents listed above and the transactions evidenced by them would, if carried out, be for the benefit of the Fund and the Members of the Fund.

#### **Resolved**

To execute each of the documents listed above to which it is a party and to authorise the transactions evidenced by them.

#### **Resolved**

To consent to or accept the execution of all of the documents listed above by each party to each of them.

#### **Signature:**

Dated:    /    /

\_\_\_\_\_  
NORMAN GEORGE SHARPLES Director  
DELTON SUPER PTY LTD ACN 650 503 594

Dated:    /    /

\_\_\_\_\_  
KARL ANTHONY SHARPLES Director  
DELTON SUPER PTY LTD ACN 650 503 594

Dated:    /    /

\_\_\_\_\_  
TANYA ANN SHARPLES Director  
DELTON SUPER PTY LTD ACN 650 503 594

Dated:    /    /

\_\_\_\_\_  
LESTER JAMES SHARPLES Director  
DELTON SUPER PTY LTD ACN 650 503 594

## Member/s Resolution

### KLS INVESTMENTS SUPERANNUATION FUND

The persons signing below being all of the Members of the Fund resolve as follows:

#### **Resolved**

To consider a Trust titled FACIT STREET PROPERTY TRUST between FACIT SUPERANNUATION PTY LTD ACN 650 567 810 as Trustee and DELTON SUPER PTY LTD ACN 650 503 594 As Trustee For KLS INVESTMENTS SUPERANNUATION FUND as Beneficiary.

#### **Resolved**

That the documents listed above and the transactions evidenced by them would, if carried out, be for the benefit of the Fund and the Members of the Fund.

#### **Resolved**

To execute each of the documents listed above to which it is a party and to authorise the transactions evidenced by them.

#### **Resolved**

To consent to or accept the execution of all of the documents listed above by each party to each of them.

#### **Signature:**

\_\_\_\_\_  
NORMAN GEORGE SHARPLES

Dated:    /    /

\_\_\_\_\_  
KARL ANTHONY SHARPLES

Dated:    /    /

\_\_\_\_\_  
TANYA ANN SHARPLES

Dated:    /    /

\_\_\_\_\_  
LESTER JAMES SHARPLES

Dated:    /    /

# Trustee/s Resolution

## FACIT STREET PROPERTY TRUST

The persons signing below being all of the Trustees or all of the directors of the corporate Trustee of the Trust resolve as follows:

### **Resolved**

To consider a Trust titled FACIT STREET PROPERTY TRUST between FACIT SUPERANNUATION PTY LTD ACN 650 567 810 as Trustee and DELTON SUPER PTY LTD ACN 650 503 594 As Trustee For KLS INVESTMENTS SUPERANNUATION FUND as Beneficiary.

### **Resolved**

That the documents listed above and the transactions evidenced by them would, if carried out, be for the benefit of the Fund and the Members of the Fund.

### **Resolved**

To execute each of the documents listed above to which it is a party and to authorise the transactions evidenced by them.

### **Resolved**

To consent to or accept the execution of all of the documents listed above by each party to each of them.

### **Signature:**

Dated:    /    /

\_\_\_\_\_  
NORMAN GEORGE SHARPLES Director  
FACIT SUPERANNUATION PTY LTD ACN 650 567 810

Dated:    /    /

\_\_\_\_\_  
KARL ANTHONY SHARPLES Director  
FACIT SUPERANNUATION PTY LTD ACN 650 567 810



## Agency Agreement

DELTON SUPER PTY LTD ACN 650 503 594 As Trustee For KLS INVESTMENTS SUPERANNUATION FUND (the "Principal") hereby appoints FACIT SUPERANNUATION PTY LTD ACN 650 567 810 As Trustee For FACIT STREET PROPERTY TRUST (the "Agent") as the agent of the Principal with authority on behalf of the Principal to enter into an agreement for the acquisition and transfer of certain real property identified by the Principal and the Agent (the "Asset") and the Principal covenants as follows:

- (a) that the Principal will pay and discharge the whole of the consideration for the acquisition and transfer of the Asset including any deposit;
- (b) that the Principal will pay and discharge all costs and expenses incurred or payable in the acquisition and transfer of the Asset (including legal fees, stamp duty and registration fees);
- (c) that the Agent has not and will not provide any of the consideration for the Asset and the real purchaser of the Asset is the Principal;
- (d) that the Principal will indemnify the Agent in relation to all of the amounts referred to above,

and the Agent is authorised by the Principal to complete any agreement for the acquisition of the Asset and the registration of a transfer of the legal title of the Asset as instructed by the Principal.

In consideration of the Principal's covenants, the Agent accepts the appointment as agent and covenants as follows:

- (a) the Agent will hold the legal title to the Asset for the Principal;
- (b) the Agent will comply with the instructions or directions of the Principal in relation to the Asset;
- (c) the Agent will transfer the legal title and estate in the Asset to the Principal immediately on the request of the Principal and for no consideration;
- (d) the Principal is absolutely entitled to the Asset as against the Agent.

