MURFETT LEGAL
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Instruction Form
Transfer of Real Property into a SMSF

1. Is the commercial property currently in the name of the Trustee of a Family Trust?

☐ **Yes –** I enclose a copy of the Family Trust Deed, all variations and the last financials. The current Trustee(s) of the Family Trust is …….

☐ I enclose a copy of the stamped Offer & Acceptance or Contract of Sale - You have to prove to the Office of State Revenue, that the commercial property is beneficially owned by the Family Trust (if you don't have that document then provide Financial Statements (**FS**) that prove that the Family Trust owns the property for the year of purchase and the current FS). Any other evidence of ownership by the trust and not the trustee, eg lease agreement would be useful.

☐ **No** - the commercial property is in our own names and not in any Family Trust.

☐ I enclose a copy of the stamped Offer & Acceptance or Contract of Sale - this proves that the commercial property is beneficially owned by member(s) of the Self Managed Super Fund (**SMSF**).

2. ☐ I enclose a copy of the Commercial Properties title deed.
(Any mortgages, if any, are removed before the property is transferred into the SMSF).

3. ☐ I enclose a copy of the SMSF Deed (and all variations) & latest Financial Statements

4. ☐ The members of the SMSF are:

a. ☐……... b. ☐……

c. ☐……... d. ☐……

I have a tick in front of the names of the persons who will own the property just before it is transferred into the SMSF (The persons without a tick in front of their names can still be members of the same SMSF but they will have no beneficial in the commercial property. They will merely be trustee of the SMSF – but have no interest otherwise in the property.

5. ☐ I enclose a licensed Valuation of the Property, (not older than 2 months)

6. ☐ Contributions
Have you decided on how each member will contribute their share in the property to the SMSF**?**

☐ **Yes:** –

a. ☐ Member Name _____ Concessional $ or % Non-concessional $ or %

b. ☐ Member Name _____ Concessional $ or % Non-concessional $ or %

☐ **No** – (We will liaise with your accountant / financial planner).

7. ☐ Do you intend to spread the transfer over more than a single financial year?
for example to stay within the contribution caps?

☐ **No** – we can transfer in a single year

☐ **Yes** – please explain the contribution split over two years

☐ **Not sure** – we will liaise with your accountant / financial planner

8. ☐ GST (Goods and Services Tax)
The property is commercial property being distributed from the discretionary trust. The Commissioner of Taxation takes the new that an in specie distribution of property from a trust that is registered for GST to a beneficiary for no consideration or for no creditable purpose is a taxable supply attracting GST. We can construe a "going concern" exemption if all parties to the transaction registered for GST. Please tick only those of the following who are registered for GST.

☐ Family Trust

☐ Beneficiaries/Members

☐ SMSF

9. ☐ Lease
SMSFs are required to have Investment Strategy and their auditors will usually require evidence of a formal lease.

☐ I enclose copy of the lease (and any variations to the lease)

☐ There is no lease (or has expired) and this needs to be organised

10. CGT (Capital Gains Tax)
A number of discounts and concessions may be available. To help us assess these possibilities please advise if Small Business Exemption in Div 152 could apply. I have discussed this with my accountant/adviser who will be in contact with you.

☐ I have discussed this with my accountant/ adviser who will be in contact with you.

☐ I need assistance with this aspect of the transaction

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Our work will include:

A. Deed of Partial Vesting out of the Family Trust to the beneficiaries, and appropriate minutes and Transfer of Land documents.

B. Full review and update of the SMSF Deed.
Including: PDS, increase powers to allow for the transfer pursuant to the Western Australian Duties Act, minutes and pro-forma Investment Strategy. This includes the Deed of Variation to amend the SMSF Deed to comply with the Commissioner of Office State Revenue (**OSR**) requirements.

C. Arrange for stamping of the Deed of Variation and deal with any requisitions. Appropriate letter to OSR explaining the transactions

D. Declaration of Trust to say that: while the clients still hold the property in their own names they now hold it on trust for their SMSF. If you operate your SMSF via a company (what we recommend) then there will be a Transfer of Land lodged at Landgate, and a Deed of Purchase prepared.

E. Arrange for stamping of the Declaration of Trust and deal with any requisitions.

F. Prepare Transfer of Land and Lodgement with Landgate

G. Prepare Caveat if required and arrange for the Caveat and Declaration to be registered.

CLIENT:

Signed by You: ✍ ✍ Date: ____/____/____

Full name(s) ACN

Our address is:

Contact: W: F: M: H:

❑ **Charge my credit card**

Card Type ❑B/Card ❑Visa ❑M/Card

Card #

Name on Card Expiry /20__

❑ or **Cheque enclosed**

❑ or **Monies electronically transferred/deposited into below accounts for our fees:**
MURFETT LEGAL PTY LTD LAW PRACTICE TRUST ACCOUNT (St George Bank)
BSB No: 336-065 A/C No: 553-391-865 – please quote **SMSF and YOUR NAME** – when depositing funds

ADVISER:

❑ ACCOUNTANT / ❑ FINANCIAL PLANNER

Full name(s)

Address is:

Contact: W: F: M: H:

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